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Development Studies

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Centre for the Analysis of
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EPA Review

Annex Documents

by

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Introduction

This annex contains the several different inputs that have been used for elaborating this report. Different members of the team have instigated and carried out research on various aspects of the EPA process. They have written short pieces addressing the different questions posed by the terms of reference of the study. The annex contains three sections. The first section includes two surveys that have been based on the existing literature. The first survey is a description of the negotiating process and the main constraints encountered during the process. The second survey summarises the empirical evidence regarding the impact of the EPAs.

The second section contains three different country case studies. This part begins with a summary chapter that details the main findings, lessons and draws comparisons between the country case studies. It is then followed by the original country case studies, which explain in detail their trade negotiation structure and their perceptions of the EPA process.

The final section is an analysis of the different elements that are central to the evaluation of the EPAs as instruments for development. It is based on the discussion of the different provisions of the agreements, using the CARIFORUM-EPA as template, and the main potential constraints in order to translate these provisions into a positive development outcome.

Part One: Literature Review

Description of the EPA negotiation process

1. The Negotiation Process

The following analysis will particularly focus on the dynamics of negotiation of the EPA's and the process as a whole. The idea is to highlight how the agreements were reached (if they were) rather than describe the effects of such agreements in the respective partners. As a consequence, we will try to analyse the main negotiation positions and how these were adjusted or modified in order to close the gap between them.

The EPA's negotiations were organised in two phases. During phase I, the European Commission (EC) negotiated with the entire ACP Group. In phase II, the EC negotiated separately with each group/zone. The Cotonou Agreement established the negotiation of World Trade Organisation (WTO) compatible trading agreements between the EU and the ACP countries that built on the regional integration processes of those countries. As a consequence, the agreements would be negotiated with different regional agreements in each of the ACP regions. However, the final decision of in which the EPA's countries participate would rest in each ACP country.¹ This was mainly applicable to African countries since several countries participated in different regional agreements at the same time. The only condition imposed by the EU is that a country had to commit to only one EPA. In phase I the format, structure and principles of the negotiations was negotiated, as well as the common issues to all ACP countries. Among them, we can highlight important issues such as differential treatment, LDC status, WTO compatibility, rules of origin and the general framework for trade in services. However, all these topics were present later in phase II as there were no special commitments or agreements reached in phase I. Phase I negotiations started officially in September 2002. According to the EU mandate, the first phase should have been finished by January 2003, and immediately after phase II should have started.

Before the start of the negotiations, it was highlighted that the negotiations and analysis capacities of several ACP countries would not be in line with the challenges presented by these negotiations. Furthermore, the EU launched a finance program of €20 million to build capacity in support of the negotiations of the EPA's. The program was managed by the Program Management Unit (PMU) which was established to assist ACP countries in the negotiations.² Among the activities of the PMU was the organisation, at the behest of the ACP groups, of studies on topics that could help on the negotiations. They also had to organise seminars and workshops to help on the negotiations.

On the ACP side, the Council of Ministers had the political leadership of the negotiations and was responsible for the approval of them. The preparatory negotiations were conducted by the ACP Committee of Ambassadors as it was one of their main responsibilities to assure the coherence between EPA's and WTO rules.

Since the start of the negotiations the ACP countries raised the issue of the assistance and support to accomplish the objectives established by the EPA's. As an the extension of the agreements reached during Cotonou, a main objective of the EPA's was to enhance trade and development for ACP countries. Particularly on the latter, the ACP

¹ Trade Negotiations Insights, Vol. 1, No. 1, February, 2002.

² Trade Negotiations Insights, Vol. 1, No. 3, September, 2002.

countries demanded more precision as well as specific commitments from the EU in terms of financial support to overcome supply side constraints to allow their economies to fully grasp the benefits of trade liberalisation. Moreover, they wanted specific commitments for the restructuring, compensation of losses in earnings and establishing policies for diversification. This claim was the main conflictive point during the entire extent of the negotiations.

On the EC side, it was not possible to commit to specific aid programs because of two reasons. First, since the Directorate General for Trade (DG TRADE) was the body that had the mandate to negotiate the EPA's, they could not engage in negotiations in terms of aid, as they were the responsibility of the Directorate General of Development (DG DEV). However, probably the most important reason was the fact that they did not want the negotiations and the agreements to look like an exchange of trade liberalisation for financial aid. As a consequence, the EC was always reluctant to commit to specific financial aid programs and always said during the negotiations that the development cooperation was dealt adequately in the Cotonou Agreement and should not be included in the EPAs negotiations.³ However, it was claimed later (in March 2008) that the EC was considering a new scheme that would aim to establish joint strategies with EU member states – including joint funding and programming. Funding would be provided through regional level budget support via EPA funds (to which the EC, member states and other donors will contribute).⁴ However, this has not passed yet from intention.

On the other hand, ACP countries considered that phase I should have a binding outcome in terms of the issues highlighted above and summarised in an ACP-EU general agreement on those topics in order to proceed to the second phase. The EU, on the contrary, considered that both phases could be negotiated independently and at the same time.⁵ The EC maintained all along that the objective of all ACP meetings was a clarification of issues and that the Cotonou Agreement was a sufficient legal basis for negotiations or that the phase I should serve as a reference point and provide guidance for the negotiations to be conducted at the regional level. Considering this, phase I was a formality rather than a true negotiation stage. Very little substance was agreed during this phase and several issues reappeared during the second phase.

In terms of services, ACP countries seemed to be interested in improving access to the EU of services originating on those countries, and were particularly interested in getting access to mode 4 relating to the movement of natural persons, to develop an effective implementation of GATS article 4, access to distribution channels and information networks, and the liberalisation of the market access in services. While in general there was not particularly disagreement, in terms of mode 4, the EU was reluctant to negotiate full access. This particular issue appeared again during phase II, but in the agreements signed or to be signed, the EC position did not change.

The negotiations during the early stages evolved very slowly. This was mainly due to the ongoing Doha Round negotiations at the WTO, which could have had important implications on the shape of the EPA's that were negotiated at the same time, particularly in what special and differential treatment was concerned. Moreover, ACP countries were worried about the effects that global liberalisation would have in the value

³ Trade Negotiations Insights, Vol. 2, No. 3, June, 2003.

⁴ Trade Negotiations Insights, Vol. 7, No. 3, April, 2008.

⁵ Trade Negotiations Insights, Vol. 3, No. 1, January, 2004.

of their preferences as well as the ongoing reform of the Common Agricultural Policy (CAP). As a consequence, during these stages, negotiators had one eye on the EPAs and the other eye on the Doha Round negotiations. For example, in July/August 2003 some frictions appeared between ACP countries since some of them benefit from the EU's subsidy regime (particularly on sugar) while others do not benefit.⁶

It also has to be considered that given the geographical scope of the negotiations, a wide group of ACP countries with very little or almost inexistent trade and even diplomatic relationships needed to fix common positions before negotiations. This substantially slowed down the negotiation process. Despite being part of the same negotiation group, there was very little knowledge of their negotiation same side partners. So, the fact that during phase I, negotiations included all of the ACP countries made progress very slow.

The ACP countries made clear that trade and labour standards should not be part of the market access negotiations, but instead they should remain within the sphere of the International Labour Organisation (ILO) and, eventually the WTO.

After a year of negotiations, some convergences were found but there were still a wide range of issues that were not clear. Both parties agreed that the level of market access that the EU had to provide to the ACP countries under EPA had to be improved. However, under the increasing trade liberalisation and particular, in light of the Doha Round negotiations, it was clear for the ACP countries that an improved access to the EU will be only achieved through more favourable rules of origins and a comprehensive treatment of non-trade barriers. At this stage, the position of the EU was not clear on these topics and they agreed that discussions on the remaining divergences on general issues should continue in parallel with the regional level negotiations.

As was mentioned, the issue of additional sources of finance to support the regional integration processes as well as to assure the benefits of trade liberalisation were present constantly in the ACP position. Again, the EU maintained its position that these types of discussions can be held in parallel with the EPA negotiations and that the sufficient development resources and instruments were available under the Cotonou Agreement, managed through the European Development Fund. Each region had to establish a Regional Preparatory Task Force (RPTF) which would provide a link between the provisions and EPA trade negotiations. The RPTFs would be responsible for monitoring EPA negotiations and making recommendations on the type of support needed to the officials responsible for programming development finance.

When negotiations on phase II began at the beginning of 2004, there were still several points to clarify. They agreed to continue talking at the all-ACP level with the EU on rules of origin, dispute settlement, trade related issues (not Singapore issues) and the non-execution clause, for which the EU could suspend its commitments under the Cotonou Agreement if an ACP member failed to respect human rights, democratic principles and the rule of law; fundamental foundations of the agreement and EPAs. However, considering the latter, a problematic point arose given the possibility that in case that one country non-compliance to EPA rules, EU trade sanctions could be applied to the whole EPA region. Moreover, there existed the possibility that the non-execution clause could be applied to all EPA region members if one of them does not comply with the

⁶ Trade Negotiations Insights, Vol. 2, No. 4, August, 2003.

essential and fundamental of EPA (human rights, democracy and rule of law). The EU always pointed out that sanctions would be applied on a bilateral basis and that there should not be any link between cooperation and the non-execution clause.⁷

Before starting the analysis on the dynamics of the phase II, it must be stressed that the negotiations were not fully backed by the European Union members. Several voices considered that the EC was pushing too much and that the agreements should have a high degree of flexibility. The United Kingdom government was particularly concerned about the convenience for ACP countries of these agreements and sympathetic with their requirements. In particular, the UK government asked for longer implementation periods (more than 20 years); no minimum for the level of coverage in product liberalisation; a safeguard mechanism for EU subsidised products; the removal of investment competition and government procurement from negotiations; and that EPAs should be accompanied by additional resources to benefit from trade reform and built their export competitiveness.⁸ These provisions strongly contrasted with the EC negotiation position.

Table 1 Main Negotiation 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 enough legal bases.	Phase I should be an ACP-EU general agreement in the issues negotiated before starting the regional negotiations.
Development Funding	Development cooperation is dealt 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 losses in earnings. Timing problems and bureaucratic procedures will not meet the adjustment requirements.
Services	Not willing to negotiate substantially on mode 4 (movement of natural persons).	Access to the EU of services of ACP countries. Interested in access on mode 4. Access to distribution channels and information networks.
Labour standards	Initial attempts to have some provisions.	Not part of EPAs. They must be handled by the 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.

⁷ Trade Negotiations Insights, Vol. 3, No. 4, July 2004.

⁸ Department of Trade and Industry and Department for International Development, "Economic Partnership Agreement: Making EPAs deliver for Development", March 2005. Available at www.berr.gov.uk/files/file9845.pdf

2. Phase II

On October 2003 phase II officially started in West Africa and Central Africa. Table 2 presents the list of regional EPAs and the countries involved in each of them. The first row indicates when phase II begins for each EPA region. It must be highlighted that EAC EPA was originally part of the EAS EPA.

Table 2 Distribution of ACP Countries by EPA Region (underlined non-LDC)

West Africa (ECOWAS)	Central Africa (CEMAC)	Eastern Southern Africa (EAS)	Southern Africa (SADC)	East African Community (EAC)	Caribbean (CARIFORUM)	Pacific (PACP)
October, 2003	October, 2003	February, 2004	December, 2004	December, 2004	April, 2004	September, 2004
Benin	<u>Cameroon</u>	Comoros	Angola	Burundi	Antigua/Barbuda	<u>Cook Islands</u>
Burkina Faso	Chad	Djibouti	<u>Botswana</u>	<u>Kenya</u>	Bahamas	<u>Fed. Micronesia</u>
<u>Cape Verde</u> ⁹	Cent. African Rep.	Eritrea	Lesotho	Rwanda	Barbados	<u>Fiji</u>
<u>Cote d'Ivoire</u>	<u>Congo</u>	Ethiopia	Mozambique	Tanzania ¹⁰	Belize	Kiribati
Gambia	DR Congo	Madagascar	<u>Namibia</u>	Uganda	Dominica	<u>Marshall Is.</u>
<u>Ghana</u>	Eq. Guinea	Malawi	<u>South Africa</u> ¹¹		Dominican Rep.	<u>Nauru</u>
Guinea	<u>Gabon</u>	<u>Mauritius</u>	<u>Swaziland</u>		Grenada	<u>Niue</u>
Bissau	<u>S. Tome / Principe</u>	<u>Seychelles</u>			Guyana	<u>Palau</u>
Liberia		Sudan			<u>Haiti</u> ¹²	<u>Papua New Guinea</u>
Mali		Zambia			Jamaica	Samoa
Mauritania		<u>Zimbabwe</u>			St. Kitts/Nevis	Solomon Is.
Niger					St. Lucia	<u>Tonga</u>
<u>Nigeria</u>					St. Vincent / Grenadines	Tuvalu
Senegal					Suriname	Vanuatu
Sierra Leone					Trinidad/Tobago	
Togo						

Note: Underlined countries are developing countries

Phase II negotiations began with respective road maps to guide the negotiations in each region. In general, the road maps did not differ substantially from region to region. They were mere declaration of intentions rather than a true list and sequence of the issues to be negotiated. The following analysis will be a description of the negotiations by each

⁹ Cape Verde has been classified as non-LDC since January 2008. When negotiations started it was LDC. However, it will be able to export to the EU under the EBA initiative for a transitional period of three years.

¹⁰ Initially was part of the SADC EPA negotiation group.

¹¹ South Africa initially participated as an observer. It was later invited as a negotiating party.

¹² Haiti did not participate in negotiations, however; it initialled the Cariforum-EU EPA at the end of 2007.

EPA group. However, after phase II started, there was not much advance with the phase I issues, despite initial agreements that those issues would be crystallised during the phase II negotiations. Moreover, no significant all-ACP meetings took place once the negotiations of the regional EPA's began.

West Africa

In August 2004, the roadmap for West Africa EPAs negotiations was agreed and negotiations were structured according to the following technical groups: on the questions connected to regional integration (free trade area, Customs Union, trade facilitation, SPS and TBT measures); on trade-related issues (competition policy, investment and intellectual rights); on services; on agriculture and fisheries; on non-agriculture products; and on development questions. The first phase of negotiations analyse the elements necessary to make progress in the regional integration process. West Africa wanted to discuss issues of support for re-enforcement of capacity production and competitiveness to be included in the formal part of the EPA negotiations. The EC agreed that there could be sectoral analysis for products in the EPA negotiations framework, but that the discussions on capacity building support were for the RPTFs using the Cotonou instruments.

In terms of regional integration, it was said that the **Economic Community of West African States** (ECOWAS) common external tariff was scheduled to be adopted in June 2005. However, they informed that trade within the region needed to be improved and that it was necessary to discuss how to support this in the context of the EPA's. They agreed late in 2005 that a Customs Union (already effective in West Africa Economic and Monetary Union (UEMOA) and to be extended to the ECOWAS by 2007 should sign the EPA as a group.

At the beginning, both parties established the issues to be discussed and West Africa started to prepare their Regional Framework. Since the beginning West Africa considered it not useful to discuss competition policy and investment. They also rejected the EC's proposal to discuss public procurement and labour standards, as they were not part of the road map for the negotiations.¹³

Around mid-2006, West Africa maintained their position in areas of divergence with the EC but they agreed on services. These areas of divergence included the reinforcing of the capabilities, improved rules of origin and support for capacity building in relation to trade facilitation, SPS and TBT.

The negotiation Group Five on production sectors generated controversy when identified in a report specific areas and instruments for cooperation. The EC considered that the document from this group, included in the Reference Framework, should not outline specific actions to be taken since discussions could continue after the EPA was signed. For West Africa, it was important that the main points of intervention had to be identified. Eventually, the parties agreed the inclusion of an EPA reference to the RPTF as a way to ensure a link to development support accompanying measures.¹⁴

¹³ Trade Negotiations Insights, Vol. 4, No. 6, December, 2005.

¹⁴ Trade Negotiations Insights, Vol. 5, No. 5, October 2006.

Later in 2006, it was agreed to accelerate progress in the harmonisation of existing competition and investment policy frameworks and to create an intra-regional framework as a means to improve regional integration and promote competitiveness of the regional economy.

There were still several points to be agreed at this time. However, they agreed to proceed to the next phase of negotiations, in order to start the discussion of the general structure of the agreement and the EPA Reference Framework. At the same time of this phase of negotiations they would complete the remaining issues (production capacities, etc).

At the beginning of 2007, it seemed that, in addition to financial aid issues, there were minor, unimportant issues that could impede the signing of the EPA. They agreed that there would be a flexible and phased introduction of all aspects in the implementation of EPA and the EC also agreed that it would be willing to support a regional development fund to support EPA implementation, if the region agreed to establish that mechanism. In March 2007, the EC handed its liberalisation offer to each EPA group and West Africa started to work on its market access offer, focusing on the elaboration of a common external tariff for ECOWAS. It was expected that by June 2007, the West Africa region would present its offer containing the liberalisation schedule as well as the list of excluded products so that detailed negotiations can begin. This is the point where the main differences began.

While still preparing its offer, West Africa negotiators requested transition periods of 25-30 years. The EC proposed that only extremely sensitive products be given a 25 year transition period.¹⁵ In September 2007, as a way of putting pressure on the different regions, the EC rejected the possibility of EPA alternatives that include an extension of the WTO waiver. As the same time, the EC proposed a two stage approach. An interim EPA would be signed leaving the most problematic and time consuming issues to be dealt later. However, the deadline arrived and West Africa did not hand in its market access proposal.

The region stated at the beginning of 2008 its intention to continue negotiating the EPAs as a bloc.¹⁶ However, Cote d'Ivoire and Ghana initialled an interim EPA with the EU, which would be eventually superseded by a regional EPA. Despite the intentions of adoption of the common external tariff, there were some controversial issues within West Africa. Particularly, Nigeria demanded the creation of a fifth band at 50% as an addition to the existing UEMOA rate. The UEMOA common external tariff contained four bands (0%, 5%, 10% and 20%). Nigeria was pushing for an additional band in order to protect its pharmaceutical industry.¹⁷

In April 2008, West Africa region countries were still defining the national sensitive lists. It was hoped that these lists could be combined into one acceptable group list in order to finally present the regional market access offer. However, the progress in the definition of the market access offer was linked to the finalisation of the ECOWAS common external tariff as they considered that the establishment of a Custom Union was a prerequisite for a regional EPA with the EU.

¹⁵ Trade Negotiations Insights, Vol. 6, No. 5, September 2006.

¹⁶ Trade Negotiations Insights, Vol. 7, No. 1, February 2008.

¹⁷ Trade Negotiations Insights, Vol. 7, No. 3, April 2008.

Disagreements also existed on other areas, particularly on export taxes, the reform of ECOWAS and UEMOA levies to make the agreements WTO compatible, the MFN clause, the elimination of EU agricultural subsidies, the duration of the transition period for establishing free movement of goods in West Africa and the definition of the custom duties. The standstill clause and the non-execution clause also presented disagreement. In December 2008 an agreement between the main economies of the region was reached on 90% of the tariff lines for the region's common external tariff. This allowed them to hand a draft market access offer to the EU in February 2009. The offer considered the liberalisation of 60% of EU imports in goods over 25 years.¹⁸ The EC questioned its WTO compatibility in terms of reciprocity, coverage and transition timing. Moreover, the final offer was conditional to the eventual completion of the ECOWAS common external tariff.¹⁹

Despite the progress made on several issues (dispute settlement, general exceptions, institutions, transition periods for S&D and agricultural subsidies), by May 2009 there was still divergence in terms of the development cooperation, specific support to improve competitiveness and production capabilities and in relation to West Africa's market access offer. Moreover, the EU has highlighted that the West Africa offer needs to be improved. Finally, West Africa rejected the inclusion of a non-execution clause in the EPA.

By August 2009, they were still negotiating the scope of the ECOWAS common external tariff. There was significant progress in the rest of the areas, but they could not conclude the negotiation on this particular issue. This slowed down the whole process for the West Africa EPA negotiation. Furthermore, the offer made by West Africa to the EC was unsatisfactory as the EC expects that EPA countries liberalise around 80% of their trade.²⁰

Central Africa

Negotiations with the *Communauté Economique et Monétaire de l'Afrique Centrale* (CEMAC) started in October 2003 and the roadmap was agreed in August 2004. Similarly to the rest of the EPA's negotiated, the region called for specific provisions (and commitments) in terms of resources to assure the link between trade liberalisation and development. In the same way as West Africa, CEMAC asked for the reinforcement of production capabilities to be included in the EPA negotiations. Again, the EU explained that this issue was not part of the EPA negotiation.

At the end of 2004 and beginning of 2005, the technical groups in the region prepared different reports to analyse the state of the regional integration, the region's trade policy and identify the areas to improve. This would form the basis to determine the structure of their EPAs. These reports were followed by different meetings and workshops to define the policies, instruments and capacity building to overcome TBTs, regional integration, and facilitate the free circulation of goods between the region and the EU and within the region.

¹⁸ Trade Negotiations Insights, Vol. 8, No. 1, February, 2009.

¹⁹ Trade Negotiations Insights, Vol. 8, No. 4, April 2009.

²⁰ Lui, D. and Bilal, S. (2009)

In October 2005, The EC and Central Africa agreed that a CEMAC Customs Union will sign the EPA. The EC and Central Africa agreed to discuss environment, labour and consumer standards the following year. This was a particularity of Central Africa since it did not exclude these issues from their EPAs. The Democratic Republic of Congo decided to join the CEMAC region in the framework of EPA negotiations and left ESA EPA configuration.

By the beginning of 2006, the RPTF considered studies, including on production capacity and export potential and asked for legal assistance to the CEMAC secretariat to draft legal texts. The EC and CEMAC presented “non-papers” on the table as the basis of discussions to fill in the chapters of the agreement. However, there was some disagreement respect the EPA’s link to the Cotonou Agreement on the application of the non-execution clause. These divergences slowed down the negotiations since the region did not proceed to the subsequent stage of the negotiation. There were also objections to EC proposals to include references to elements of the Cotonou Agreement (human rights, democracy and the rule of law) and to good governance.²¹

By September 2006 negotiations had made very little progress. The EC considered that CEMAC proposed a far reaching approach that was covered by DG DEV and outside DG TRADE’s negotiation mandate. CEMAC refused an exchange of sensitive products in preparation of the market access offers. By the end of 2006, there was still not an advance in negotiations.²²

The beginning of 2007 did not bring about any particular progress. To the divergences already highlighted, CEMAC considered that the proposition of 10-12 years for transition periods was not long enough for the region to adapt, respond and make the necessary adjustments for the EPA. They proposed a period of 25-30 years.²³

In March 2007 both parties decided to advance to the next phase of negotiations (which included drafting legal texts and discussing market access offers). The unresolved issues (instruments and mechanisms focuses on overall productive capability building) would continue in parallel with the next phase of negotiations.

In July 2007 both parties agreed to establish a Regional EPA fund to channel EU-EPA support funds. CEMAC also called for a compensating mechanism that would address the initial loss of customs revenue. The fund, however, would be limited to boost competition, diversify production, absorb the impact of fiscal reforms and implement rules.²⁴ Moreover, CEMAC requested that tariff liberalisation be conditional on EU support for a development package. CEMAC had not presented, by this time, their market access offer.

By October 2007 CEMAC countries were struggling to finish their list of sensitive products and some countries preferred to put forward provisional lists to avoid delay. The issue of the lack of commitments on additional resources and financial mechanisms has led some LDCs in the region to think about opting for the EC’s EBA initiative. Both sides remained divided about the rules of origin. While CEMAC wanted to use Cotonou’s

²¹ Trade Negotiations Insights, Vol. 5, No. 2, April 2006 and TNI, Vol. 5, No. 4, August 2006.

²² Trade Negotiations Insights, Vol. 5, No. 5, October 2006.

²³ Trade Negotiations Insights, Vol. 6, No. 1, February 2007

²⁴ Trade Negotiations Insights, Vol. 6, No. 4, August 2007.

rules of origin as a basis for negotiation, the EC prefers to introduce rules according to the value added principle.²⁵

When the deadline for negotiations arrived, no market access offer was presented by CEMAC and no regional interim EPA was signed. However, Cameroon initialled an interim EPA with the EU in December 2007. Gabon also wanted to establish this agreement. These movements made it hard to find a common regional position in the Central Africa region. This seemed to have affected the entire regional integration process. On the other hand, Congo and the other LDCs did not consider an interim agreement to be an option.²⁶

In March 2008, Central African countries decided to go for the interim agreement with the EU. However, the CEMAC market access offer was not presented and there was no agreement, even within the region, in negotiating services given that no regional impact study was available.

By April 2008 Central Africa was trying to accelerate the process of regional integration by signing a new treaty to improve the power of community law courts and increase the participation of civil society. The idea also included the transfer of some national decision making power to regional level. It was expected that this move could speed up the EPA's negotiation process.²⁷

During July 2008 Central Africa presented their market access offer for goods. The offer, linked to the ongoing process of harmonisation of the Central African common external tariff, would abolish tariffs on 71% of imports over 20 years (including a five year preparatory period). The EU insisted that 80% of products should be liberalised over 15 years, although it considered that a transitional period could be feasible. Despite the progress in market access for goods and general issues, there was still not agreement on export duties, the MFN clause and safeguard and antidumping measures. Moreover, dispute settlement and development issues had not been discussed at that stage. By October 2008, CEMAC refused to improve their market access offer and stuck to the 71% liberalisation over 20 years and demanded the EC to interpret WTO provisions with more flexibility.²⁸

By the end of 2008, there was speculation that Cameroon was rethinking the signature following the EC's decision to negotiate a FTA with Central America²⁹ given that ACP considered that this could be a serious threat to their bananas preference. However, the interim agreement between the EU and Cameroon was signed in January 2009. The Cameroon-EU interim EPA allowed Cameroon to continue its duty free, quota free access to the EU market, but with an asymmetric and gradual opening of its own markets to the EU. However, improved rules of origin would be only granted once a comprehensive regional EPA that covers trade in goods, services and other trade-related issues was signed. In the last months of 2009, there was not much progress.

²⁵ Trade Negotiations Insights, Vol. 6, No. 7, November 2007.

²⁶ Trade Negotiations Insights, Vol. 7, No. 1, February 2008.

²⁷ Trade Negotiations Insights, Vol. 7, No. 4, May 2008.

²⁸ Trade Negotiations Insights, Vol. 7, No. 7, September 2008.

²⁹ This movement, forced by the WTO decision that determined that EU tariff on imported bananas, was discriminating Latin American producers.

The CEMAC-EU EPA has suffered several delays. One of the main explanations was the continued demand for an specific commitment from the EU side on how the finance the support for the adjustment process, as well as the link between development and trade liberalisation. The CEMAC position has been particularly inflexible and has constituted a major impediment to the progress. Their market access offer (that they did not improve) and the lack of commitments in services demonstrated that this region was not willing to advance until they received more clarification (and commitments) to their demands.

Eastern and Southern Africa

Official negotiations started in February 2004 and three areas were defined for the negotiations, fisheries, development and market access. On the development side again, they focused on identifying and removal of supply side constraints and short term adjustment to support regional integration. As in the rest of the negotiations, the first part of phase II considered the preparation of several studies to assess the impact of EPA's on their economies as well as more detailed and specific analysis that would help them in their negotiations.

Since the beginning, they considered that their proposal should include the cost of implementing EPA's and the removal of supply side constraints based on an analysis of the effects of EPA tariff reduction on revenues and competitiveness of domestic industries in the region. Moreover, they considered other elements such as debt relief (including domestic debt), technology transfer, the CAP reform and intellectual property rights.³⁰

At the same time, they started working on the regional integration dimension. Around May 2005, they agreed on the objective of creating the Common Investment Area (CCIA) in the Common Market for Eastern and Southern Africa (COMESA). The idea was to create an area that would attract greater and sustainable levels of foreign investment, by allowing free movement of capital, labour, goods and services within them. This was to coincide with their development strategies.

Meetings and negotiations continued at the beginning of 2006. ESA proposed that agriculture negotiations should focus on food security and net food importing countries, SPS, subsidies and commodities that could be affected by the CAP reform and export subsidies on ESA products. They were also concerned about the loss of preferences that the global liberalisation at the WTO could imply.³¹

ESA continued to ask for additional resources to tackle the adjustment and to deal with the implementation of EPA's. The EC commission, however, stressed the importance of having a common external tariff to negotiate the EPA's, although ESA considered that it should not be a formal precondition to conclude EPA's.³²

Moreover, ESA wanted a standalone agreement on fisheries given the importance of the resource for them and that no individual country could assure its sustainability. The EC agreed on this, but it had to be done within the EPA context, since it considered that it

³⁰ Trade Negotiations Insights, Vol. 4, No. 5, October 2005.

³¹ Trade Negotiations Insights, Vol. 4, No. 6, December 2005.

³² Trade Negotiations Insights, Vol. 5, No. 2, April 2006.

would not meet WTO provisions. Eventually, both agreed to include fisheries as a chapter in EPA's.

Throughout 2006 negotiations continued. However, divergences continued on the priority focus for EPA's. As a first priority the EC preferred a regulatory framework that helps trade, while ESA put priority to tackle supply side constraints in relation to their internal and external trade.

Negotiations were focused on more detailed issues. In agriculture, ESA informed the EC that it wanted to develop a regional agricultural policy with the idea of negotiating regional preferences since they were worried about the effects of the reform of the CAP. The EC asked for negotiations in public procurement but ESA indicated that first they needed to set rules and build regional capacity in this aspect.³³

By the end of 2006, some general aspects were agreed, but there were still several issues to be discussed. The EC rejected that the development chapter should include financial commitments and this should be channelled through the European Development Fund. It also refused to include development benchmarks in the EPA monitoring mechanism, claiming that the monitoring should focus on the follow up of mutual commitments aimed at extending or accelerating trade liberalisation. Finally, the EC did not agree that EPA's should guarantee the current levels of market access for LDCs as well as preferences.³⁴

By the beginning of 2007, ESA negotiators insisted on the necessity of linking trade reforms and development indicators as well as asking for more accessible financial resources. ESA Ministers also started to consider the possibility of asking for an extension to the current WTO waiver to complete EPA negotiations.

When the EC presented its offer, in general it was welcomed by ESA. However, LDCs in ESA were concerned over the benefits of providing EU reciprocal access since they already had full access to the EU markets under the EBA initiative. They continued to insist on specific commitments on development support and a special sugar protocol for Mauritius.³⁵

By July 2007, ESA presented a single market access offer based on its CET. Its offer considered a 25 year transitional period and a common regional list of sensitive products. However, the extension of the individual country list of sensitive products (up to 60%) would not be WTO compatible. Moreover, these lists were not definite.

ESA negotiators started to focus on securing only goods and development section of the agreement instead of trying to finish all areas by the deadline. They also asked for transitional measures to avoid trade disruption if no agreement was reached. The EC agreed eventually to include some development benchmark on the monitoring of the agreement, but asked for an alignment between the development strategy and the monitoring.

³³ Trade Negotiations Insights, Vol. 5, No. 5, October 2006.

³⁴ Trade Negotiations Insights, Vol. 5, No. 5, December 2006.

³⁵ Trade Negotiations Insights, Vol. 6, No. 4, August 2007.

In terms of market access, the EC rejected the possibility of 25 years transition. ESA reduced the size of the list of sensitive to 30%. However, discussions now stuck on rules of origin. ESA called for tolerance value to be around 30% and cumulation allowed with all ACP countries.³⁶

By the end of 2007, Kenya, Burundi, Rwanda, Tanzania and Uganda split from ESA. The deadline arrived and no agreement was reached. As a consequence, Seychelles, Zimbabwe, Mauritius, Comoros and Madagascar went for the interim EPA. Zambia, despite having initialled the agreement, did not present its market access offer at that time (it did, eventually in October 2008).

At the beginning of 2008 negotiations were continuing. There was agreement to find solutions to problems such as S&D for LDC, rules of origin and cumulation. However, they continued insisting on the necessity of securing additional resources and delivery mechanisms for EPA's costs. ESA was not happy with the 'standstill clause' since it did not allow them to raise tariffs even in products not subject to trade liberalisation. In addition, they wanted to discuss on the MFN clause and enabling export tariffs. In terms of trade related issues, ESA considered that they needed to build capacity before implementing an agreement on them. Finally, ESA complained about the provisions on good governance in the fiscal chapter of EPA's but the EC felt that these provisions were compulsory.³⁷

By the middle of 2008 the ESA worked on finalising its CET. However, the split of EAC from ESA complicated the completion of the COMESA Custom Union, scheduled to be finished in 2010. The standstill clause, the export tariffs provisions and the development chapter continued to be problematic. Also, the EC wanted to include investment in the services negotiations, while ESA did not; the ESA did not want to go further with TRIPs on intellectual property rights.

At end of 2008 discussions were still commencing and the ESA asked that developing countries should be excluded from the MFN clause in the EPA. At this time, ESA maintained that S&D treatment should allow LDCs to offer less than the 80% required by the EU and longer than 15 years implementation. These were the main sticky points at the beginning of 2009.³⁸

The negotiations continued during 2009. The EC agreed to deal with issues such as export tariffs, quantitative restrictions, infant industries and the applicability of the standstill clause, development benchmarks, agriculture and S&D for agriculture and the MFN clause. Because of this it was anticipated that an interim EPA (including both developing countries and LDCs) could be signed by mid August 2009.³⁹

During the entire negotiation process, the requirement of additional funds was always present and constituted a major difficult point. The treatment of export tariffs, the standstill clause, the MFN clause and the S&D for LDCs also brought about major barriers. Despite the progress made in 2009, the region could not sign a full EPA and it

³⁶ Trade Negotiations Insights, Vol. 7, No. 1, February 2008.

³⁷ Trade Negotiations Insights, Vol. 7, No. 6, August 2008.

³⁸ Trade Negotiations Insights, Vol. 8, No. 1, February 2009.

³⁹ Trade Negotiations Insights, Vol. 8, No. 4, May 2009.

is only just about to conclude an interim agreement. There are several other challenging issues that remained to be agreed.

East African Community

Originally part of the ESA group, Kenya, Tanzania,⁴⁰ Burundi, Rwanda and Uganda started to explore the possibility of negotiating a separate EPA in August 2007.⁴¹ This movement was explained by the possibility of trade disruptions if the broad ESA group did not sign an agreement by the end of 2007. However, the split off group had problems since the beginning.

Tanzania joined the EAC Customs Union in 2005, having previously negotiated on the SADC EPA. However it opposed certain proposals by other EAC members which would have allowed signing an EAC deal. In fact, the differences between Tanzania and the rest of the EAC members also played some role in the slow pace of ESA negotiations. Eventually, in November 2007 the EAC signed an interim agreement with the EU. However, the problem of the configuration of the group remained. In the middle of the negotiations, there were several movements to form a wide free trade area comprehending COMESA and SADC.

The issue of the standstill clause was also present in the negotiations. The EC said that it was open to discuss it but only in the process towards reaching a full EPA. However, in topics such as rules of origin and cumulation criteria, EAC considered that it needed to consult ESA and SADC groups to ensure similarity.

Negotiations on EAC common market were launched in April 2008, scheduled to be operating in 2010. The possibility of establishing a monetary union was also considered, as well as installing a common regional quality standard.

Both parties agreed by mid 2008 to formulate new texts in the full EPA for the standstill clause, export duties and the MFN clause. However, they considered that more negotiations were required on antidumping and countervailing measures, safeguards and the infant industry. Furthermore, the EAC wanted to analyse and look for common interests between members in services liberalisation before opening negotiations.

The issue of export tariffs and the MFN clause continued to be problematic at the beginning of 2009. EAC believed that all developing countries should be excluded in order to promote South-South trade, while the EC considered that the exclusion of ACP and the rest of the African countries are sufficient to assure regional integration.

Negotiations remained slow and dependent on the EAC integration process. Tanzania continued to object to a national identity document, access to and use of land, as well as permanent resident inclusion in the EAC Common Market protocol. However, by mid 2009, COMESA, EAC and SADC agreed to establish a single custom union although it still does not have an implementation date. Negotiations with the EU remained slow in services, TRIs and rules of origin.

⁴⁰ Tanzania was originally part of the SADC EPA negotiation group.

⁴¹ Trade Negotiations Insights, Vol. 6, No. 5, September 2007.

Despite the progress, the signing of a full EPA will depend on the EAC's own integration process and the solution of the differences within them.

Southern Africa

When negotiations were launched in December 2004, South Africa was not part of the SADC EPA negotiation group since its commercial relations with the EU were covered by the South African-EU Trade and Development Cooperation Agreement (TDCA). The SADC, since the beginning, took the stance that the TDCA would have implications on the SADC-EU EPA negotiations. The EC felt that individual countries could only be a member of a single trading arrangement with the EC. This would imply that some countries would have to make difficult choices given the complexity of overlapping regional bodies in the South African region. As a consequence, it was considered that the reciprocal tariff elimination of the TDCA would constitute the basis for any SADC-EU EPA and that was not designed with its neighbours needs in mind. This problem (partially solved with the inclusion of South Africa as a negotiation party in the SADC-EU EPA) would have important implications in the negotiation process.⁴²

The negotiation process started with the preparation of several studies to serve as a basis for negotiations. It was agreed that the SADC EPA should include development dimensions and regional integration; SPS and TBTs; market access (agriculture, fisheries and non-agricultural goods); rules of origin; trade facilitation and customs cooperation; safeguards, antidumping and countervailing measures; TRIPs; services; and other aspects such as national security and dispute settlement.

By the end of 2005, the EU asked South Africa to be more involved in the negotiation process, but still it was only an observer. The EC also asked to have a CET by 2008; however the SADC agenda scheduled one for 2010. SADC wanted, on the contrary, to conclude EPA's before the establishment of the CET.⁴³

SADC indicated the difficulty of negotiating on issues where common policies did not exist in SADC and for which there were no modalities at the WTO. The EC proposed to cover topics such as competition policy, investment, government procurement, environment and labour standards in the negotiations while SADC considered that those trade related issues should not be negotiated.⁴⁴

The configuration of the negotiating group remained problematic during 2006. However, SADC presented its proposal for the negotiation framework in February 2006. It asked that all member states of the South African Customs Union (SACU) should be involved in both the EPA negotiations and the TDCA review. This meant that South Africa would be a negotiating party in the EPA. Also, that the EU should grant full EBA market access to all SADC members states and for LDCs to be exempt from providing market access to the EU. Rules of origin should be simplified and allow for full cumulation in SADC, other ACP countries and all other regions that had trade agreements with the EU. Finally, it demanded specific commitments in terms of financial support and capacity building to address supply constraints, compensation of fiscal losses and increase competitiveness.

⁴² Trade Negotiations Insights, Vol. 3, No. 5, September 2004.

⁴³ Trade Negotiations Insights, Vol. 5, No. 2, April 2006.

⁴⁴ Trade Negotiations Insights, Vol. 5, No. 2, April 2006.

The EC took almost nine months to answer to this proposal. During that time, there was very little progress.

The reason for this delay was that this proposal may have had complex political and economic issues. Moreover, a change in the EU mandate was required to include South Africa as a negotiating partner. Eventually, South Africa was accepted in the SADC EPA. The EC rejected SADC's request that EBA be considered on a non-reciprocal basis in the EPA since it would not be WTO compatible. The LDCs could remain EBA beneficiaries and be associated to the EPA only on the basis on non-tariff provisions. On the other hand, to preserve the coherence of the SADC region with separate EU trade regime, a system of control for rules of origin and autonomous safeguard mechanism to protect EU markets would be designed. Eventually, renegotiations were re-launched in February 2007. However, modifications to the roadmap were required, delaying negotiations even more.⁴⁵

SADC continued to request a development chapter that would provide a legally binding commitment for the provision of EU development support. The EC insisted that the level of support would be determined by the level of commitment taken in the EPA and that there was no need for further commitments. It was agreed to establish a regional EPA fund to finance EPA related development and adjustment needs.

On the overlapping memberships within regional communities, SADC considered that Lesotho's status as an LDC needed to be considered in negotiations. Moreover, Angola, Mozambique and Tanzania were individual customs territories that should make separate market access offers to the EU. In terms of services, with the exception of South Africa, SADC members were willing to treat the issue given the crucial development role the sector could play in their economies. This generated tensions between members given the reluctance of South Africa to negotiate broadly in this issue. The changes in the configuration of the EPA made the negotiations harder. SADC, SACU but also Angola, Mozambique and Tanzania needed to prepare their offers. The SACU offer generated some tensions given the difficulty to accommodate all parties. Particularly key was the problem of the sensitivities of Botswana, Lesotho, Namibia and Swaziland (BNLS) in an offer that was influenced by the TDCA. By mid 2007, Tanzania left SADC and join EAC negotiation group.⁴⁶

In market access, Angola faced problems to prepare their offer and preferred to keep EBA. Agricultural products and fisheries remained to be the most problematic areas in preparing the market access offers. Moreover, services generated frictions in the block. SADC proposed to exclude South Africa from the commitments in services while the EU considered that it should be included.

Furthermore, when the time of the deadline was approaching and interim EPAs were proposed, South Africa showed some concern that at some point it would need to make commitments on TRI.⁴⁷ Eventually Botswana, Namibia, Lesotho, Swaziland and Mozambique initialled interim EPAs and South Africa opted out. They eventually, continued accessing the EU through TDCA.

⁴⁵ Trade Negotiations Insights, Vol. 6, No. 1, February 2007.

⁴⁶ Trade Negotiations Insights, Vol. 6, No. 4, August 2007.

⁴⁷ Trade Negotiations Insights, Vol.6, No. 7, December 2007.

In January 2008 the SADC free trade area came into effect. It was highlighted the problems for SACU that the fact that South Africa did not sign the interim EPA (but the rest of the members did); they believed that the regional integration possibilities of SACU were jeopardised. In fact, there were rumours that South Africa could ask the rest of the members of SACU to step back from EPAs in order to save the regional integration process.⁴⁸

Later on in 2008, it was revealed that South Africa would sign a regional SADC EPA. South Africa would not need to make commitments to negotiate TRIPs or services. However, some divergences appeared within the regional block on the issue of establishing a common EPA negotiating mechanism. Concerns continued about the MFN clause and the standstill clause.

The subject of agriculture remained problematic since the SADC considered that the EU was not offering enough. However, both parties closed the gap in fisheries, but more negotiation was required on some clothing items. The EC wanted to extend the concessions that South Africa gave it under the TDCA on some agricultural products. By the end of 2008, there were no interim EPA's signed.

The differences within SADC put the regional integration process in danger. If Botswana, Lesotho and Swaziland signed an interim EPA but South Africa and Namibia maintained their positions, it would create two trade regimes in SACU.⁴⁹ Negotiations on this took place around March 2009.

The already noted differences within SADC plus other contentions issues (MFN clause) persisted. However, the EC agreed on several topics (infant industry protection, export tariffs (and the possibility of including new ones)), quantitative restrictions in favour of SADC subject to WTO provisions. They also agreed that goods that entered into SADC from the EU (and vice versa) that would be re-exported to other signatories of the agreement would be subject only once to the external customs tariffs.⁵⁰

The differences between South Africa and some members of SADC lead to the possibility of signing an interim EPA without South Africa. The idea was trying to realign commitments in order to not undermine the SACU CET. Eventually, an interim EPA SADC was signed by Botswana, Lesotho, Mozambique and Swaziland on June 2009. Negotiations for a full EPA continued with the seven members. However, South African authorities highlighted the danger that this put on the regional integration process.⁵¹

As it could be seen, the negotiations of the SADC EPA were complicated. Since the beginning, given the complexity and overlapping of trade agreements in the region, how these issues would be dealt. Moreover, South Africa, after joining the negotiations, tried to impose their own views and positions. These problems with the definitions of the SADC partners did not leave enough space for other issues that were related to the negotiations. That shortfall eventually demanded time and effort to overcome in the full EPA negotiation. The SADC EPA was slowed down primarily by the improper definition of the region, as well as, previous agreements.

⁴⁸ Trade Negotiations Insights, Vol. 7, No. 2, March 2008.

⁴⁹ Trade Negotiations Insights, Vol. 8, No. 1, January 2009.

⁵⁰ Trade Negotiations Insights, Vol. 8, No. 4, April 2009.

⁵¹ Trade Negotiations Insights, Vol. 8, No. 6, August 2009.

Caribbean

The CARIFORUM EPA was the only agreement that was fully signed on time because of this there was no need to sign an interim EPA. Therefore, we will focus the analysis on the dynamics of the agreements and the implementation of the EPA.

Negotiations began in April 2004. At the beginning, the scope and priorities of EPA negotiations were discussed. They agreed, however, that S&D should not limit to the current WTO provisions. The Caribbean asked that the EPAs benefits should be protected from any policy development such as the CAP reform, however the EC recalled that it could not consult third parties before consulting their own members.⁵²

During the initial period they focused on strengthening the CARIFORUM regional integration, so they could gain the support of the EPA. They agreed that during this first phase, both should focus on establishing a common set of priorities for support of Caribbean regional integration. They also wanted to identify the sources of assistances for CARIFORUM building capacity towards the implementation in 2008. However, the EC highlighted that regional integration could be better pursued by the establishment of a CARIFORUM Custom Union. By contrast, Caribbean negotiators considered that the scope of its regional integration was defined by the CARICOM-Dominican Republic FTA.⁵³

In March 2005, market access issues related to the regional integration process were addressed. Once again, the EC requested a single Caribbean Customs Union and trade reciprocity to be applied to all its members, including LDCs. On TBT, CARIFORUM asked for support for the recently established regional standard body; and in terms of SPS, asked for support to create a regional agency to coordinate the implementation of SPS and comply with EC SPS measures at national level.⁵⁴

In terms of services and investments, both sides saw the EPA's as a way to address the limitations of GATS. As a consequence, this part of the agreement advanced the most. The Caribbean requested support for a regional investment agency. Also they presented a list of barriers on services that would be dismantled by the end of the year in the CARICOM Single Market and Economy (CSME). The Caribbean informed the EU that they have interests in telecommunications, health related tourism, business services, maritime transport, cultural and entertainment services. It also required precisions about the architecture of their internal services regime and the impact on CARIFORUM suppliers in light of the Bolkenstein proposals.⁵⁵

By the end of 2005 and beginning of 2006, the EC suggested a CARIFORUM-EC single trade regime for goods, services, TBT/SPS measures, investment and intellectual property, competition and government procurement as the basis for their EPA's. Therefore, it departed from the earlier request for a Customs Union. However, the desire of the EC to have current applied tariffs transformed into a single starting line for tariff liberalisation showed the interest in that Caribbean formed a Customs Union.⁵⁶

⁵² Trade Negotiations Insights, Vol. 3, No. 5, September, 2004.

⁵³ Trade Negotiations Insights, Vol. 4, No. 1, January 2005.

⁵⁴ Trade Negotiations Insights, Vol. 4, No. 3 June 2005.

⁵⁵ Trade Negotiations Insights, Vol. 4, No. 3 June 2005

⁵⁶ Trade Negotiations Insights, Vol. 4, No. 6, December 2005.

CARIFORUM also expressed some concern about the EC inserting binding commitments on sustainable development and good governance was not matched by the non existence of binding commitments on trade capacity building support on the EU side. The EC maintained that issues of sustainable development and good governance were relevant and fundamental to EPA's.⁵⁷ The development dimension of EPA's was a sticky point during mid 2006 in negotiations. The Caribbean wanted the EC to translate their positions on development dimensions on particular policies. The Caribbean requirement that some countries be excluded from liberalisation commitments to reduce the impact on fiscal revenues was rejected by the EC.⁵⁸

In contrast to other regions, the EC accepted that CARIFORUM would need periods of up to 25 years for sensitive products. Despite progress in the development chapter, there was, however, at the beginning of 2007 disagreements about how to make operational the cooperation activities for EPA's implementation. Also, the Caribbean insisted that an EPA should include a legally binding non-execution clause. In light of this, if promised EU development cooperation is not delivered, the Caribbean would suspend concessions in other areas. This was ultimately rejected by the EC.⁵⁹

Despite the progress exhibited (which was more important than any other ACP region), they struggled to prepare the CARIFORUM market access offer. Diverging views within Caribbean existed in reciprocal trade and its impact on fiscal revenue; the amount of trade sectors to be covered and excluded from EPA's. Also, the EC market offer in terms of sugar, rice and bananas was not what the Caribbean counties would have liked.⁶⁰

The fact that the Caribbean was not a Customs Union complicated the negotiations on market access. The proposal of national exclusions lists was rejected by the EC. Moreover, some members were not willing to accept a full reciprocity given the sizes of their economies. It was agreed, on the other hand, that each Caribbean country would be recognised by international law as a party to EPA's. This would exempt CARIFORUM from exposure of collective sanctions.

The market access negotiations remained to be complicated during the last months of 2007. Eventually, the Caribbean presented its market access offer. However, divergences continued in product coverage, transition periods, MFN and issues of governance.

In the first two weeks of December 2007, the agreement was closed. The CARIFORUM market access offer was made on 1st December. The original offer considered 25 years implementation period. This was rejected by the EU. On 7th December the Caribbean heads of government met. They decided to reduce the implementation period to 15 years in a race to not lose the preferences on sugar, bananas, rum and rice. A week later, the full EPA was initialled.⁶¹

Finally, CARIFORUM agreed to liberalise 82.9% of their trade over a period of 15 years (with a moratorium of three years). The MFN clause was also part of the agreement. In

⁵⁷ Trade Negotiations Insights, Vol. 5, No. 2, April 2006.

⁵⁸ Trade Negotiations Insights, Vol. 5, No. 5, October 2006.

⁵⁹ Trade Negotiations Insights, Vol. 6, No. 1, March 2007.

⁶⁰ Trade Negotiations Insights, Vol. 6, No. 4, August 2007.

⁶¹ Trade Negotiations Insights, Vol. 6, No. 8, December 2007.

services, CARIFORUM countries committed to a 65% (75% S&D) sectoral coverage with a standstill clause and commitments for future liberalisation. CARIFORUM also secured a transitional TRQ in sugar, additional to the sugar protocol. Finally, CARIFORUM members in entertainment services would have access without any restriction to all EU member states.

After the agreement was initialled, some concerns were raised. Guyana's president claimed that it was the only choice and that the signing was no more than a capitulation to EU pressure. Moreover, Guyana expressed serious concerns about the agreement and later asked to postpone the signature of the agreement.⁶² However, the Director General of the CNRM (the body responsible for negotiating the deals) declared that the accord was not a panacea, but it represented the best trade agreement the region could enter at that time.⁶³

The implementation of the agreement began with the Caribbean RPTF translating the development needs into operational programmes. To do this, it conducted feasibility studies to identify needs, coordinate funding and quantify costs.⁶⁴ Also, it was agreed with the EC by May 2008 that the EDF will support EOA implementation and regional integration.

Despite the fact that the agreement was initialled, there were still several issues to address. Bahamas, for example, did not put forward its services liberalisation offer until mid 2008. However, by August 2008 the CARICOM Development Fund was established. On September 2008, Guyana informed that it would not sign a full EPA but was prepared to sign a "goods only" agreement. The EC informed that it did not have a mandate to negotiate a separate agreement with Guyana. It highlighted that signing and implementing EPA was the best way to ensure additional EPA financial support from other donors. Eventually, the EPA was signed on October 2008.⁶⁵

The beginning of 2009 saw Caribbean countries working in addressing the necessities of implementation at the national level. A problem appeared since Dominican Republic rejected any mandate be granted for EPA coordination to CARICOM unless it enjoys equal rights with the rest of the CARICOM member states. As a consequence, an urgent legal and institutional reform was needed in this institution.⁶⁶

By mid 2009, the Caribbean was focusing on the functioning of various EPA institutions at both the regional and national levels as well as working on the implementation roadmap which sets out the legislative and administrative actions.

It is interesting to see how fast the CARIFORUM and the EC agreed on market access and what eventually lead to the full EPA. The discussion in services, as well as other topics, was fast and without major disagreements. The possibility of losing preferences in key products made CARIFORUM countries keener to improve their market access offer in a matter of days. Moreover, despite continuously claiming specific commitments on finance for the adjustment process, its requirement was not as persistent as the rest

⁶² Trade Negotiations Insights, Vol. 7, No. 6, August 2008.

⁶³ Trade Negotiations Insights, Vol. 7, No. 2, March 2008.

⁶⁴ Trade Negotiations Insights, Vol. 7, No. 5, June 2008.

⁶⁵ Trade Negotiations Insights, Vol. 7, No. 8, October 2008.

⁶⁶ Trade Negotiations Insights, Vol. 8, No. 3, April 2009.

of the EPA regions. However, it is clear that there are still issues that require negotiations and clarification, and the implementation process does not seem to be as smooth as expected and it will require substantial support to accomplish the objectives.

Pacific

Discussions between the EC and the Pacific ACP group began on September 2004. Since the beginning, Pacific countries were of the opinion that the EPA's should take into consideration the special and unique circumstances of those countries. Pacific countries traded almost entirely with Australia, New Zealand and the US and had very little trade relations with the EU. As a consequence, they asked an EPA especially tailored to reflect those circumstances. Those circumstances also included the capacity constraints they faced, calling for special measures and commitments.

Similarly to the other negotiations, the first phase was devoted to the preparation different general and particular studies to help during the initial period. The Pacific region proposed to negotiate subsidiary agreements to cover trade in goods, trade in services including tourism, investment and fisheries. Basically, its proposal was to sign an overall framework that would have been signed for all members and specific agreements which members could opt to sign or not. The EC had large doubts about the WTO compatibility of such agreements and considered that those agreements could impede the regional market integration; because of this, they suggested an all-inclusive EPA.⁶⁷

The Pacific region called for binding commitments to provide support and financial resources in order to help with the cost of adjusting to secure the benefits of trade liberalisation and achieve its development objectives. The EC maintained its position that the Cotonou Partnership Agreements provided this and no further commitments were necessary.

By mid 2006, negotiators were working on the draft legal text. It included chapters on trade facilitation, agricultural development, investment promotion and protection and trade related issues. The Pacific considered that the EPA architecture should be flexible as not all PACP would be able to participate in every aspect of EPA. The EC seemed to be open to discuss the special characteristics of the region and agreed that not all PACP would be interested in participating in a goods agreement.⁶⁸

Negotiations continued with discussions and proposals. With regards to market access, the EC considered that this issue could also comprise a review of the rules of origin. Moreover, the EC considered that the proposed Fisheries Partnership Agreement should be part of the EPA. It also began the discussion on the temporary movement of labour; however, very little progress was made.

The discussion on the temporary movement of natural persons (mode 4) would prove to be problematic. Despite the recognition that the very little incentives on PACP on the trade in goods part of the agreement, the refusal of the EC to negotiate on mode 4 on the way PACP countries requested made negotiations more complicated by the end of

⁶⁷ Trade Negotiations Insights, Vol. 4, No. 5, October 2005.

⁶⁸ Trade Negotiations Insights, Vol. 5, No. 4, August 2006.

2006. Moreover, PACP countries considered that the initial EC proposals focused more on the EU's particular needs rather than the special circumstances of their countries.⁶⁹

By the beginning of 2007, negotiations were held around specific points of the agreements. The Pacific countries thought that individual members should have the right to negotiate bilateral fisheries agreement with the EU rather than a global agreement. Eventually, both parties agreed to explore the possibility of the implementation of a regional fisheries component as an integral part of the EPA. Respect to rules of origin, PACP considered a change in tariff sub-heading at the six digit level in the definition of rules of origin. Both parties agreed to explore this possibility.⁷⁰

However, the PACP could not establish the RPTF that would have helped, in the EU's view, to match development resources to the EPA's needs by mid 2007. The PACP felt that there was already a regional mechanism to deal with the existing regional programme resources.

By mid 2007, the EC commission presented its rules of origin proposal to the PACPs and confirmed that it intended to review EBA and GSP rules of origin in the following year. The PACP's negotiators argued that the proposal did not address regional concerns and suggested that several manufactured products would not qualify for DFQF treatment under EPA's.

In the services negotiations, the EC considered that the PACP proposal was going beyond mode 4 provisions but expressed that it was willing to explore other options that would be of interest to both parties.

By September 2007 it was foreseen that PACP would not meet the deadline in negotiations and no agreement would be reached given the slow movement in key Pacific areas such as fisheries, rules of origin and services. However, the possibility of an optional participation on the Goods Agreement in the EPA's was welcomed by the PACP.⁷¹

By the end of 2007, the EU and Pacific agreed to complete an interim EPA. The agreement would include a liberalisation schedule for goods, rules of origin and safeguards. Five Pacific countries presented their market access offer. The EC asked the PACP to open 90% of their trade while the Pacific wanted to open only 80%. The dispute settlement mechanism and the customs cooperation remained unsettled and the MFN clause generated some problems. However, the PACP seemed pleased with the improved rules of origin for fish. However, by the end of 2007, Fiji and Papua New Guinea signed the interim EPA. This affected the cohesion and the regional relations.

At the beginning of 2008 it was decided to continue negotiating a collective and comprehensive EPA. However, the EC refusal to discuss important key issues (mode 4 particularly) generated some tensions and PACP became less favourable to negotiate on services. During the first half of 2008 there was no progress on this area.

⁶⁹ Trade Negotiations Insights, Vol. 5, No. 6, December 2006.

⁷⁰ Trade Negotiations Insights, Vol. 6, No. 1, February 2007.

⁷¹ Trade Negotiations Insights, Vol. 6, No. 6, October 2007.

Pacific countries were members of the Pacific Agreement of Closer Economic Relations (PACER), including Australia and New Zealand (ANZ). It was agreed that any trade agreement entered by PACP with a developed country would require consultations with ANZ, as starting negotiations may extend the same agreement to them (a less stringent MFN clause). As a consequence of the interim EPA signed by Fiji and Papua New Guinea appeared to have triggered this clause. PACP countries considered that this clause only applies when PACP signs the agreement and not just its individual members. However, the implications on fiscal revenues and impact on the local markets of such an extension would be very important. This created another difficulty for negotiations.⁷²

The services negotiations remained stalled. PACP requested by mid 2008 to focus on outstanding EPA issues including trade in goods (but as an optional protocol), dispute settlement, fisheries and development; but suspended negotiations on services and inserted a binding clause in the EPA that would commit both parties to discuss services in the future.⁷³ This proposal was not answered on time by the EC and negotiations halted for several months. The EC, by June 2009, expressed that it might be more flexible in the interpretation of “substantially all trade” in the WTO provisions.⁷⁴

The very little trade existent between the EU and PACP undermined the interest of PACP in signing a full EPA. Moreover, the possibility that this agreement could have (particularly on market access) on third trade agreements also played an important role. Despite the progress on several key interests from PACP countries (i.e. rules of origin and fisheries) the lack of a comprehensive and interesting agreement in services, has also reduced the incentives of PACP on establishing a long and sustainable agreement with the EU.

3. Summary of the Interim EPAs

This section intends to briefly highlight the main differences between the interim EPAs signed, initialled to date or the EPA regional framework. This section is schematic and not analytical. As a consequence, we present some tables that are self-explanatory and will help to give the main points of conflict and characteristics of each of the interim EPAs. We will not cover all the provisions of the agreement but highlight the main conflictive points and their provisions.⁷⁵

⁷² Trade Negotiations Insights, Vol. 7, No. 6, August 2008.

⁷³ Trade Negotiations Insights, Vol. 7, No. 7, September 2008.

⁷⁴ Trade Negotiations Insights, Vol. 8, No. 6, August 2009.

⁷⁵ A comprehensive review of the EPAs is available at ODI-ECDPM, “The New EPAs: comparative analysis of their content and the challenges for 2008”.

Table 3 Main Problems and Divergences for not Achieving a Full EPA

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

Table 4 Main Differences in Provisions Between EPAs

	Cariforum	CEMAC	Ghana	Cote d'Ivoire
Trade in goods				
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
Services				
Scope	Some provisions. Commitment to re enter negotiations in 5 years	No provisions yet	No provisions yet	No provisions yet
MFN Clause	Yes. No 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

	PACP	ESA	EAC	SADC minus
Trade in goods				
Export Tariffs	Elimated 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
Services				
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

Table 5 Schedule and Coverage of Concessions for the Interim EPAs

	Coverage	Time frame
EAC	82%	25 years
Comoros	80.6%	15 years
Madagascar	80.7%	15 years
Mauritius	95.6%	15 years
Seychelles	97.5%	15 years
Zimbabwe	80%	15 years
BNLS	86%	10 years
Mozambique	80.5%	10 years
Cameroon	80%	15 years
Cote d'Ivoire	80.8%	15 years
Ghana	80.5%	15 years
CARIFORUM	86.9%	15 years
Fiji	81%	15 years
Papua New Guinea	88%	15 years

4. Final comments

The EPA's negotiation process has been long, complicated and is still open. The quantity of countries involved has imposed a major challenge in the negotiations that was not adequately addressed by the formation of the EPA negotiation groups. From one perspective, the EU is an established body with developed institutions and high levels of regional integration, the EPA negotiation groups have shown that the lack of integration and institutions have affected their possibility of reaching agreements within the groups, as a previous step to negotiate an agreement with the EU.

From an alternative stance, the EPAs had great hopes of attaching these agreements to a commitment of higher levels of assistance from the EU in the form of development and adjustment aid. Constantly during the negotiations, EPA countries were demanding a strong commitment from the EU to assist them in the adjustment process. The EU, however, considered that the current mechanisms of aid were enough and no further provisions were necessary. The lack of precision and commitment from the EU in this aspect has slowed down negotiations or has impeded an agreement.

The objective of using EPAs to boost or enhance the regional integration process has been hard to meet with some countries changing groups and negotiation groups that include more than one regional trade block. Moreover, some non-LDC countries were forced to sign interim agreements in order to not affect their current levels of access and this creates friction within the original negotiation groups. However, it was hard to synchronise the EPA liberalisation schedules with their regional ones. Finally, in the case of SADC, the superposition of several regional agreements with the necessity of including South Africa as an additional partner, has added more problems to the EPA negotiation process as well as the own regional integration process.

Trying to adjust the EPAs to the WTO provisions has been extremely difficult. The idea of making concessions reciprocal, even with the flexibilities considered, has proved to be almost chimerical. The EPA countries considered that the flexibilities introduced (exclusions, differential implementation periods, etc.) were not enough considering the development, integration and institutional disparities that exist between the EU and the ACP countries. This has led them to feeling that they had to offer too much given their developing and LDC position. This notion was reaffirmed with the EU's negative attitude to negotiate in some areas (particularly mode 4 in services) and the insistence on the inclusion of the MFN clause as well as the mentioned lack of precisions in terms of development aid.

Finally, all these issues mentioned confirm that the forecast on the EPAs made before the negotiations began. While LDC countries have very little incentive to negotiate given the possibility of getting a similar level of access via EBA; non-LDC's had to sign interim EPAs that they considered are not in line with their development objectives. In the process, regional integration was harmed and the development objective of EPA was not properly addressed.

Survey of the Empirical Evidence on the Impact of EPAs on ACP countries

1. Introduction

One of the aims of the EPA initiative was to move bilateral relations between the EU and the ACP countries towards a WTO compatible agreement. In this respect, the EPAs are to operate under article XXIV of the GATT which grants derogation from the MFN principle for reciprocal preferences where 'substantially all trade' is liberalised in a 'reasonable amount of time'.⁷⁶ Failure to sign the EPAs will result in trade relations between the EU and ACP countries reverting to the *enabling clause* which allows for the extension of non-reciprocal preferences for developing and least developed countries (LDCs).⁷⁷ Any cost/benefit analysis of the EPA process is to be assessed against the possibility of receiving these unilateral preferences. Irrespective of the final outcome, the change in preferences is likely to have important impacts on ACP economies.⁷⁸

In this section we review the effects of the EPAs on ACP countries by way of an extensive literature review. We are primarily concerned with providing a detailed survey of the empirical estimates of the welfare effects of the EPAs. To this end, in section one, we present a brief description of the economics of preferential liberalisation where we distinguish between traditional shallow integration effects and deep integration effects. We then move to a discussion of the methodologies used in assessing the impact of preferential liberalisation where we consider the implications of choosing one methodology over the other. In the second section we present the results of past studies by EPA regions so that we can then move, in section three, to a short discussion on deep integration issues. Section 4 concludes.

2. The Economics of Preferential Liberalisation

a. Shallow and Deep Integration

Commonly, the effects of preferential liberalisation are divided into two. The first looks at the directly allocated efficiency impact of removing tariff barriers to trade on a preferential basis and is known as the shallow integration effect. The second involves the removal of other behind the border measures and is known as the deep integration effect. The distinction is important both on a conceptual basis and on a quantitative basis. Whilst shallow integration effects, despite their ambiguity, can easily be calculated since their identification by Viner (1950). They represent a small fraction of the potential gains/losses that can be derived from deeper integration.

Viner's ambiguity assumes that any process of preferential liberalisation is likely to have both welfare enhancing and welfare reducing effects. Liberalising trade with respect to a partner is likely to induce the replacement of domestic production with more efficient imports (trade

⁷⁶ Substantially all trade is understood as being 80% of bilateral trade and the reasonable amount of time tends to be around 12 years.

⁷⁷ In the EU these fall under the scope of the Generalised System of Preferences (GSP) where preferences vary in their degree of concessions and fall into three main categories. The first is the standard GSP regime which provides enhanced duty free access and tariff concessions to developing countries. The second is the GSP+ which is an extension of the GSP regime but provides more favourable concessions. The last is the more generous EBA initiative which grants duty free access into the EU for 99% of tariff lines for all LDCs.

⁷⁸ Less so for the LDCs who already have near full duty free access to the EU and who will incur the cost of tariff revenue loss as a result of the reciprocal EPAs.

creation) but can also lead to imports being diverted from more efficient sources as a result of the preferences granted (trade diversion). Whilst trade creation is welfare enhancing, trade diversion reduces global welfare. The net effect of a preferential agreement is then the balance between these two forces. However, the ambiguity of these trade effects extends also to the differentiated effect that these incur on actors in the economy. Whilst the welfare enhancing effects of trade creation on consumers are easy to grasp, the replacement of domestic production with imported goods is also likely to have negative effects on producers and possibly on employment. Similarly, the inefficient source switching due to trade diversion can have a positive effect on consumers who are now acquiring a good at a lower price than they were before the preferences were granted.⁷⁹ This suggests that quantifications of trade creation and trade diversion are to be interpreted with certain caution.⁸⁰ Adding to these effects, and of particular relevance to ACP countries given the importance of tariff revenue takings in overall government revenue, one must also consider the extended impact of loss of tariff revenue as a result of a reciprocal trade agreement. Given the importance of the EU as an origin market for imports and the possible scope for trade diversion, ACP countries will be vulnerable to strong budgetary constraints. Mitigating these is likely to require fiscal re-structuring.

The dichotomy of the trade creation and trade diversion effects has been the rhetoric of preferential trade analysis for many years. However, it is important to note that it provides a diluted picture of the *actual* effects of a trade agreement. Recently, economists have begun thinking about the dynamic impact of trade liberalisation and more particularly the deep integration implications of trade agreements. Deep integration issues generally involve cooperation on competition policy; intellectual property rights (IPR); sanitary and phytosanitary (SPS) issues; technical barriers to trade (TBT); certification; standardisation; government procurement; services; rule of law and other such matters. These incur changes in the competitive and investment climate which can lead to increased productivity through exploitation of economies of scale or through technology transfers. They may also allow for increased fragmentation of production structures across national borders and can promote niche specialisation. These seldom understood effects are likely to be more welfare enhancing than the traditional effects of preferential liberalisation, yet they are harder to capture empirically.

Whilst there is little by way of deep integration provisions in the EPA agreements, there are some loosely defined soft law provisions setting *pathways* for future cooperation. In this respect, the EPAs contain provisions for cooperation on SPS and TBT matters as well as talk of supra-national institutions that could harmonise regional standards. The effects of such provisions are hard to quantify but this is not a reason to ignore them. These are to be evaluated with respect to the cost of negotiation and the future potential gains that can be derived from these provisions.

b. Methodologies Used to Assess Preferential Liberalisation

Three widely accepted methods can be used for assessing the impact of preferential liberalisation. Each has its strength and weakness and the choice of one over the other will have consequences on the results obtained. Simulation models tend to be the preferred tool for the analysis of the EPAs. These can take on a Partial Equilibrium (PE) or a (computable) General Equilibrium (CGE) approach. The former has the advantage of quantifying the impact of changes in trade policy at the highest levels of disaggregation whilst the latter's key strength resides in providing an approach which takes into consideration the transmission of price changes across the economy and across countries. ECA (2005) and

⁷⁹ Trade diversion then becomes an opportunity cost of not engaging in multilateral liberalisation.

⁸⁰ Furthermore, the trade creation and diversion effects will also depend on price transmission mechanism.

Fontagne et al (2008) argue that the ‘correct’ approach to be taken for this type of analysis should follow the CGE route however, the severe data limitations can make the PE approach more attractive. CGE models have strong data requirements which are often unavailable for individual ACP countries hence these models tend to group countries into regional aggregates and draw conclusions at a regional level (see ECA (2005) and Keck and Piermartini (2008) for a discussion). Further to this, the sectoral aggregation in CGE models using the GTAP database (version 6) is limited to 57 sectors. In contrast, PE models can be readily used for individual countries where disaggregated trade data is available and allows analysis at the highest levels of disaggregation (over 5000 products). Here however, the analysis is limited to the familiar Vinerian trade creation and diversion effects and also analysis of possible fiscal implications of liberalisation on a standalone basis. The main weakness of this type of model is that, unlike its CGE cousin, PE models do not take into account sectoral spillover effects and operate under a *ceteris paribus* assumption for each sector. A mitigating factor for using PE models, as argued by Fontagne et al (2008), is that the highly specialised nature of ACP economies in products differentiable only at high levels of disaggregation suggests that the CGE approach may miss important product specific effects. Another drawback of using the CGE approach is that results are likely to vary significantly depending on the closure used for the model. It is common to assume that labour markets clear, or that the balance of trade of developing countries stays constant; however whichever is chosen will impact the final results.

Several key assumptions in simulation models are important to note. Firstly, it is often assumed that countries supply capacity is infinite and that changes in demand as a result of changes in preferences will be immediately met by countries. In the case of ACP countries, it is likely that this assumption does not hold, hence the effects of liberalisation, on the export side, might provide an upper bound potential rather than a true effect. Secondly, there tends to be an implicit assumption that changes in tariffs are directly transmitted to consumer. This is not always the case as it is possible that the rent created by the tariff reduction is kept on the exporter side rather than passed on to consumers. Another assumption that is commonly used is the *Armington* assumption of imperfect substitution, firstly across domestic and international sources and secondly across the different international origins. This assumption is a crucial one so as to avoid corner solutions and generally assumes that the elasticity of substitution between domestic and imported goods is lower than the elasticity of substitution across different origins for the imported goods. This assumption is very useful in that it allows one to move away from the homogeneous good assumption of past but it does not explicitly consider quality differentiation in goods trade.

Regardless of the type of simulation model chosen to assess the impact of the EPAs, the crucial step in carrying out a good analysis is that of choosing an appropriate counterfactual scenario. The counterfactual scenario gives us a yardstick with which to compare the possible benefits of a change in preferences. A common mistake in the literature (ECA 2005) is that of choosing Cotonou preferences as the counterfactual scenario.⁸¹ This is conceptually incorrect as the waiver received from the WTO for Cotonou preferences ended in January 2008 hence the more likely counterfactual would be reverting trade back to enabling clause preferences be these GSP or EBA.⁸² Whilst for LDCs the changes from Cotonou to EBA are likely to have little to no impact in market access, the difference between Cotonou and GSP preferences is relatively large. Fontagne et al (2008) estimate that the loss of Cotonou preferences could reduce ACP exports by 4% where the impact is greatest for the COMESA region that could suffer a fall in exports to the EU of 12%. It is then probable that the impact of the EPA depends on the eligibility of ACP countries to EU unilateral preferences. GSP countries are likely to suffer most from the loss of Cotonou

⁸¹ At the time the ECA (2005) study was carried out, there was great uncertainty as to the possible counterfactual solutions that would replace the EPAs if these were not signed.

⁸² Perez (2005) uses a possible counterfactual of extending GSP+ concessions to all ACP countries.

preferences and hence are likely to benefit most from the EPAs. On the other hand, EBA eligible countries already receive near duty free market access to the EU and in turn the EPAs could come at an important cost to them in terms of loss of tariff revenue.⁸³

A second method used to assess the impact of a preferential trade agreement is based on a comparative approach by relying on trade indicators and changes in trade patterns under widely accepted empirical benchmarks. This approach has the advantage of allowing certain flexibility that is lost in the rigid structures of simulation models. The effects of preferential liberalisation can then be analysed at high levels of disaggregation and some preliminary conclusions on possible deep integration issues can be drawn. This type of analysis was developed into a framework by Evans et al (2006) and has been used in the analysis of EPAs by Hinkle and Schiff (2004), Gasiorek and Winters (2004) and Gasiorek et al (2006). As way of example, the effects of the EPAs on a given country/region are likely to be driven by the following empirical rules of thumb. Firstly, the size of a country's external tariff is likely to determine the magnitude of the trade creation and trade diversion effects. High tariffs imply greater distortions on imports, hence liberalising high tariff schedules on a preferential basis is likely to yield higher Vinerian effects.⁸⁴ Secondly, the more a country trades with the proposed preferential partner, the higher the scope for the agreement to be beneficial. This is the 'natural trading partner' hypothesis which suggests that countries have revealed their preferences for a trading partner and that removing trade distortions with this partner is likely to enhance trade creation over trade diversion. However, the more similar are imports from the proposed preferential partner to those of non-preferential partners, the higher the scope for trade diversion. This comparative approach can also tackle some deep integration issues by looking at structural changes in the economy. The overall trade structure of an economy can be used as a proxy for production structures. One can then look at changes in these structures and complement these with Intra-Industry Trade indicators as proxys for future scope of deep integration in the form of niche specialisation or fragmentation of production structures. This methodology can also be used to loosely analyse foreign direct investment flows. The main weakness of this approach is that it does not offer concrete numbers on the welfare effects of preferential liberalisation but rather identifies the main sectors that are likely to be affected and the possible degree of these effects.

The third method that can be used to assess the effects of a preferential trade agreement relies on econometric models based on the gravity equation. Gravity in trade suggests that trade between two countries is an increasing function of the mass of the countries (GDP), and a decreasing function in the distance between these countries (where distance includes trade frictions). The analysis is generally carried out on total trade and tends to be used for ex-post evaluation of trade agreements. The effects of a FTA are captured by way of dummy variables which identify if countries are trading above their expected values after controlling for time varying and time invariant variables. This type of model has not been readily used for the evaluation of the EPAs as ex-ante evaluation become more complicated. An exception to this is Gasiorek et al (2006) who undertake an evaluation of the EU-CARIFORUM EPA using simulation, static and econometric models. One of the advantages of this method is that it can be readily adapted for the investigation of service trade, however, the lack of bilateral service trade data reduces the relevance of this technique in the context of the EPAs.

The evaluation of the effects of the EPAs would ideally comprise a mix of these three methodologies as each complements the other to produce a good overview of the static effects of preferential trade liberalisation. However, these are by no means extensive in their

⁸³ This issue is important as it raises the possibility of opposing motivations within regional groupings. The higher the composition of LDCs in a regional group, the lower would be the motivation to concede reciprocal preferences.

⁸⁴ This empirical rule of thumb holds in both PE and CGE models.

coverage. One common caveat in these techniques is that they are unable to model dynamic effects of preferential liberalisation. Even though there is a nascent econometric literature on firm productivity pioneered by Melitz (2003), the lack of data provides an important obstacle in applying these models to ACP countries. In addition, the lack of a unifying technique analysing the effects of preferential liberalisation on FDI flows means that these effects are often ignored (although some treatment can be done in CGE models). Adding to this, the lack of bilateral service trade data makes the task of estimating the effects of preferential liberalisation on service flows an arduous one.

In Table 1 we present the strengths and weaknesses of each method used to assess preferential liberalisation whilst in the remainder of this literature review we look at the empirical studies which have evaluated the impact of the EPAs using one or a combination of the above exposed techniques. Here we focus primarily on the results obtained and on the assumptions underlying these.

Table 1 Strengths and Weaknesses of methods used to analyse preferential liberalisation

	Strengths	Weaknesses
Computable General Equilibrium (simulation)	<ul style="list-style-type: none"> - Captures cross-sector and cross country linkages that result from changes in preferences. - Can capture second round effects. - Provides insights into adjustment mechanisms (be these through exchange rates or market clearing conditions). - Can be used to loosely analyse services and investment. 	<ul style="list-style-type: none"> - Level of aggregation. - Data does not singularly identify many ACP countries and in GTAP last version is benchmarked at 2004. - Strong assumptions are likely to drive results (market clearing and full utilisation of resources).
Partial Equilibrium (simulation)	<ul style="list-style-type: none"> - Can be used at high levels of disaggregation hence capturing product specific effects. - Data is readily available 	<ul style="list-style-type: none"> - Analysis tends to be static and cannot capture dynamic impact of trade liberalisation. - No economy wide or international linkages. - Does not consider scale effects. - Ignores adjustment costs and price transmission mechanisms.
Comparative Static	<ul style="list-style-type: none"> - Can be used to look at shallow and deep integration issues. - Is useful in identifying sectors that are likely to suffer most from preferential liberalisation. - is readily implementable.. 	<ul style="list-style-type: none"> - Does not provide quantitative results.
Gravity Models (econometric)	<ul style="list-style-type: none"> - Can identify trade creation and trade diversion. - Uses real trade flow data to assess the effects of an agreement ex-post 	<ul style="list-style-type: none"> - Is generally undertaken at a very aggregate level. - Tends to be used for ex-post analysis.

3. Impact of the EPAs by Region

One can broadly identify the elements that are likely to drive the results of the empirical estimations. 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 percentage of trade with the EU, the more likely trade creation is to predominate over trade diversion.
- The greater the amount of multilateral liberalisation; the lower the magnitude of trade diversion effect but the higher the fiscal loss.
- 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, that have high levels of domestic protection, and that are eligible for GSP preferences only.

In this respect, and a priority, 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. ECA (2005), using a CGE model, predict that the impact of full liberalisation will add 3.4% to SSA GDP and will increase imports by 18% and exports by just over 8%. However, these values will only be reached if all bilateral barriers are fully liberalised. In the event that SSA barriers fall to the level of current EU barriers, the region is set to see little impact on GDP (fall of 0.013%). The yardstick for these measures is the preference situation under Cotonou, hence these values are to be viewed with some scepticism. Furthermore full liberalisation will be unlikely as article XXIV allows for some flexibility under the 'substantially all trade' principle where ACP countries are likely to retain import duties on 20% of tariff lines. The impact of the EPAs on the Caribbean and the Pacific regions, on the other hand, is likely to be negative but small in magnitude due to the distance and the little importance of the EU in either's export or import markets. In these regions there is justified concern that the EPAs will result in trade diversion as imports come to be switched from more efficient partners to the EU as a result of the preferences granted (trade diversion).

In terms of the overall effect of the EPAs on ACP countries, Fontagne et al (2008) estimate an increase of 10% in exports to the EU and 17% in imports from the EU (by 2020). The growing export sectors would include vegetal production; livestock and textile whereas growth in imports would occur in textiles and in light and heavy manufactures. These estimates take as base scenario the replacement of Cotonou preferences with enabling clause access 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). Perez (2005), using a CGE model, estimates that the effects of losing Cotonou would decrease real GDP by 0.01% in the SSA region, with the impact being highest for the pacific region (-0.09% loss of GDP) followed by SADC (-0.07%) and then the CARIFORUM region (-0.01%). The estimates of the effects of losing Cotonou preferences are useful in that they provide a *prima facie* cost of not engaging in the EPA process.

The main caveat in the empirical investigations treating the impact of the EPAs is that they tend to consider models where factors of production are re-allocated without cost across sectors as a result of trade liberalisation. This implies that there are no perceptible adjustment costs to the economy. This is, however, far from reality and as previously stated there is likely to be important re-structuring which can result in increased unemployment and

reduced output for a period of time. Whilst it is difficult to grasp the magnitude of these adjustment costs, it is easier to approximate the compensation that would need to be disbursed by donors to compensate for these. Milner (2006) identifies the type and scale of the assistance needed to smoothen the transition period by separating it into five broad categories. The first category is the '*fiscal adjustment*' cost which results from the loss in tariff revenue. Donors should focus efforts to enhancing tax collection methods from alternative sources. This can be done through technical assistance and capacity building programmes. The second type of assistance would treat '*trade facilitation and export development*' in view of ensuring a swift re-allocation of resources towards more productive processes. This would require aid in the form of development of export products and enhancement of knowledge of export market opportunities. The third adjustment cost should focus on '*production and employment*' where both workers and firms should be compensated in the form of unemployment benefits and training for the former, and production line restructuring for the latter. It then follows that donors should focus on '*skills development and productivity enhancement*' to allow both firms and workers to reap and channel productivity gains. The last focus area is '*negotiation and legislation*' where donors aid ACP countries in developing the capacity, through technical assistance, for negotiating trade agreements and for adapting existing legislations to changing demands. Whilst an estimate of these compensatory measures does not give us an idea of the real cost of adjustment, it provides an interesting benchmark of the costs that would fall on ACP countries in adapting to the new circumstances.

Milner (2006) uses previous World Bank project budgets and available indicators (such as share of trade tax revenue in total tax revenue, or share of manufacturing in GDP) to make rough calculations on the scale of adjustment compensation needed by each ACP country. Overall, Milner's results suggest that the fiscal adjustment category is the one that should attract most attention, closely followed by employment adjustment and skills/ productivity enhancement. In terms of geographical concentration of adjustment costs, he suggests that ECOWAS and ESA are to require the highest volumes of aid. Overall, Milner estimates the cost of adjustment assistance for ACP countries to be in the region of €9 billion at 2005 prices. This figure would be in addition to the current funds available to ACP countries (€22.7 billion for the years 2007-2013)⁸⁵ which would imply an increase in development funds just below 40%.

In Table 2 the most important empirical studies carried out by region are mapped. Comments are made on the overall results and point the reader to the tables in the annex for a more in depth exposition of the methodologies and the results obtained from each empirical investigation.

ECOWAS

All empirical investigations suggest that trade creation will predominate over trade diversion in the ECOWAS region. Busse and Grossman (2004), by way of a partial equilibrium analysis, estimate that the share of EU imports will increase by 6% whilst the share of non preferential imports should increase by 3.5%. Under a similar partial equilibrium simulation but at higher degrees of disaggregation, Fontagne et al (2008) estimate that the long run impact on trading structures will increase ECOWAS exports to the EU by 4% whilst imports from the EU are set to rise by 15%. In terms of revenue lost due to loss of duties on EU imports, the empirical studies concur that this will potentially be a significant issue. Fontagne et al (2008) estimate that this loss could range between 38% and 27% of total tariff revenues. However, Busse and Grossman (2004) have a higher estimate of 53% of total import duties. This would represent a loss of 8% of government revenue which translates into a decline of 1% in GDP. The countries that are most likely to be negatively impacted are

⁸⁵ http://ec.europa.eu/europeaid/how/finance/index_en.htm

Cape Verde (loss of 4.1% of GDP) and Gambia (loss of 3.5% of GDP). These are significant losses that have to be weighed against the possible gains derived from trade creation. In terms of development aid necessary to offset the negative restructuring costs, Milner (2006) suggests that these should focus primarily on fiscal adjustment where an extra €955 million should be disbursed to compensate for the high loss of revenue. This disbursement should focus on enhancing tax collection methods from alternative sources (i.e. VAT). Overall, Milner's calculations suggest that the ECOWAS region is the one that should receive the highest compensation given its size and particular vulnerability with an estimated amount just below €2.8 billion.

CEMAC

The impact of losing Cotonou preferences for the CEMAC region is expected to reduce exports to the EU by 4% according to Fontagne et al (2008). Whilst signing the EPAs should increase exports to the EU by 7% (4% from retaining preferences and 2% for increased preferences as a result of the EPA agreement) and imports from the EU by 17%. ECA (2005) concur that trade creation will dominate over trade diversion, but they show strong fiscal effects particularly for Cameroon, Congo and Gabon. Fontagne et al (2008) estimate the tariff revenue loss to range between 41% and 30% of custom takings. Milner (2006) in turn calculates the compensatory package to deal with this tariff revenue loss and adjustment to new conditions to be of €270 million. He estimates that the region should absorb €880 million in compensatory packages to smoothen the transition period.

COMESA

Where the COMESA region is concerned, the loss of Cotonou preferences would reduce exports to the EU by 12%, but the completion of the EPAs will increase exports to the EU by 25% and imports from the EU by 21% according to Fontagne et al (2008). The fiscal effects are likely to be lower than those for the ECOWAS and CEMAC regions where reciprocation would reduce tariff revenue takings within the range of 21%-16%. ECA (2005) identify the biggest losses in value terms to come from Kenya, Sudan, Mauritius, Ethiopia, DRC and the Seychelles. McKay et al (2008) estimate, using a PE model, that the loss of tariff revenue could be as large as 70% in Tanzania and 60% in Uganda. Milner's (2006) calculations on the amount of development aid needed to reduce the adjustment burdens in the region sum to €2.7 billion.

SADC

In the SADC region, the CGE results of Keck and Piermartini (2008) point to an increase in exports and imports of 3.6% and 11.4% respectively under a full reciprocal liberalisation scenario where the overall effect on GDP would be an increase in 0.12% for the region. This overall increase masks a small possible decline in GDP for Botswana, Zambia, Mozambique and Tanzania. Where the decline for the latter is also evidenced in McKay et al (2008) and amounts to a loss of 0.5% of GDP.⁸⁶ Perez (2005) here sees a very small overall decline in GDP as a result of the EPAs in the SADC region and estimates the fiscal loss to be 0.4% of GDP if 80% of trade is liberalised and 1.4% of GDP if there is full reciprocal liberalisation.⁸⁷ Milner's (2006) results seem to also reflect lower compensatory measures as a result of revenue losses where he estimates the amount to be disbursed at €340 million with an overall requirement of just over €1 billion in development aid to enable SADC countries to adapt to new conditions.

⁸⁶ However, the change in negotiating groups for Tanzania might alter these results somewhat.

⁸⁷ Note that some countries are not singularly identified in the SADC grouping used in the Perez (2005) estimations.

Caribbean and Pacific

The impact of the EPAs on the Caribbean and the Pacific regions is likely to be of smaller magnitude than that in the SSA region given the small share of trade that occupies bilateral trade between the EU and these regions. Furthermore, most studies (Gasiorek et al (2006), Gasiorek and Winters (2004), Greenaway and Milner (2003) and Scollay (2002)) concur that trade diversion is likely to dominate over trade creation. In the Caribbean, Fontagne et al (2008) estimate the cost of losing Cotonou at 9% of exports to the EU, whilst they see the reciprocation of a signed EPA to add 25% to exports and 27% to imports to/from the EU. These values are to be interpreted from the perspective that the EU represents very little both as an overall destination and origin market. However, it is likely that there will be a large displacement of trade from more efficient sources to the EU. This carries not only the negative trade diversion effect, but also an important tariff revenue loss as customs duties on diverted dutiable sources are lost. Fontagne et al (2008) estimate the loss of tariff revenue falling between 16 and 13% whilst Gasiorek et al (2006) calculate a similar effect with import revenue falling 22%. In contrast, the PE model in Greenaway and Milner (2003) sees a reduction in customs taking of 73% in a scenario of full reciprocity.⁸⁸ Perez (2005) estimates this effect to reduce GDP by 0.2% under partial reciprocity (80%) and 0.5% under full reciprocity. In the case of the Pacific, very little empirical work has been carried out given the lack of data both for general equilibrium and partial equilibrium analysis however, Scollay (2002) argues that impact is likely to be small in magnitude and trade diverting at best. Perez (2005) estimates an overall reduction in GDP of 0.17% as a result of the EPAs whilst Fontagne et al (2008) claim an increase in exports from the region of 37% with no change in imports. In terms of tariff revenue loss, the study estimates a fall in tariff revenue of 8% whilst Perez's (2005) results show a possible loss of 2.1% of GDP under a full liberalisation scenario and a fall of 1.6% of GDP if only 80% of tariff lines are liberalised. Milner Reflects this in his calculation of compensation accruing to the region where he calculates that the overall disbursement of aid to the region should be €0.6 billion to the Pacific and €0.9 billion to the Caribbean.

In addition to the above table, it is also interesting to provide a graphical representation of the likely effects of the EPAs on ACP countries. In Figure 1 we do so by mapping, in the horizontal axis, the loss in tariff revenue as a percent of total tariff revenue and in the vertical axis we present the percentage change in trade balance according to the results in Fontagne et al (2008). Here we can easily identify the countries that are likely to suffer most in terms of revenue loss and also look at the change in trade balance as a result of the EPAs. Even though the position in the vertical axis is not a measure of welfare, it remains an interesting one as we can see how reciprocity also has its implications for exports of ACP countries.⁸⁹ From the figure, we see how the GSP countries tend to be located in the upper part of the vertical axis whilst the EBA countries concentrate in the lower part of the axis. This follows the simple logic that GSP countries will receive, as a result of the EPAs, a greater preference margin given that the GSP regime has a lower coverage than the EBA regime. For countries falling into the EBA regime, there is little gain in terms of tariff preferences into the EU market as a result of the EPAs hence the effects of liberalisation will be concentrated on the import side. In terms of tariff revenue loss, we see from the figure that many EBA countries are located further out in the horizontal axis (Benin, Mali, Burundi, Burkina Faso). This suggests that many EBA countries will not only not gain much in terms of market access to the EU, but will also have to forego a sizeable chunk of their tariff revenue as a result of the EPA.

⁸⁸ Greenaway and Milner (2003) use data for 1997 and at the 2-digit level. Given that there has been substantial liberalisation in the region since then, the results should be interpreted with caution.

⁸⁹ The impact on exports of losing Cotonou preferences is often ignored in the literature, but not in Fontagne et al (2008).

Table 2 Effects of the EPAs by ACP region

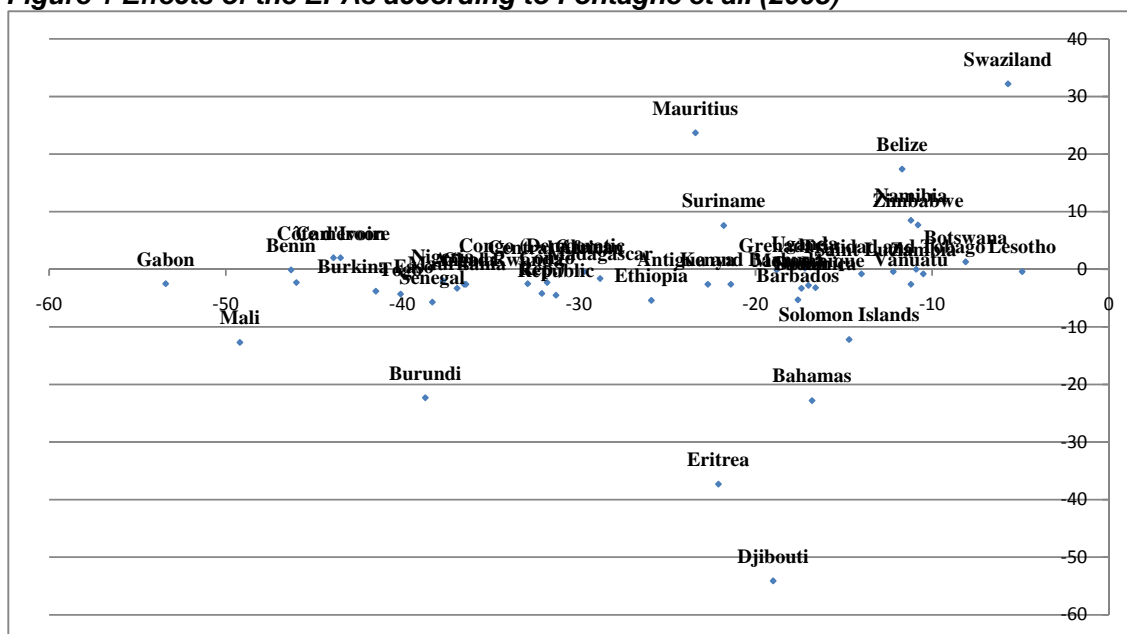
	Empirical Approach	Welfare Effects	Fiscal Effects	Observations	Estimated Adjustment costs (Milner 2006) (€ million 2005 prices)
SSA	ECA (2005) CGE 1997 base year	SSA reciprocation of EU pref: GDP (+0.013%), M(+4.48%), X (+2.3%). SSA S-S integration: GDP (+0.5%), M(+2.41%), X (+1.3%). Full reciprocal liberalisation: GDP (+3.4%), M(+18.24%), X (+8.8%).	N/A	SSA taken as one group. Effects likely to vary significantly across countries.	Fiscal Adjustment: 2390 Export Diversification: 1982 Employment adjustment: 1207 Skills/prod. Enhancement: 1850 Total Adjustment costs: 7429
	Perez (2005) CGE, 2001 base year	SSA reciprocation of EU pref: GDP (-0.08%), ToT (-0.52%), BoT (-753), Welfare (-612)	Reciprocity (% GDP loss) 50% → 0.4% 80% → 1.0% 100% → 1.7%		
ECOWAS	ECA (2005) PE	•Net trade creating (but loss of intra-regional trade through trade diversion)	• Revenue implications: strongest for Nigeria and Ghana.	Counterfactual is Cotonou preferences.	Fiscal Adjustment:955 Export Diversification:712 Employment adjustment:422 Skills/prod. Enhancement:700 Total Adjustment costs:2789
	Fontagne et al (2008) PE (6-digits)	Export cost of losing Cotonou: (-2.3%) Long run effects of EPA: X(+4%), M(+15%)	Tariff revenue loss : -38%, or -27% if revenue loss is to be minimised.		
	Busse and Grossman (2004) PE (2-digits)	Trade creation exceeds trade diversion for all countries Average TC:+6.32% Average TD: + 3.6%	Average decline in m duties: % of total m duties: 53% % of Gov revenue: 8% % of GDP: 1%	TC= share of EU imports TD= share of non pref imports.	
CEMAC	ECA (2005) PE	•Net trade creating (intra regional trade is low hence little trade diversion from the region).	• Revenue implications: strongest for Cameroon, Congo and Gabon.	Counterfactual is Cotonou preferences.	Fiscal Adjustment:270 Export Diversification:257 Employment adjustment:153 Skills/prod. Enhancement:200 Total Adjustment costs:880
	Fontagne et al (2008) PE (6-digits)	Export cost of losing Cotonou: (-4%) Long run effects of EPA: X(+7%), M(+17%)	Tariff revenue loss : -41%, or -30% if revenue loss is to be minimised.		
COMESA	ECA (2005) PE	•Trade creation largely outweighs trade diversion in all countries → expanded EU trade (this comes at cost of less efficient domestic production and regional imports).	•Revenue implications (in absolute terms): strongest for Kenya, Sudan, Mauritius, Ethiopia, DRC and Seychelles.	Counterfactual is Cotonou preferences	(ESA) Fiscal Adjustment:825 Export Diversification:752 Employment adjustment:415 Skills/prod. Enhancement:695 Total Adjustment costs:2687
	Fontagne et al (2008) PE (6-digits)	Export cost of losing Cotonou: (-12%) Long run effects of EPA: X(+25%), M(+21%)	Tariff revenue loss : -21%, or -16% if revenue loss is to be minimised.		
EAC	Mckay et al (2008) PE (2-digits)	• Tanzania: Trade diversion. Net effect -0.5% GDP • Uganda: Trade creation +0.05% GDP • Kenya, no data but scope for considerable displacement of production.	• Tanzania: -70% tariff revenue • Uganda: -60% tariff revenue		

SADC	ECA (2005) PE	• Net trade creating but some loss in intra regional trade through TD.	• Revenue implications: more serious for non SACU members.	Counterfactual is Cotonou preferences.	Fiscal Adjustment: 340 Export Diversification: 261 Employment adjustment: 217 Skills/prod. Enhancement: 255 Total Adjustment costs: 1073
	Fontagne et al (2008) PE (6-digits)	Export cost of losing Cotonou: (-1.8%) Long run effects of EPA: X(+7%), M(+11%)	Tariff revenue loss : -22%, or -16% if revenue loss is to be minimised.		
	Keck and Piermartini (2008) CGE	• Average effects Vol of X: + 3.6% Vol of M: +11.4% GDP: +0.12% • Small fall in GDP for Botswana, Zambia, Mozambique and Tanzania • EU-MERCOSUR agreement would significantly lower the gains	N/A	Scenario full reciprocal liberalisation EU-SADC (includes SA)	
	Perez (2005) CGE, 2001 base year	80-100 liberalisation with EU RoSADC: GDP (-0.07%), ToT (-0.01%), BoT (-130), Welfare (-24)	Reciprocity (% GDP loss) 50% → 0.1% 80% → 0.4% 100% → 1.4%		
PACIFI	Fontagne et al (2008) PE (6-digits)	Export cost of losing Cotonou: (-8.2%) Long run effects of EPA: X(+37%), M(+0%)	Tariff revenue loss : -8%, or -8% if revenue loss is to be minimised		Fiscal Adjustment:210 Export Diversification:175 Employment adjustment:82 Skills/prod. Enhancement: 175 Total Adjustment costs: 642
	Scollay (2002) CA				
	Perez (2005) CGE, 2001 base year	80-100 liberalisation with EU ACP Pacific: GDP (-0.17%), ToT (-0.65%), BoT (-97), Welfare (-134)	Reciprocity (% GDP loss) 50% → 1.2% 80% → 1.6% 100% → 2.1%		
CARIBBEAN	fontegne et al (2008) PE (6-digits)	Export cost of losing Cotonou: (-9%) Long run effects of EPA: X(+25%), M(+27%)	Tariff revenue loss: -16%, or -13% if revenue loss is to be minimised.		Fiscal Adjustment: 375 Export Diversification: 199 Employment adjustment: 140 Skills/prod. Enhancement: 210 Total Adjustment costs: 924
	Gasiorek and Winters (2004) CA	Stronger scope for trade diversion over trade creation.			
	Gasiorek et al (2006) CA, PE, GM	Strong scope for trade diversion, existence of trade re-orientation and creation but in smaller magnitudes. PE:	Reduction in Revenue of 22%		
	Greenaway and Milner (2003) PE	Average change in tot imports: • reciprocity: 2.7% • extended reciprocity (with US): 9% • full multilateral liberalisation: 13.4%	Average revenue effects • Reciprocity: -72.9% Extended reciprocity exacerbates this and full liberalisation entails complete loss of tariff revenue.	Base year is 1997. 9 CARICOM countries. Granting full reciprocity implies forsaking Customs duty on EU imports <i>and</i> on diverted	

			dutiable sources.
Perez (2005) CGE, 2001 base year	80-100 liberalisation with EU GDP (0%), ToT (-0.22%), BoT (249), Welfare (- 81)	Reciprocity (% GDP loss) 50% → 0.1% 80% → 0.2% 100% → 0.5%	

Source: Author's own elaboration

Figure 1 Effects of the EPAs according to Fontagne et al. (2008)



Source: Own mapping from Fontagne et al (2008) figures

To complement the last figure, we provide a visual representation of the broad implications of the EPAs on the different negotiation groups in Figure 2. Here we map the negotiating regions into four quadrants where quadrant I identifies regions which are likely to suffer from an adverse trade diversion effect and a high revenue loss effect. Quadrants II and III then identify positive net trade creating regions where the upper quadrant (II) implies a high tariff revenue loss and the lower (III) a moderate tariff revenue loss. The final quadrant is where there is net trade diversion and where the fiscal loss is moderate. From the figure, we clearly see how the African regions, even though under the net trade creating section, will be likely to incur significant losses in tariff revenue. The Caribbean on the other hand is likely to suffer from trade diversion and also from high tariff revenue losses whilst the Pacific is likely to have some trade diversion (although very mild) and some loss of tariff revenue, although also mild.

Figure 2 Visual representation of effects of the EPAs by region

<p>I</p> <p>Caribbean</p>	<p>II</p> <p>CEMAC</p> <p>ECOWAS</p> <p>SADC COMESA</p>
<p>Net Trade Diverting</p> <p>PACIFIC</p> <p>IV</p>	<p>Net Trade Creating</p> <p>III</p>

Source: Own interpretations from the literature

Whilst most studies appear to agree on the overall direction of the effects of signing the EPAs, the estimates vary significantly. These reflect differences across techniques used and across counterfactual scenarios. This complicates comparisons across the empirical literature. However, one crucial shortcoming in the empirical literature is the lack of treatment of the impact of removing behind the border measures (deep integration).

4. The Dynamic Effects of Trade Liberalisation and Deep Integration

The empirical literature above reviewed focuses on the quantification of traditional allocative gains from trade liberalisation. However, there is reason to believe that these do not capture the full gains that can be derived from trade liberalisation (see Burfisher et al (2004) for an extensive discussion). Allocated efficiency gains can result in dynamic changes in the economy through technology transfer, learning by doing and increased investment efficiency. These can have productivity enhancing effects which can ultimately translate into increased economic growth. These dynamic effects are much harder to grasp empirically and are hence often left out of empirical investigations. The shortcoming is both theoretical and due to lack of available and reliable data sources. The nascent literature on firm level productivity effects (Melitz 2003) demands very detailed data on firm activity and suggests an important link between trade and productivity.

In addition, there is rising consensus on the importance of deep integration in enhancing the beneficial effects of simple preferential liberalisation (Burfisher et al 2004). This catch-all term captures the effects of removing behind the border measures which are hard to quantify. A 'deep' trade agreement would include provisions such as competition policy; intellectual property rights; sanitary and phytosanitary issues; certification procedures and minimum standards; government procurement; dispute settlement and services trade. However, the lasting impact of these is not yet properly understood. Furthermore, there is little evidence of the EPAs taking on a credible commitment to deeper integration. However, the agreements are laced with important *pathways* that foresee enhanced cooperation on SPS issues and dispute settlement. These can enhance market contestability and hence play a role in promoting competition which can result in important gains for countries concerned.

The empirical literature also lacks in its treatment of investment and services. This is generally justified by data constraints, but theory suggests that the process of preferential liberalisation could be linked with changes in investment patterns. Where services are concerned, there is a growing literature on the effects of preferential trade agreements and bilateral service flows. Shingal (2009) shows that a 10% increase in bilateral merchandise flows can raise service trade by 1.7%, even when there is no explicit service component of a trade agreement. Hence despite the lack of formal agreements on services in the EPAs (with the exception of some mode 4 services in the CARIFORUM EPA) there are still possible links between increased bilateral merchandise trade and service trade.

5. Conclusions

The empirical literature treating the effects of the EPAs on ACP countries tends to focus on the static allocative efficiency gains derived from preferential trade liberalisation. In this respect, the literature shows that the African regions largely stand to gain from higher trade creation, but at the costs of important losses in government revenue accruing to reduced customs takings. The Pacific and Caribbean regions on the other hand should suffer more trade diversion and will also incur significant loss of customs takings through diverted imports.

There is very little, to no, empirical evidence on the dynamic effects of trade liberalisation. This is both because of theoretical and data shortcomings. Where deep integration issues are concerned, the vagueness of the language used in the EPA texts makes it hard to predict what the true outcomes of increased institutional cooperation will be.

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7. Annex

Literature	Countries	Methodology	Results	Observations
Fontagne et al (2008) "An impact Study of the EU-ACP Economic Partnership Agreements (EPAs) in the Six ACP regions.	All ACP countries aggregated into the EPA groupings: COMESA, ECOWAS, CEMAC, SADC, CAR, PAC.	<ul style="list-style-type: none"> - Dynamic Partial Equilibrium model 6-digits. (COMEXT, BACI and Ave from MAcMapsHS6v2) - Substantially all trade defined: 90% of bilateral trade in volume and/or 90% of tariff lines. - Full implementation in 15 years (2022) but EU in 2008. - Sensitive products selected using two methodologies. <ul style="list-style-type: none"> • H1: Agricultural products are prioritised in selection to avoid competitive pressures. • H2: Minimise tariff revenue losses at regional level. - No Deep Integration. - Demand side model with infinite supply capacity (hence potential trade estimates rather than actual i.e. assume that ACP countries can satisfy extra demand). - Scenarios: <ul style="list-style-type: none"> • End of Cotonou, no EPAs hence GSP for dev countries and EBA for LDCs. • End of Cotonou, no EPAs and GSP+ for Dev and EBA for LDCs. • End of Cotonou, EPA and H1 and H2 scenarios and also successful Doha round. - Results are presented in deviations from these counterfactuals rather than from status quo. Effects will be larger as Cotonou preferences much better than GSP hence loss of Cotonou generates loss for most regions and then EPAs cause extra benefit. 	<ul style="list-style-type: none"> • Increase in imports: average 7% in 2015 but 17.7% in 2022 • Tariff revenue: 70% loss(H1 scenario) on EU import takings but overall 26% of total in long run 2022 (H1). Under H2, loss falls to 19% in 2022. • Costs of losing Cotonou (Exports - loss of 4% in total): <ul style="list-style-type: none"> • COMESA:- 12% • ECOWAS:-2.3% • CEMAC: - 4% • SADC: -1.8% • CAR: -9% • Pacific: -8.2% • Effect of EPAs compared to baseline of GSP/EBA (2022) • EXPORTS/ IMPORTS <ul style="list-style-type: none"> • AllACP: + 10.7% /i.e. 5.4% better than currently / +17% by 2022 (7% by 2015 due to tariff dismantling) • ECOWAS +4% / +15% • CEMAC +7% / +17% • COMESA +25% / +21% • SADC + 7% / + 11% • CARI: +25% / +27% • Pacific+37% / +0% • Government revenues: <ul style="list-style-type: none"> • Overall loss of tariff revenue (taking into account all origins) H1/H2 <ul style="list-style-type: none"> • AllACP: 25%/18% • ECOWAS 38%/27% • CEMAC 41%/30% • COMESA 21%/16% • SADC 22%/16% • CARI 16%/13% • Pacific 8%/8% 	

<p>Karingi et al (2005) "Economic and Welfare Impacts of the EU-Africa EPAs"</p>	<p>Sub-Saharan Africa as group and individuals.</p>	<p>CGE (GTAP 1997) v5</p> <ul style="list-style-type: none"> • Scenario 1: SSA reciprocation of EU pref Tariff (all tariff reduced to EU level). • Scenario 2: SSA liberalisation. Deeper reg integration without reciprocity (S-S integration only for supply capacity building before reciprocation). • Scenario 3: Full trade liberalisation. EU-SSA EPA (all barriers fully eliminated). <p>PE (WITS/SMART) 6-digit</p> <ul style="list-style-type: none"> • Only looks at reciprocity (i.e. scenario 1). Hence effects of ACP countries liberalising to EU levels and no lib from EU. • Standard Armington assumption (imperfect substitutes). • Export supplies are perfectly elastic. • Benchmark is 2001-2003. • SADC treated as SADC and SACU (as BLNS entity). 	<p>CGE results</p> <ul style="list-style-type: none"> • Scenario 1: SSA: GDP (-0.013%), M (+4.48%), X (+2.3%), ToT(-0.54%), BoT(-1868\$mIn), EV(-564) • Scenario 2: SSA: GDP (0.5 %), M (+2.41%), X (+1.3%), ToT(0.3%), BoT(-629.8\$mIn), EV(1204.3) • Scenario 3: SSA: GDP (3.4 %), M (+18.24%), X (+8.8%), ToT(1.8%), BoT(-5484.3\$mIn), EV(8028.8) <p>PE Results</p> <p><u>ESA:</u></p> <ul style="list-style-type: none"> • Trade creation largely outweighs trade diversion in all countries → expanded EU trade (this comes at cost of less efficient domestic production and regional imports). • Revenue implications (in absolute terms): strongest for Kenya, Sudan, Mauritius, Ethiopia, DRC and Seychelles • Net: trade creation outweighs both TD and revenue losses <p><u>ECOWAS:</u></p> <ul style="list-style-type: none"> • Net trade creating (but loss of intra-regional trade through trade diversion) • Revenue implications: strongest for Nigeria and Ghana. <p><u>CEMAC:</u></p> <ul style="list-style-type: none"> • Net trade creating (intra regional trade is low hence little trade diversion from the region). • Revenue implications: strongest for Cameroon, Congo and Gabon <p><u>SADC:</u></p> <ul style="list-style-type: none"> • Net trade creating but some loss in intra regional trade through TD • Revenue implications: more serious for non SACU members 	<p>Counterfactual scenario uses Cotonou preferences rather than possible enabling clause preferences. PE results presented in absolute terms hence hard to determine net effects in the economy. PE only looks at SSA liberalisation hence effects concentrated on increased EU market access and not SSA country MA into the EU.</p>
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Hinkle and Schiff (2004) "Economic Partnership Agreements Between Sub-Saharan Africa and the EU: A Development Perspective"	Sub-Saharan Africa	Qualitative analysis of the issues surrounding the EPAs from a development perspective. Analysis takes into consideration possible issues relating to: -	<ul style="list-style-type: none"> • Likely two tier negotiations due to enabling clause preferences • Overlapping FTAs likely to cause trouble if not properly managed (RoO). • Intra regional barriers are high and will have to be reduced. Regions may not be each other's natural trading partners. • Revenue dependence calls for reform of tax system particularly VAT. • MFN liberalisation will reduce the scope for trade diversion • Preference erosion likely to be an issue. • Services should be included. • Investment provisions should be included to foster growth • Must not lose sight of comp policy and infrastructure. 	
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Busse and Grossman (2004) "Assessing the impact of ACP/EU EPA on West African Countries"	ECOWAS: Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo (no Sierra Leone or Liberia).	Partial Equilibrium model •4digits •Standard Armington assumption (imperfect substitutes). •Export supplies are perfectly elastic. •Sierra Leone and Liberia removed due to lack of data. •2001 base year. •Complete liberalisation of ECOWAS tariffs wrt EU. •Three Scenarios – low, med , and high relate to levels of Import demand elasticity and Elasticity of substitution.	Trade creation exceeds trade diversion for all countries. (TC= share of EU imports, TD = share of non pref imports) Scenario is med.					Cote d'Ivoire, Ghana and Nigeria are the only non-LDCs	
						Decline in m duties			
				TC	TD	% of total M duties	% of Gov rev		% of GDP
			BENIN	7.6%	3.2 %	47.4%	8.6%		1.2%
			Burkina	5.7%	3.2 %	46.8%	5.6%		0.7%
			Cape V	9.2%	7.1 %	79.9%	19.8%		4.1%
			Cote I	6%	2.9 %	55.5%	4.6%		0.8%
			Gambia	5.8%	6.6 %	65.0%	21.9%		3.5%
			Ghana	3.7%	2.4 %	66.4%	10.3%		1.8%
			Guinea	4.9%	3.3 %	51.6%	4.9%		0.6%
			Guinea B	4.5%	1.1 %	65.8%	5.6%		1.1%
			Mali	3.6%	1.3 %	35.6%	3.8%		0.6%
			Maurit	5.5%	2.8 %	49.3%	6.3%		1.2%
			Niger	4.9%	1.5 %	29.6%	3.6%		0.3%
			Nigeria	12.5 %	7.6 %	52.7%	2.5%		1.2%
Senegal	8%	3.8 %	60.0%	10.7%	1.9%				
Togo	6.6%	3.2 %	43.2%	7.4%	1.0%				
*TD and TC have difference denominators									

Milner, Morressey and McKay (2008) "Some simple Analytics of the Trade and Welfare Effects of EPAs"	EAC Kenya, Tanzania and Uganda	Partial Equilibrium: • EU receives duty free access to countries, as do regional partners (EAC). •Data at 8 digits but aggregated to two digits for EU-EAC and EAC-RoW trade. •Tariff data: Tanzania from custom records as ratio of duty collected to total imports.	<table><tr><th></th><th>Tanzania</th><th>Ug:</th></tr><tr><td colspan="3"><hr/></td></tr><tr><td>Sectors with consumption effects only</td><td></td><td></td></tr><tr><td>Value of imports from EU</td><td>+54.8 (15.9%)</td><td>+2</td></tr><tr><td>Tariff revenue effect</td><td>-36.9</td><td>-1</td></tr><tr><td>Net welfare effect</td><td>+4.1</td><td>+2</td></tr><tr><td>Sectors with trade diversion and consumption effects</td><td></td><td></td></tr><tr><td>Value of imports from EU</td><td>+324.1</td><td>+3</td></tr><tr><td>(diverted from ROW)</td><td>+298.2 (100%)</td><td>+2</td></tr><tr><td>(consumption effects)</td><td>+26.0 (8.7%)</td><td>+4</td></tr><tr><td>Tariff revenue effect</td><td>-28.5</td><td>-5</td></tr><tr><td>Welfare effect</td><td>-13.4</td><td>-2</td></tr><tr><td>Sectors with trade creation and consumption effects</td><td></td><td></td></tr><tr><td>Value of imports from EU</td><td>+5.7</td><td>+1</td></tr><tr><td>(substitution from EAC)</td><td>+5.3 (100%)</td><td>+1</td></tr><tr><td>(consumption effects)</td><td>+0.4 (7.2%)</td><td>+1</td></tr><tr><td>Net welfare effect</td><td>+0.5</td><td>+2</td></tr><tr><td colspan="3"><hr/></td></tr><tr><td colspan="3"><p>TANZANIA: trade diversion predominates with net welfare reduced translating into a reduction of GDP equivalent to 0.5% of GDP. Tariff revenue reduction -70%</p><p>UGANDA: trade creation predominates thus translating into a net welfare increase of 0.05% of GDP. Tariff revenue effects -60%. (Bearing in mind that the tariff revenue effects are potential upper bounds).</p><p>KENYA: comparable trade data is not available so effects are approximated given the other two scenarios. Scope for considerable displacement of Kenyan by EU imports, with corresponding scope for producer losses in Kenya.</p></td></tr></table>		Tanzania	Ug:	<hr/>			Sectors with consumption effects only			Value of imports from EU	+54.8 (15.9%)	+2	Tariff revenue effect	-36.9	-1	Net welfare effect	+4.1	+2	Sectors with trade diversion and consumption effects			Value of imports from EU	+324.1	+3	(diverted from ROW)	+298.2 (100%)	+2	(consumption effects)	+26.0 (8.7%)	+4	Tariff revenue effect	-28.5	-5	Welfare effect	-13.4	-2	Sectors with trade creation and consumption effects			Value of imports from EU	+5.7	+1	(substitution from EAC)	+5.3 (100%)	+1	(consumption effects)	+0.4 (7.2%)	+1	Net welfare effect	+0.5	+2	<hr/>			<p>TANZANIA: trade diversion predominates with net welfare reduced translating into a reduction of GDP equivalent to 0.5% of GDP. Tariff revenue reduction -70%</p> <p>UGANDA: trade creation predominates thus translating into a net welfare increase of 0.05% of GDP. Tariff revenue effects -60%. (Bearing in mind that the tariff revenue effects are potential upper bounds).</p> <p>KENYA: comparable trade data is not available so effects are approximated given the other two scenarios. Scope for considerable displacement of Kenyan by EU imports, with corresponding scope for producer losses in Kenya.</p>			Model done at 2-digits
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<p>Keck and Piermartini (2008) The Economic Impact of EPAs in SADC Countries</p>	<p>SADC Angola, Mozambique, Tanzania as well as Botswana, Lesotho, Namibia, Swaziland (BLNS), which together with South Africa (observer to the SADC negotiating group) belong to the Southern African Customs Union (SACU)</p>	<p>CGE</p> <ul style="list-style-type: none"> •GTAP 6 database •15 regions and 9 sectors •2001 base year • Includes non-reciprocal tariff preferences for certain developing and LDCs • Incorporates preference erosion from other EU agreements (i.e. MERCOSUR) •MFA and EU enlargement •Consequences of revenue sharing • Model looks at what happens when the full-factor employment assumption is dropped <p>six policy experiments:</p> <ol style="list-style-type: none"> 1) EU–SADC (base case) full reciprocal liberalisation 2) SADC free trade area (just S–S liberalisation) 3) EU–SADC and SADC (1 and 2) 4) EU–SADC and EU–Mercosur 5) EU–SADC 50%Ag: Partial liberalisation of agri 6) EU–SADC Subs: Total liberalisation of not only import barriers, but also of export subsidies and taxes as well as product-specific domestic support and taxes. 	<table border="1"> <thead> <tr> <th rowspan="2"></th><th colspan="3">EU–SADC FTA</th></tr> <tr> <th>Vol of X</th><th>Vol of M</th><th>GDP</th></tr> </thead> <tbody> <tr> <td>Botswana</td><td>0.7</td><td>-1.3</td><td>-0.06</td></tr> <tr> <td>S.Africa</td><td>-0.1</td><td>7.5</td><td>0.2</td></tr> <tr> <td>RoSACU</td><td>13.3</td><td>18.4</td><td>0.28</td></tr> <tr> <td>Malawi</td><td>3.3</td><td>26.7</td><td>0.87</td></tr> <tr> <td>Zambia</td><td>0.7</td><td>2</td><td>-0.17</td></tr> <tr> <td>Zimbabwe</td><td>-0.4</td><td>24.4</td><td>0.22</td></tr> <tr> <td>Mozambique</td><td>0.5</td><td>1</td><td>-0.16</td></tr> <tr> <td>Tanzania</td><td>6</td><td>3.8</td><td>-0.165</td></tr> <tr> <td>RoSADC</td><td>8.1</td><td>20.3</td><td>0.1</td></tr> </tbody> </table> <p>Export Sector main gain / loss BWA: Animal Agri /Light manuf S.A : Crops and Food P / Heavy manuf and services RoSACU: FoodP and Animal Agri / Light and heavy manufs Malawi: FoodP / Crops Zambia: FoodP / Heavy manuf Zimbabwe: Animal Agri / Crops and H manufactures Mozambique: H manuf / Services Tanzania: FoodP / N/A RoSADC: FoodP / Light manuf</p> <p>The EU-MERCOSUR agreement would significantly lower the gains of the EU-SADC agreement.</p>		EU–SADC FTA			Vol of X	Vol of M	GDP	Botswana	0.7	-1.3	-0.06	S.Africa	-0.1	7.5	0.2	RoSACU	13.3	18.4	0.28	Malawi	3.3	26.7	0.87	Zambia	0.7	2	-0.17	Zimbabwe	-0.4	24.4	0.22	Mozambique	0.5	1	-0.16	Tanzania	6	3.8	-0.165	RoSADC	8.1	20.3	0.1
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Karingi et al (2005) “Assessment of the impact of the Economic Partnership Agreement between the ECOWAS countries and the European Union”	ECOWAS	As ECA (2005) but more focused towards ECOWAS	<p>Table 20: Trade Creation and Diversion Effects of EPAs for ECOWAS Countries (US\$)</p> <table><tr><th>Country</th><th>Trade Creation</th><th>Net Trade Diversion</th><th>ECOWAS Diverted Trade</th><th>EI</th></tr><tr><td>Ghana</td><td>267,762,342.00</td><td>-101,924,746.00</td><td>-23,480,674.00</td><td>369</td></tr><tr><td>Burkina Faso</td><td>40,483,269.50</td><td>-9,180,224.00</td><td>-2,883,310.00</td><td>49</td></tr><tr><td>Bénin</td><td>61,057,168.50</td><td>-14,118,814.00</td><td>-2,695,298.00</td><td>75</td></tr><tr><td>Cote d'Ivoire</td><td>188,827,587.50</td><td>-26,441,888.00</td><td>-1,771,993.00</td><td>215</td></tr><tr><td>Guinée-Bissau</td><td>2,847,097.50</td><td>-272,652.00</td><td>0.00</td><td>3</td></tr><tr><td>Senegal</td><td>144,594,478.50</td><td>-16,273,266.00</td><td>0.00</td><td>160</td></tr><tr><td>Niger</td><td>39,532,750.00</td><td>-4,265,105.00</td><td>0.00</td><td>43</td></tr><tr><td>Nigeria</td><td>617,735,025.00</td><td>-172,854,272.00</td><td>-4,174.34</td><td>790</td></tr><tr><td>Mauritanie</td><td>28,506,803.00</td><td>-5,301,686.00</td><td>-248,052.00</td><td>33</td></tr><tr><td>Mali</td><td>54,709,194.50</td><td>-4,454,198.00</td><td>0.00</td><td>59</td></tr><tr><td>Togo</td><td>58,332,504.50</td><td>-6,494,013.00</td><td>0.00</td><td>64</td></tr></table> <p>Source: WITS/SMART Simulations</p> <p>Table 21: Revenue implications of a EU-ECOWAS EPA (US\$)</p> <table><tr><th>Country</th><th>Revenue Shortfall</th></tr><tr><td>Ghana</td><td>-193,683,365.00</td></tr><tr><td>Burkina Faso</td><td>-22,003,937.50</td></tr><tr><td>Benin</td><td>-39,523,104.00</td></tr><tr><td>Cote d'Ivoire</td><td>-112,236,538.00</td></tr><tr><td>Guinée-Bissau</td><td>-1,990,216.50</td></tr><tr><td>Senegal</td><td>-80,203,188.50</td></tr><tr><td>Niger</td><td>-20,487,214.00</td></tr><tr><td>Nigeria</td><td>-426,902,557.50</td></tr><tr><td>Mauritanie</td><td>-14,572,779.00</td></tr><tr><td>Mali</td><td>-33,141,747.00</td></tr><tr><td>Togo</td><td>-35,471,728.00</td></tr></table> <p>Source: WITS/SMART Simulations</p>	Country	Trade Creation	Net Trade Diversion	ECOWAS Diverted Trade	EI	Ghana	267,762,342.00	-101,924,746.00	-23,480,674.00	369	Burkina Faso	40,483,269.50	-9,180,224.00	-2,883,310.00	49	Bénin	61,057,168.50	-14,118,814.00	-2,695,298.00	75	Cote d'Ivoire	188,827,587.50	-26,441,888.00	-1,771,993.00	215	Guinée-Bissau	2,847,097.50	-272,652.00	0.00	3	Senegal	144,594,478.50	-16,273,266.00	0.00	160	Niger	39,532,750.00	-4,265,105.00	0.00	43	Nigeria	617,735,025.00	-172,854,272.00	-4,174.34	790	Mauritanie	28,506,803.00	-5,301,686.00	-248,052.00	33	Mali	54,709,194.50	-4,454,198.00	0.00	59	Togo	58,332,504.50	-6,494,013.00	0.00	64	Country	Revenue Shortfall	Ghana	-193,683,365.00	Burkina Faso	-22,003,937.50	Benin	-39,523,104.00	Cote d'Ivoire	-112,236,538.00	Guinée-Bissau	-1,990,216.50	Senegal	-80,203,188.50	Niger	-20,487,214.00	Nigeria	-426,902,557.50	Mauritanie	-14,572,779.00	Mali	-33,141,747.00	Togo	-35,471,728.00
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Gasiorek and Winters (2004) "What Role for the EPAs in the Caribbean?"	CARICOM and OECD. Antigua, Barbuda, Bahamas, Barbados, Belize, Dominica, Granada, Guyana, Jamaica, Monserrat, St Kitts and Nevis, St Lucia, St Vincent, Suriname, Trinidad and Tobago	Comparative approach.	Little scope for trade creation and strong scope for trade diversion.	
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Greenaway and Milner (2003) "a grim REPA"	CARICOM. 9 countries	Partial Equilibrium model 1998 (some for 1997) analysis at the SITC 2 digit level. 3 scenarios 1)Reciprocity 2) extended reciprocity (with both EU and US) 3)full multilateral non-discriminatory liberalisation	change in imports m EC\$ (reciprocity)				Data dates 1997. Tariffs likely to have since then, -	
			all	EU	region	Non-EU RoW	Back to 1997. Tariffs likely to have since then, -	
							1005.5	
							102.4	
			Barbados	71.69	1	-92.36	-841.14	102.4
			Belize	11.61	347.88	-7.39	-328.88	-102.4
			Dominica	8.6	144.39	-23.96	-111.83	-21.85
			Grenada	12.02	219.37	-37.69	-169.66	-31.19
			Jamaica	121.4	3606.2	-242.52	-3542.3	635.1
			Kitts&Nevis	3	1	-17.7	-149.28	2
			St. Lucia	6.94	173.92	-49.51	-305.09	-25.89
			Trinidad	21.34	375.94	-69.08	-2619.3	-60.4
			St. Vincent	160.8	2849.2	-33.11	-135.84	390.0
				5	4			9
				16.3	185.25			-27.34
			Consumption expansion effect predominantly in manufacturing and agri/food products. Granting full reciprocity implies forsaking Customs duty on EU imports and on diverted dutiable sources.					
			change in m from region n	Change in xtra regional m			change in tot	
			(1)	(1)	(2)	(3)	(1)	(2)
			Barbados	-15.5	7.1	13.3	20.7	6.7
			Belize	-15.7	2.5	11.8	16.94	10.4
					12	25		12

Gasiorek et al (2006)		<p>-Comparative approach: use of indicators and trends</p> <p>-Gravity model (1990-2000)</p> <p>-Partial Equilibrium (6-digits): allows for highest revenue yielding products to be excluded (80% cut off point)</p>	<p>-Comparative approach: Trade diversion to predominate</p> <p>-Gravity model (1990-2000) : OECS behave significantly different to rest of CARICOM but trade diversion will surpass trade creation and trade re-orientation.</p> <p>-Strong scope for trade diversion, existence of trade re-orientation and creation but in smaller magnitudes. EC trade into region to increase by 50%. Imposing substantially all trade clause reduces this to 37%</p>	Gravity does not include trade in services which is likely to be important. Zero trade flows excluded
Morrissey, O and Zgovu, E. (2008) "The Impact of Economic Partnership Agreements on African, Caribbean and Pacific Countries Imports and Welfare"	34 ACP countries	PE as in Mckay et al (2008)		
Scollay 2002				

<p>Perez, R (2005) " Are the Economic Partnership agreements a first-best optimum for the ACP countries?"</p>	<p>ACP</p>	<p>CGE</p> <ul style="list-style-type: none"> •GTAP 6 database •10 regions and 12 sectors •2001 base year • includes EU enlargement (27), MFA phasing out, multilateral liberalisation (developed countries 36% cut, developing countries 24%), elimination of agri subsidies and support (by 20%) and assumed full regional integration in ACP countries (i.e. zero tariffs between these countries). <p>Tariff changes at 6-digits</p> <p>Simulations:</p> <ol style="list-style-type: none"> 1) ACPs eliminate tariffs on 80% of M from EU whilst EU grants full access to ACP exports 2) Like above but 50% elimination 3) Full bilateral liberalisation 4) Full ACP liberalisation (S-S tariffs fully dismantled) 5) Loss of Cotonou 6) Loss of cotonou but GSP + preferences applied 	<p>Scenario 1: (GDP volume)</p> <p>SSA: GDP (-0.08%), ToT (-0.52%), BoT (-753), Welfare (-612)</p> <p>RoSADC: GDP (-0.07%), ToT (-0.01%), BoT (-130), Welfare (-24)</p> <p>South Africa: GDP (-0.02%), ToT (-0.31%), BoT (97), Welfare (-126)</p> <p>North Africa: GDP (0%), ToT (-0.06%), BoT (39), Welfare (-27)</p> <p>ACPPacific: GDP (-0.17%), ToT (-0.65%), BoT (-97), Welfare (-134)</p> <p>ACPCARICOM: GDP (0%), ToT (-0.22%), BoT (249), Welfare (-81)</p> <p>Fiscal Effects</p> <table border="1"> <thead> <tr> <th>Level of reciprocity</th><th>SSA</th><th>SADC</th><th>PACIFIC</th><th>CARICOM</th></tr> </thead> <tbody> <tr> <td>50%</td><td>0.4%</td><td>0.1%</td><td>1.2%</td><td>0.1%</td></tr> <tr> <td>80%</td><td>1.0%</td><td>0.4%</td><td>1.6%</td><td>0.2%</td></tr> <tr> <td>100%</td><td>1.7%</td><td>1.4%</td><td>2.1%</td><td>0.5%</td></tr> </tbody> </table> <p>Some strange results in the loss of Cotonou preferences where for many countries BoT effect is positive, whilst ToT effect is negative....</p>	Level of reciprocity	SSA	SADC	PACIFIC	CARICOM	50%	0.4%	0.1%	1.2%	0.1%	80%	1.0%	0.4%	1.6%	0.2%	100%	1.7%	1.4%	2.1%	0.5%	
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Part Two: Country Case Studies

Case Studies Lessons

1. Introduction

This section describes the trade negotiating resource capacity of three different ACP countries: Ethiopia, Nigeria and the Dominican Republic. Understanding the way how these countries structure their trade negotiations and allocate human and financial resources is crucial to analyse their capacity to engage and negotiate trade agreements. In a context of scarcity of human resources, engaging in major trade negotiations is likely to have large opportunity costs, diverting government officials and resources from potentially equally if not more important tasks, such as formulating and implementing other relevant domestic policies. The purpose of the case studies is to describe the negotiating structure of these three countries, at the same time than the degree of resource intensity required for negotiating the EPAs *in relation to* other trade agreements.

Despite the fact that we analyse only three out of the 77 ACP countries, the sample represents 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, Dominican Republic, and two countries that have not agreed to sign yet. Therefore, although generalisations from case studies are always risky, we believe that the sample sheds some light to understanding the different resource capacity available in ACP countries. Furthermore, some common elements and lessons that apply to the other ACP countries arise from analysing the case studies.

Table 1 Selected Indicators in 2007

Country	GDP/capita (US\$)	Population (millions)	GDP growth	EU imports (€ million)	Share at MFN=0% ^a
Nigeria	472.3	147.98	6.32%	10,100.00	94.97%
Ethiopia	174.01	79.09	11.10%	309.61	71.86%
Dominican Rep.	2,881.41	9.75	8.50%	773.08	62.47%

^a This is the share of EU imports that entered the EU market of products that do not pay duties.

Source: WDI and COMEXT

Section 2 summarises the negotiating capacity of these countries and the allocation of resources for negotiation. Section 3 quantifies the costs of negotiating EPAs and compares these costs with other preferential schemes, focusing on the existing tradeoffs. Section 4 focuses on the different perceptions of the process arising from the main domestic actors involved and suggests the key lessons and elements required to conclude agreements. The final section summarise the main lessons arising from the case studies. The full case studies, with much detailed explanations, are attached in the additional document.

2. Trade negotiating resources

Ethiopia

Trade negotiation structure

The Ministry of Trade and Industry (MoTI) has been engaging in bilateral, regional and multilateral trade negotiations since 1992. Since then, 14 bilateral Trade Agreements were negotiated, concluded, ratified and implemented. These bilateral trade arrangements are; seven with African countries- Algeria, Equatorial Guinea, Kenya, Libya, Nigeria, Sudan, and Tunisia; five with Asian and Middle East countries - India, Iran, Malaysia, South Korea and Yemen; and the remaining two with Russia and Cuba.

At regional level Ethiopia played the leading role as a founding member of COMESA, but did not join the Free Trade Area (FTA) launched in 2000 nor did the Customs Union which was launched in June 2009.

Currently Ethiopia is negotiating to conclude an Economic Partnership Agreement-EPA with the Eastern and Southern Africa (ESA) configuration. Regarding the EPA MoTI is the focal Ministry, and also handles WTO accession. Ethiopia applied for membership to the WTO in 2003, but the first working party meeting was held in May 2008.

In order to handle all these negotiating demands the Ministry of Trade and Industry (MoTI) in Ethiopia was organised until very recently into 11 Operational Departments, four agencies, one institute and seven service giving unities. The relevant operational departments related to trade relation and negotiations were the Foreign Trade Relation Department (FTRD), and the WTO Affairs Department (WAD).

The FTRD was responsible for bilateral and regional trade relations and negotiations, and split into two teams. The Bilateral⁹⁰ and Trilateral Trade Relation Team had the mandate to negotiate bilateral agreements and two “shallow” trilateral agreements.⁹¹ Regional and European Commission Trade Relation Team handled all regional trade issues, including trade issues within the African Union, COMESA, IGAD and European Union (EPA). The WAD department was mandated with the task of handling the country’s WTO accession process and is organised in three Teams; Trade in goods, Trade in Services, and Trade in Intellectual Property Rights.

As of the finalisation of this case study the Ministry restructured its organisational structure and the two departments responsible for trade relation and negotiation, FTRD and WAD, has been merged into one Directorate; “Trade Relation and Negotiation Directorate”, to be led by a Director who will be the Chief Negotiator for the country’s

90 The bilateral agreements are forums for bilateral trade relations that go into detailed issues of bilateral trade facilitation. Such forums does not need many resources and are covered from the government budget or bilateral arrangement and do not need donor support.

⁹¹ The “Ethio-Sudan-Turkey” Trilateral is a regional arrangement between the three countries aimed at cooperation on regional developmental projects mainly on infrastructure projects. The “Ethio-Sudan-Turkey” Trilateral is not active currently. The “Sana’a Forum” is another trilateral arrangement established between Ethiopia, Sudan, and Yemen and currently has incorporated Djibouti and the Transitional Government of Somalia. The Sana’a grouping has an objective of establishing an FTA and entering a higher form of integration; customs union and beyond.

trade relation and negotiation matters including the EPA and WTO accession process. The new structure of the Ministry of Trade and Industry, Trade Sector is in the Appendix.

Human resources

According to the previous structure in place, a total of 40 technical staff should have been placed in the two departments (i.e., FTRD and WAD) that were responsible for trade relations and negotiations. However, due to high labour mobility, unattractive salaries and lack of incentives to maintain experts, not more than 16 technical staff on average were actively engaged in the process at any given time for the last five years. Out of the 16 staff, six on average were engaged in Regional and Bilateral matters while out of these six people, **only three technical staff were handling the trade matters related to EPAs, COMESA and IGAD**. Furthermore, lack of trained negotiators and qualified experts, given the breadth, complexity and demanding nature of the EPA negotiation, the capacity of these three experts have been generally overstretched.

EPA negotiations

- EPA team

Regarding the EPA negotiations, each ESA country was required to establish a “National Development and Trade Policy Forum (NDTPF)” formed by experts delegated from different institutions and organisations working on trade matters with diverse expertise and experience, which have been reinforcing/supporting in one way or the other the negotiating team.

- Skills

The Ethiopian NDTPF comprised 29 experts and senior officials from 26 institutions and organisations involved in trade and development work (agriculture, trade, investment, services, etc), as well as representatives from the public and private sector and non-state actors (NSAs). Members of the NDTPF were all experts in their respective fields of specialisation and their educational skills range from first degree to a PhD level in the fields among others; including economics, development, law and political science with significant years of professional experience in their field of expertise.

- Earnings

The earnings of the NDTPF members vary depending on the institution they belong to (public/private), their educational level, experience and level of specialisation. In the case of those working in the public institutions, Ministries and Agencies; the monthly salary for experts like those involved in the NDTPF varies from 3,500 (\$274) to 7,500 (\$587) Ethiopian Birr (\$1/12.78 Birr). List of NDTPF members, institution they represent and their position is shown in the Appendix

- Other support

The FTRD was also assisted by young Trade Policy Analysts (TPAs) in the last four years assigned by the EC. The Commonwealth Secretariat through its Hub and Spoke Project has been sponsoring young TPAs, economist or lawyers, to assist selected ACP

counties in the EPA process. Moreover, the staff of the Trade Capacity Building Unit (TCBU), (four staff), of the EU Project also provided professional support in the negotiation process especially in the EPA process, for the last three years. In general, had it not been to the support of the NDTPF and support by the expatriate experts (the TPA and TCBU staffs), the challenge for Ethiopia's EPA negotiation in the area of human resource, and relevant expertise would have been much critical and serious.

As the NDTPF members have their own duties and responsibilities in their own institution/organisations; their contributions were limited only at their spare time and at a meeting once in a month. However, the diverse experience and expertise of the NDTPF members from various institutions has helped Ethiopia's preparation for the negotiation. Of course, members of the NDTPF do not have equal understanding of all trade matters. But, continuous awareness creation programs provided through trainings, workshops, and seminars has contributed in narrowing the gaps in understanding. Lack of incentives for their additional contribution was one of the bottlenecks to fully utilise and take advantage of the expertise of the NDTPF members.

Financial resources

For all regional negotiations related to the EPA, each ESA state including Ethiopia has been sponsored from the regional project managed by the Inter Regional Coordinating Committee (IRCC) from the budget earmarked by the EC for the EPA negotiation. Each member state was sending three negotiators for the RNF negotiation. For the sake of continuity and institutional memory, the negotiation guidelines required the same three people to attend the entire negotiation permanently. But, in practice countries were changing people as deemed necessary. The RNF negotiations were held at least once in every three months and more frequently as and when necessary, especially during the beginning of the EPA negotiating process and in 2007 to meet the deadline for the WTO waiver.

Ethiopia, as most countries in the ESA region, does not have a budget earmarked for the EPA negotiation to delegate more experts for the negotiation. Though issues negotiated at the RNF level to develop regional negotiating position were diverse and need expertise in each field, because of lack of a budget to send necessary additional experts from the NDTPF members to the RNF negotiation was not possible and was one of the challenges faced by Ethiopia.

The Government of Ethiopia has been earmarking Birr 200,000 (\$15,650) on average every year for the last five years for bilateral trade relation and negotiations and for attending permanent and known regional meetings like; COMESA Trade and Customs Committee meeting, COMESA Trade Ministers, ESA Council, AU Trade Ministers, ACP Trade Ministers, and WTO Trade Ministerial meeting. The Birr 200,000 budget was to cover all travel related costs. However, the budget fell far short of the real need to effectively participate in all regional and bilateral negotiations and meetings. NGOs like OXFAM GB and Friedrich Ebert Stiftung who are working in trade related areas have also supported the negotiation by earmarking budget on a demand bases.

Summary of negotiating resources

Summing up, Ethiopia has engaged in a very large number of trade agreement negotiations at bilateral, trilateral, regional and multilateral level in recent years. The

EPAs negotiation process is parallel with Ethiopia WTO accession process. These two negotiating processes clearly stretch existing insufficient human resources.

Interestingly, however, 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 is deployed to cover an array of bilateral and trilateral “shallow” agreements as for more comprehensive regional agreements such as EPAs and COMESA, which are more likely to have impacts on Ethiopian economy. Despite this large negotiating burden on Ethiopian officials, it is important to highlight the fact that Ethiopia has still not signed any of the negotiating agreements: COMESA, EPA and WTO.

Regarding EPA negotiations, the negotiating team has clearly benefited from the creation of the NDTPF, adding expertise from other ministries, and especially, from external consultants support funded by EU and Commonwealth projects.

Finally, it is also important to emphasise that financial incentives for officials to travel to meetings and trainings are large, since per diems excluding hotel (\$70) represent 17% of an average salary (i.e. an average technical staff will double his/her salary with 6 days of meetings and travelling in one month)

Nigeria

Trade negotiation structure

The Department of Trade of the Federal Ministry of Commerce and Industry (FMCI) is the focal point for trade negotiations in Nigeria. The FMCI is divided into three main departments: multilateral, bilateral and domestic trade. The multilateral department is composed of units in charge of UNCTAD and WTO issues, and intra-Africa trade issues mainly related to EPA and regional integration. The domestic trade department deals with trade information and complaints as well as weights and measures, while the bilateral department has two units with responsibility for trade and investment cooperation with the Americas, Asia, Australia, Africa and Europe.

Clearly most of the negotiating pressure occurs at the intra-African trade unit that deals with ECOWAS, EPAs and also GSP preferences, since Nigeria has been applying for GSP+ preferences.

Three teams are in charge of trade negotiations, WTO, the EPA and third team dealing with all other bilateral trade and investment negotiations. The WTO team is structured to function at two levels, the Geneva-based negotiators and the capital based (Abuja) officials who provide directions and national positions for the multilateral negotiations.

Human resources

Table 2 summarises the main structure of the department for trade. It shows uneven proportional allocation of staff - **eight staff cover EPA, ECOWAS and GSP, as compared to 28 for WTO, 14 for bilateral issues or seven for UNCTAD.**

EPA negotiations

- Skills

The EPA negotiating team has only eight officials, six have basic degrees in social sciences and business administration, two have additional degrees in law and one a higher degree in political science. **None has an economics degree.** All staff have been exposed to different on-the-job training through short trade policy related workshops within and outside the country, with some at the level of the WTO through the regional trade policy course mounted for three months per year.

Table 2 Structure of Nigeria's Department of Trade and Staffing

Section	Number of staff	Number in Abuja	Share of Total
Director's Office	5	100%	2.3%
Bilateral	14	100%	6.5%
Multilateral	9	100%	4.1%
Intra-Africa	8	100%	3.7%
UNCTAD	7	100%	3.2%
WTO	28 ^a	78.6%	12.9%
Trade Promotion	43	100%	19.8%
TIC&P	3	100%	1.4%
Weights and Measures	91	17.6%	41.9%
SCUML	9	100%	4.1%
TOTAL:	217		100%

Source: Federal Ministry of Commerce and Industry, Abuja, 2009; 'a' includes six staff at the WTO office: 1 Ambassador, 3 Counsellors, 1 Accountant and 1 Secretary.

- Earnings

The average monthly salary range of the members of staff of the intra-Africa unit is between grade levels 7 (\$248) and 13 (\$545). The EPA team does not yet have an external adviser on the EPA negotiations, while it has four external national consultants who do not receive any compensation except when they are involved in conducting EPA-related studies, which are paid by donor organisations mainly DFID Nigeria and to a little extent the ECOWAS Commission. Their travel costs and per diems are also reimbursed by these organisations.

Table 3 Resource Detail of Intra-Africa Section

Resource	Magnitude
Number of Staff	8
Number with Law Degree	2
Average Salary range	GL07-GL13
Number of Advisers	0
Number of External Advisors (Consultants)	4
Part of Ministry's budget spent on trade Negotiation	\$21,500

Sources: a) Federal Ministry of Commerce and Industry, Abuja, 2009; b) Key In-depth Interview; c) Federal Budget, 2008

- EPA team

The EPA negotiating team features two additional committees, the Ministerial Advisory Committee and the Technical Committee on EPA. The Technical Committee on the EPA (see composition on Table 4) was supposed to meet once a month and the committee's meetings are also funded in some cases by DFID.

Table 4 Composition of Members of the Technical Committee on EPA

Organisation	Number present
Federal Ministry of Commerce and Industry	12 including the Chairperson
Nigeria Export Promotion Council	1
Nigeria Customs Service	2
Ministry of Finance	1
National Association of Nigerian Traders	4
National Bureau of Statistics	1
Nigeria Labour Congress	1
Standards Organization of Nigeria	1
National Association of Chambers of Commerce, Industry and Agriculture (NACCIMA)	1
Others	3

Source: Minute of EPA Technical Committee meeting, 25 June 2009.

In total, despite the inadequacy of staff at the Ministry, the EPA negotiating structure appears to be relatively the most visible and active. Many reasons explain the high level of activities of the EPA negotiating team which appear to have crowded out activities of other teams. One is the perception about the potential impact of the EPA on Nigeria's industrialisation. In addition, the availability of external resources has allowed the technical committee on the EPA to produce more knowledge activities, which have formed part of the negotiating strategies. This, however, has triggered perceptions that by making the results of studies available to donors, negotiating strategies are known and responses are predetermined at the negotiation table.

Financial resources

Estimating the Ministry's budget spent on trade negotiations is a more challenging task because negotiations involved capacity building, workshops, carrying out negotiations related studies, travels for actual negotiations and staying over in either Brussels, Geneva or any of the West African countries that EPA negotiation meeting is taking place. All of these details are not shown in the budget apart from a lump sum that makes reference to EPA negotiations. The only year that a budget head was designated for EPA negotiations was in 2008 when the negotiations gathered momentum. The EPA budget for 2008 was N200 million but only N3 million (or about \$20,000), representing 1.5% of allocation, was released and spent, this induced by the falling oil prices which ensured that budget performance fell well below expectation in that year.

Aid programmes and technical assistance programmes directed at the members of staff of the Department of Trade relate to capacity building with regard to both the WTO and the EPA negotiations.

Summary of negotiating resources

The analysis of Nigeria's trade negotiating resources shows a **large bias of resources allocated to WTO issues as compared to EPA and ECOWAS negotiations**. This is due mainly to inherited previous 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, it is striking the lack of economics trained staff.

Regarding finance, lack of priority is reflected in very low budgets for the EPAs, which required additional support from donors. This support has been translated in the formulation of evaluation studies. Interestingly, the fact that most of these studies have been donor funded has raised perceptions of lack of ownership in negotiating strategies. Despite these perceptions, there is no clear evidence that donor support has managed to change any perceptions around EPAs or to induce more engagement.

Dominican Republic

Trade negotiation structure

In 1996 after a change in government led by President Leonel Fernandez, the D.R. started a process of openness. As a result, the D.R. started negotiating different trade agreements and strengthening the trade negotiation team. In 1997, the D.R. initiated its first trade negotiations with the Caribbean Common Market (CARICOM), and a few months later with the countries of the Central American Common Market. In 1998, the FTA with Central American was concluded, as well as the FTA with CARICOM. At the beginning of the year 2000 both agreements were ratified and implementation started. During the process of both negotiations, the Dominican authorities had the opportunity to test the new structure for conducting trade negotiations, strengthening its interaction with civil society. In both cases, the private sectors participated in the negotiating round in the "room next door" and coordinated its position in advance.

The National Commission of Trade Negotiations (CNNC) has primary responsibility for developing and coordinating trade policy. It was established under the Presidential Decree No 74-99, as an interagency trade policy mechanism for trade negotiation and implementation. The CNNC is headed, and coordinated, by the Secretary of the Foreign Affairs (SEREX). It is composed of different government (GODR) agencies and offices, responsible for developing and coordinating negotiations on international trade and trade related issues:

- State Secretariat of Foreign Relations (SEREX)
- State Secretariat of Industry and Commerce (SEIC)
- State Secretariat of Agriculture (SEA)
- State Secretariat of Treasury (SEH)
- Export and Investment Centre (CEI-RD)
- Central Bank
- National Free Zone Council (CNZFE)
- Custom Administration (DGA)
- State Secretariat of Labour

- State Secretariat of Environment
- State Secretariat of Economy and Planning

The CNNC management team is currently led by an Ambassador, in charge of trade negotiations for all regional and bilateral forums, as well as for issues related to the WTO. The Ambassador for Trade Negotiations has lead responsibilities for conducting international trade negotiations. A group of approximately seven experts from SEREX serves as different forum coordinators, but there are no experts in negotiating disciplines (i.e. services or SPS). The SEREX staff assigned to the CNNC work as a support division that provides essential administrative services and coordinate agendas among the different forums. The CNNC staff worked in all trade negotiations, multilateral, bilateral or regional, however for each venue it has a coordinator. Due to the complexities of bilateral or regional trade negotiations historically, the D.R. has conducted one trade negotiation at a time, although there has been some overlapping in the past. For each negotiation a coordinator is appointed, who is chosen for both their background and expertise. As for each of the specialised topics in the negotiations, it falls into the responsibilities of the trade specialist in each of the D.R. institutions prior described.⁹²

Human resources

- Skills

The following table presents the level of participation by each ministry and the level of skills. Most member have postgraduate studies, and in areas of economics.

Table 5 Distribution of the Main Trade Negotiators among D.R. institutions

EPA	Number of Negotiators		Level Of Skills
	Principal Ministry State Secretary of Foreign Affairs (SEREX)	Others Ministries	
Lead Negotiator			
Minister	1		Masters Degree
Under Secretary- Team Leader	1		Masters Degree
Advisors	1		Masters Degree
Market Access			
Team Leader		1	Masters Degree
Technicians	1	3	Masters Degree
Agriculture			
Team Leader		1	PHD
Technicians		2	Masters Degree
Services and Investments			
Team Leader		1	Masters Degree

⁹² For D.R.-CAFTA negotiation, a special office was created. The Special Office for D.R.-CAFTA Negotiations was established under the Secretary of Industry and Commerce. This was the first instance that trade negotiations were conducted by a special office, instead of CNNC. There was a strategic interest in joining CAFTA since it was feared that under the Caribbean Basin Initiative apparel exporters in D.R. would be disadvantaged with respect Central America if the R was left out of CAFTA.

Technicians	2	Masters Degree
Trade Related Issues		
Team Leader	1	PHD
Technicians	4	Masters Degree
Legal and Institutional Issues		
Team Leader	1	Masters Degree
Technicians	4	Masters Degree

Source : Author's own calculations

- Earnings

The following table shows the levels of earnings

Table 6 Average salaries

	Average Staff Number	Salary Range US\$(monthly)	Level of Skills
Minister	2	5000-8000	Masters Degree
Team Leaders	7	4000-5000	Masters Degree
Technicians	17	2000-3500	Masters Degree

Source : Author's own estimations from SEREX data

EPA negotiations

During the EPA negotiation an average of 14 negotiators for different GODR agencies established the Dominican Republic negotiation team for CARIFORUM-EU negotiations. Internal consulting groups were created in the following areas: market access, services and investment, trade related issues and legal issues. They consulted with civil society (primarily the business sector) on constant bases.

The Dominican negotiating team was structured as follows:

1. Lead Negotiator
2. Market Access of Goods
3. Services and Investments
4. Trade Related Issues
5. Legal and Institutional Issues

Each group contained a Lead Negotiator and about three technicians to work on each specific area. The Lead Negotiator of the Dominican Republic would report directly to the National Commission of Trade Negotiators (CNNC).

The D.R. did not have any experience in articulating a "regional" position, as required by the EU, both at the beginning of the negotiations, but most importantly during the course of elaborating a "single regional" market access offer in goods. Due to the lack of infrastructure at the beginning of the process to coordinate trade negotiations between CARICOM countries and the D.R., there was a steep learning curve. In this part of the process the CRNM played an important role to reduce the frictions that this new process generated to both parties, CARICOM and the D.R.

Technical Negotiation Group (TNG) meetings were open for the participation of the private sector (civil society) which was accredited as part of the official delegation. Although it was an open process, in these negotiations there was no direct participation of NGOs or Trade Unions in the negotiating rounds. Traditionally, these civil society stakeholders do not participate actively in trade negotiations.

Financial resources

The CRNM usually covered the cost of one country representative for each TWG. This included both travelling expenses and per-diems. However, the remaining costs were financed by the D.R. ministries budget.

Summary of negotiating resources

The D.R. negotiating structure clearly reflects existing expertise from previous negotiating experiences. At the same time allocation of human and financial resources clearly reflect political will for signing trade agreements. Previous experience, especially CAFTA-US implied better understanding of negotiation processes and a better structure to prepare negotiating positions. The main challenge of agreeing a common regional position with CARICOM was mitigated with the help of the CRNM and the fact that the D.R position was less defensive than its regional neighbours.

Regarding human resources, one can clearly see better qualified and paid staff, as corresponds to levels similar to a middle income country, and with numbers of staff larger than most other more populated ACP countries.

3. The costs of EPAs

Ethiopia

Cost of Trainings and workshops

The direct cost related to the EPA process includes training and workshops that were organised for the NDTPF members and other stakeholders. These training workshops were mainly focused on the dissemination and sensitisation of information on the Cotonou Agreement, the concept of the EPA and its compatibility with the WTO agreement specifically with Article-XXIV of GATT and Article-V of GATS. The main participants in these training workshops were NDTPF members, stakeholders from the government, private sector and NSAs. Funding of the above training workshops came from a number of sources, among them, the COMESA Secretariat which has contributed a total of **€10,000**, OXFAM-GB contributed Ethiopian Birr **43,000** and Friedrich Ebert Stiftung provided Ethiopian Birr **9,800**. Moreover, the Project Management Unit (PMU) of the ACP Secretariat has financed two impact Assessment Studies in relation to the EPA negotiation.

Cost of Regional and other Meetings

The costs of regional meetings related to RNF meetings and Dedicated Session negotiations, was covered by the Inter Regional Coordinating Committee (IRCC). Before

the EPA negotiation structure changed at the beginning of 2008, **13 RNF meetings and a number of dedicated sessions were conducted** (See Appendix). For each RNF, three negotiators from each ESA State were present (the chief negotiator, one from the private sector and one expert from the sector the negotiation focuses on; agriculture, fisheries, services, etc...).

- Air tickets

The costs of air tickets depend on the place where the meetings were taking place (e.g. costs of tickets to Mauritius, Seychelles, and Madagascar, were very high as compared to travelling to Khartoum, Djibouti or Nairobi). Therefore, taking a simple average of \$1500 per person per trip, the cost of the three negotiators who travelled to negotiate at 12 RNF sessions in the region (Ethiopia hosted one (the 9th) RNF out of the 13 RNFs), an estimated travel cost of **\$54,000** (\$1500x3x12) was spent to attend RNF meeting up until the end of December 2007.

- Accommodation

Hotel accommodation was normally arranged by the Secretariat at a negotiated group rate. An estimated cost of \$100 per person per night can be considered as an average rate. The length of the meetings was also depending on the depth and complexity of the issues that were being discussed. Normally such meetings took 3 to 5 days. Thus, taking an average of four days, an estimated cost of **\$14,400** (\$100x4x3x12) has been spent for hotel accommodation.

- Per diem

For each participant \$70 per day was paid as a subsistence allowance in the form of per diem, and this translated to a total of **\$10,080** (\$70x4x3x12).

In total \$78,480 (\$54,000+\$14,400+\$10,080) has been spent for the three Ethiopian RNF negotiators.

The Appendix shows the list of 53 meetings including seven RNFs (1st-7th RNFs). The information provided by the Secretariat, covers the period until May 2006. It is estimated that the list would be twofold if not more until the end of 2007. That means about 100 more meetings including dedicated sessions, seminars, meetings of senior officials and Ambassadors, training sessions, joint EC-ESA meetings, etc., have been held which will take the number of meetings to more than 150. In 2008 and 2009 no dedicated sessions had taken place and the negotiations were less frequent. It can be estimated that no more than 30 meetings were held 2008 and 2009. On average about 180 regional meetings were conducted in relation to the EPA negotiations apart from the RNF. Each ESA State was sponsored to send on average two experts for a particular meeting, training, session or negotiation. Thus, the rough estimate for travel costs for negotiations is **\$863,200**. This amount does not consider preparation for these meetings.

Costs related to preparatory studies

Two Impact Assessment studies were conducted in preparation for the EPA negotiation in collaboration with local and international consultants. A total of **€210,000** has been

spent for these impact assessment studies and validation workshops. The cost of the studies was financed by the PMU.

Table 7 Negotiating costs

Type	Calculation	Estimated cost in USD
Travel/Air ticket (number of meetings X estimated cost X number of participants)	180x1500x2	\$540,000
Hotel (number of meetings X estimated cost X number of days X number of participants)	180x100x4x2	\$144,000
Per Diem (number of meetings X estimated cost X number of days X number of participants)	180 X 70 X 4 X 2	\$100,800
Total estimate for non-RNF negotiations		\$784,800
For RNF negotiation		\$78,480
Grand estimate		\$863,200

Source : Author's own calculations

Estimated total costs

The estimated costs of EPA negotiations are around **\$1.2 million**. These do not include the labour costs of preparing and participating in the negotiations.

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 from 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 value of the expected benefits and costs for the different options, rather than a concrete figure. Despite the fact that trade policy decisions depend on a large number of factors, sometimes unrelated to the expected benefits, the cost-benefit exercise is extremely important because helps us to judge whether some of the trade policy decisions taken by negotiating EPAs or other agreements make economic sense.

In the case of Ethiopia, the main counterfactual option to EPAs was to remain on EBA without further engaging in EPA negotiations. Nevertheless, the Ethiopian government never considered this as a realistic option. This is despite the fact that in the contrast to other countries that were concerned about the uncertainty around EBA/GSP, the possibility of EBA removal was not seen as a credible threat by the Ethiopian government.

Instead, the perception was that the lessons learnt from EBA and Lomé/Cotonou preferential access provisions indicated that the net impact on development had been insignificant overall. Therefore, it was expected that to make the EPA more attractive to the LDCs the EC would provide technical assistance and resources to enhance competitiveness of different sectors of ESA member countries. Accordingly, the

country's position was to insist on linking its own tariff liberalization to achievement of a set of development benchmarks and to link liberalization to disbursement of resources and adjustment support to achieve the set benchmarks. Thus, for Ethiopia, the expected development finance made EPAs a preferred option to EBA.

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. Table 8 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 amount of time** of Ethiopian trade negotiators. Regarding the impact on exports, we may not expect any changes due to the coverage of EPAs. Exports under the Cotonou regime could shift to the EBA regime in 2008. Trade creation is likely to be very large, since Ethiopia is a relatively closed economy. Therefore, the key to determine the final impact lies in the size of adjustment, revenue loss and trade diversion, and also, on the content of the final EPA. Trade diversion may be significant, although it depends on whether Ethiopia will liberalise with COMESA during the same period. Revenue loss is calculated in some studies between €70 and €43.5 millions and Milner (2006) estimates employment adjustment around €50 million. Thus, according to the existing evidence there are clear and large adjustment costs that could overweight the benefits from trade creation (see Table 8).

Table 8 Counterfactual costs (millions)

	EPA	EBA
Negotiating costs ^a	\$1.2	0
Impact on exports	0	0
Trade creation ^b	(\$120)	0
Revenue loss ^c	€70-€43.5	0
Employment Adjustment ^d	€50	0
Other issues (trade,..)	Potentially large benefits especially in services	0

Source : ^a Own calculations, ^b Karingi et al (2005), ^c Miner (2006) and Fontagne et al. (2007) ^d Milner (2006)⁹³

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. This impact would even be enhanced if the EC would agree to negotiate mode 4 services. Given the uncertainty regarding these issues, and according to existing evidence, the cost free EBA option may be less costly than EPAs, unless additional funds will compensate for those adjustment losses.

⁹³ Karingi, Stephen, Rémi Land, Nassim Oulmane, Romain Perez, Mustapha Sadni Jal-lab and Hakim Ben Hammouda (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.

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Other opportunity costs

Another important element to consider is whether EPA negotiations have diverted useful resources from other important negotiations or domestic policies. Although this is a difficult question to answer in terms of technical staff, the team dealing with EPAs and COMESA was already understaffed as compared to other teams, especially bilateral and trilateral agreements, and at similar levels than WTO accession. In addition, the lack of implementation of the COMESA FTA and Customs Union seems more the result of political decisions rather than lack of qualified staff; and the same applies to the very gradual process of WTO accession. Therefore, despite the labour intensity of EPA negotiations, the process has clearly not stopped other negotiations, although probably has absorbed the most qualified technical staff from MoTi and other Ministries.

Nigeria

Cost of Trainings and workshops

In the case of the intra-Africa unit, there were 8 capacity building programmes per year, including workshops on identification and treatment of sensitive products, market access on goods and services, impact analysis of EPA using computable general equilibrium model, and aid for trade. The sponsorship of the capacity building are split equally between the ECOWAS and the Ministry representing a share of 43.8% each while WTO and EU sponsorship account for 6.3% each. However, we do not have the costs of such workshops.

Cost of Regional and other meetings

- Air Travel

Because it was a bit difficult to obtain the airfares to and from the meetings, the distance between Lagos and the meeting destinations measured in nautical miles were obtained and estimated using the fare derived from roundtrip fare to Cote d'Ivoire from Lagos. The number and cost of EPA negotiation related meetings attended by government officials with the EC are those that involve travelling to Brussels to confer with the EC. These were four in number because the negotiations were designed to be undertaken at the level of the ECOWAS Commission while Nigeria only attended as an observer. The ECOWAS Commission was responsible for the passages of the Minister and one expert, while the Ministry was responsible for the remaining two participants.

- Per diem and accommodation

The per diem per day is estimated at \$262, including hotel.

Estimated total costs

The total cost of attending EPA-related meetings by the Ministry Officials spent so far during the period of negotiations was **\$56,420.8** between 2006 and 2009 (Table 8).

There should have been more meetings with the EU except that Nigeria did not initially show serious interest in the EPA until much later in the process, leaving most of the negotiating burden to ECOWAS.

Table 9 Cost of EPA negotiation-related meetings officials attend with the EU (US\$)

Activity	Date	No of days	No of persons	per diem	Costing	Distance (nautical miles)	sub total	Total (US\$)
EPA Negotiation Meeting Brussels Belgium	2006	2	5	262	2096	4386	15212.5	17308.5
Negotiating session between the EU and West Africa Brussels	21-25/9/09	5	4	262	5240	2651	9194.8	14434.8
EPA Negotiation Meeting Brussels	20-24/4/	5	4	262	5240	2651	9194.8	14434.8
Meeting of Chief Negotiating on EPA Brussels	17/6/09	1	4	262	1048	2651	9194.8	10242.8
								56,420.8

Source: Computed from field data

The cost calculated above is the explicit costs that did not take account of the time that members of staff spend travelling and the lost hours of work undone at the office during travel. Table in appendix contains the cost of EPA-related meetings that Nigerian officials attended within the regional grouping. Between 2005 and 2009, a total of **\$231,015.62** was spent on Nigerian officials and experts attending negotiations within the region. This covers payment for meetings, workshops, travel and allowances which are paid for by the ECOWAS Commission, the EC, UK Department for International Development (DFID) and Nigeria's Ministry of Commerce and Industry. In total it adds up to **\$287,436.42**.

Cost-benefit analysis of counterfactual costs

In contrast to the case of Ethiopia, the lack of engagement on EPAs by Nigeria suggests that other options were considered to the EPA, mainly GSP+. There were four meetings related to a GSP+ application; all of them were sponsored by private sector organisations, and technical assistance from international trade lawyers and an NGO. Despite we do not have a cost for these activities, in reality 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 the lack of success of the membership application. In this case, we can only quantify what was in practice spent, but we should keep in mind the lack of success, which implies that we are underestimating the costs for GSP+ to be a realistic option.

Table 10 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. These gains from EPAs would be enhanced by services liberalisation if included in the agreement.

Since domestic constituencies tend to care more about adjustment costs over trade creation, a key issue in the short run for policy makers 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 that could not export without using the preference. At the same time the gains from GSP+ depend on the impact of reducing tariffs on those products that used preferences. Regarding GSP+, publicly available data from COMEXT suggests that only 3.5% of exports used preferences in 2007, and, therefore, the improvement of preferences would impact mainly these products by having better access.⁹⁴ More concretely, the case study reflects the specific interest in improved access via GSP+ of producers of: textiles, tuna, cocoa, cocoa products, hides and skins of goats and lambs, shrimps and prawns, crabs, leather and rubber. In addition, COMEXT data suggests that while exports increased substantially for Nigeria from 2007 to 2008, they did so for products with zero MFN rates, and the share of exports under preferential access was reduced to 1.9%. Therefore there has been a reduction in exports under preferential access of around €65 that may be partly associated to the loss of Cotonou preferences. Regarding exports under EPAs, Fontagne et al (2008) estimate from ECOWAS an increase in 4% of the volume of exports compared to GSP. This would be a substantial benefit of EPA that would add to trade creation. Overall, the potential benefits arising from EPAs are much larger than any other options, especially when compared with the costs of staying only with GSP.

Table 10 Counterfactual costs (millions)

	EPA	GSP +	GSP
Negotiating costs ^a	\$0.287	0	0
Impact on exports ^d	(+4% of export volume) ^b	(+3.5% of exports)	€65
Trade creation ^b	(\$617)	0	0
Revenue loss ^c	€155	0	0
Employment Adjustment ^c	€100	0	0
Other issues (trade,.)	Potentially large benefits especially in services	0	0

Source : ^a Own calculations, ^b Karingi et al (2005), ^c Miner (2006) ^d Fontagne et al. (2007)

Comparison with WTO

Nigeria has certainly allocated more resources to the WTO than to EPA process. The costs for 2009 of maintaining the office in Geneva, considering all costs was **\$2.4 million**, which is several times the amount that has been spent on the EPA negotiations so far. Directly comparable to the EPA costs is the personnel cost which is **\$787,027.9**, also many times more than the EPA costs so far.⁹⁵

⁹⁴ 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.

⁹⁵ The differential in the costs has been a sensitive and worrisome issue for Nigeria's parliamentarians in particular with the extreme position canvassed that Nigeria should pull out of the WTO not only because of the high annual budgetary provision but also for the reason that the benefits cannot be tangibly perceived. Despite the public dislike of WTO, as is with the EPA, Nigeria is more committed to the WTO and believes the WTO will offer more trade gains than the

Other opportunity costs

Again it is difficult to identify whether there have been high opportunity costs for Nigerian negotiators to be involved in the EPAs. However, given lack of engagement and small number of staff allocated to EPAs, suggest low opportunity costs from engaging on EPAs.

Dominican Republic

Estimated total costs

Some 15 rounds of negotiations (TNG) took place. Also a number of meetings came about at the Ministerial level, between CARIFORUM and the EU. The location of 15 rounds was alternated between Brussels and different Caribbean countries including the Dominican Republic. Each negotiation round (TNG) lasted around one week, and the preparations (TWG) about three additional days. In addition, within the Dominican Republic a lot of effort was devoted to the preparations of agenda items and to understanding of implications as well as the different views coming from the different CARIFORUM countries.

In order to estimate the costs incurred during the last two years of the EPA negotiations the following assumptions were used:

- For every negotiating meeting (both TWG and TNG), we estimated 5 days of internal preparation in the Dominican Republic.
- Travel days are computed in the daily rates, they are assumed as one day for travel for every meeting.
- In order to reconstruct the numbers of meeting, the CRNM Calendar was used
- The number of official participants by the D.R. was calculated by using actual accreditation forms, as well as by estimates followed by the responses at the interviews.
- Per diems and accommodation

For simplicity, two types of negotiators are differentiated; type A, with a daily rate of \$170, vice ministers and ministers, and per diem \$500, and type B, grouping senior official and officials, with a daily rate of \$90, and per diem \$350. For per diem during the travel days are calculated at 50%.

- Air travel

For travel expenses (airfare), between the D.R. and the Caribbean, the rate of US\$700 for type B was estimated and for travels between D.R. and Brussels, US\$1,100, for type B, in the Caribbean US\$1,000 and between D.R.-Brussels US\$1,400.

EPA, due to its many aspects of special and differential treatment (SDT) and capacity building as part of the Doha Development Agenda support.

Table 11 Negotiating Meetings and Regional Coordination 2006 and 2007

	2006	2007	Total
Technical Working Group -TWG			
No. of Meetings	12	16	28
Total Working Days	28	31	59
Negotiators	37	44	81
Technical Negotiating Group -TNG			
No. of Meetings	8	11	19
Total Working Days	28	37	65
Negotiators	41	77	118
PRINCIPAL NEGOTIATORS	3	5	8
Negotiator -Level B	12	15	27
Principals - Level A	4	9	13
MINISTERIAL CARIFORUM-EU	2	2	4
Negotiator -Level B	4	4	8
Principals - Level A	2	3	5
MINISTERIAL CARIFORUM	2	4	6
Negotiator -Level B	4	9	13
Principals - Level A	2	6	8
HEAD OF STATES	0	2	2
Negotiator -Level B	0	6	6
Principals - Level A	0	4	4

Source : Author's own calculations

Table 12 Dominican Republic Costs Estimates for EPA Negotiations 2006-2007

	2006	2007	Total
Type B Negotiator			
Level of Effort			
A - Total Working Days in Field	282	403	685
B- Working Days in D.R. (3 for 1)	1410	2,015	3,425
C- Travel Days (person per one day)	98	155	253
Total Working Days for EPA (A+B+C)	1,790	2,573	4,363
Daily Rate (US\$)	90	90	90
Total Level of Effort	161,100	231,570	392,670
Per Diem Rate (US\$)	350	350	350
A- Total of Days in the Field	282	403	685
B- Travel Days (50%)	49	78	127
Total Per Diem Rate	115,850	168,175	284,025
Air Fair			
Caribbean (US\$700)	36,400	84,000	120,400
Europe (US\$1,100)	27,000	38,500	65,500
Total Air Fair	63,400	122,500	185,900
Total Type B	340,350	522,245	862,595
Type A			
Level of Effort			
A - Total Working Days in Field	13.00	32	45
B- Working Days in D.R. (3 for 1)	65	160	225
C- Travel Days (person per one day)	8	22	30
Total Working Days for EPA (A+B+C)	86	214	300
Daily Rate (US\$)	170.	170	170
Total Level of Effort	14,620	36,380	51,000
Per Diem Rate (US\$)	500	500	500
A- Total of Days in the Field	13.00	32	45
B- Travel Days (50%)	4	11	15
Total Per Diem Rate	8,500.00	21,500	30,000
Air Fair			
Caribbean (US\$1,000)	1,000	19,000	20,000
Europe (US\$1,400)	4,200	4,200	8,400
Total Air Fair	5,200	23,200	28,400
Sub-total type A	28,320	81,080	109,400
TOTAL (A+B)	368,670	603,325	971,995
Estimated Cost of Negotiating Round in Santo Domingo	50,000		50,000
Total Estimated Cost 2006	418,670	603,325	1,021,995

Source : Author's own calculations

Under the above parameters, total cost of the negotiations, on a conservative estimate, for the Dominican Republic, for years 2006 and 2007 totalled **\$1.02** million. The breakdown for these estimates corresponds to:

- An estimated **\$443,600** for the level of effort (working days) allocated by Dominican trade officials **only** in the process for preparing and participating the different EPA negotiations meetings.
- An estimated **\$314,000** for per diems allocated to D.R. trade officials in overseas trips.

- An estimated **\$214,000** in travelling
- An estimated **\$50,000** for organising one of the negotiating rounds in Santo Domingo during 2006.

If we also include the active participation of civil society (primarily Dominican organised business sector), and take as an estimate that civil society (business sector) equalled around 50% of the manpower allocated by D.R. officials, the total cost amounted to **\$499,000**.

In addition, it is important to point out that for mostly all meetings the CRNM financed the cost of one participant, including both per diems and airfare. These funds were obtained through different international grants. In addition, to that it might be appropriate to add the D.R. budgetary contribution to the CRNM, which account to **\$250,000** per year. After adding the two years, the estimated costs add up to **\$2 million**.

The resources to support EPA negotiation came from the D.R. internal budget. Each ministry was in charge of allocating its own resources to cover the expenses of the trade negotiators.

Cost-benefit analysis of counterfactual costs

The D.R. had a very clear offensive interest from the beginning of the process in obtaining market access for some agricultural commodities and better rules of origin for apparel exports. Concretely, banana, cigars, rum, textiles, footwear, cocoa and some vegetables were exported under the Cotonou agreement, accounting for €198 million, and not covered by GSP preferences. In addition, extensive liberalisation under CAFTA-US, its main trade partner, reduced the impact on trade diversion and on revenue loss. Fontagne et al. (2008) and Milner (2006) estimate revenue loss is around €50 millions. However, the case study reflects a lower dependency on tariff revenues once accounted for CAFTA-US, from 16.4% (Fontagne et al. 2008) to 8%, bringing the estimate loss to less than €24 millions. Therefore, for the D.R. the expected benefits from EPAs clearly outweigh the costs of GSP.

Table 13 Counterfactual costs (millions)

	EPA	GSP
Negotiating costs ^a	\$2	0
Impact on exports	(+Preferential access for €198) ^a	Preferential access for €198
Trade creation	positive	0
Revenue loss ^{a b c}	€50-€24	0
Employment Adjustment ^b	€24	0
Other issues (trade,..)	Positive benefits	0

Source: ^a Own calculations, ^b Miner (2006) and ^c Fontagne et al. (2007)

Comparison with CAFTA

Regarding the negotiating process, it is interesting to compare the EPA experience with D.R.-CAFTA negotiations. Under the D.R.-CAFTA the D.R. had limited involvement in

crafting the agreement, and therefore the D.R. accepted the CAFTA template and concentrated the negotiations in the annexes of the agreement. This included key areas as trade liberalisation, rules of origin, services, investment, intellectual property and government procurement. In contrast, with the EPA, neither EU nor CARIFORUM had a preconceived template on the agreement, having rather a foundation on the Cotonou and a mutual vision to incorporate development dimension in trade liberalization. The translation of this vision into an actual text and with its trade commitments was a big challenge. In this process the CRNM took an important role, the participation of CARIFORUM member states, and the active engagement of the EC negotiators.

As for the resources utilised, there is an interesting contrast between the D.R.-CAFTA and the EPA. During the D.R.-CAFTA, time was the primary factor, therefore for a period of a year all negotiating resources were allocated to this process. The crafting of the D.R. annexes to the CAFTA was a tiresome and demanding task, which demanded a lot of interaction with the civil society. Therefore between each of the three negotiating rounds of the D.R.-CAFTA a lot of time and effort was allocated both in the public as well as in the private sector. After the third and final round, a process of six months followed and demanded equal amount 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, with a period three times as long as the D.R.-CAFTA, and with a learning curve well climbed by D.R. negotiators. However the real challenge for the D.R. was coordinating a regional position among CARIFORUM countries. In retrospect, due to the time frame of the EPA as well as the requirement to coordinate a regional position the actual time allocated to the negotiations was much larger in the EPA than in the D.R.-CAFTA. But by the same token the actual time invested to prepare for the negotiations was much more demanding under the D.R.-CAFTA than under the EPA. This is based on two aspects: the D.R.-CAFTA was the first comprehensive FTA conducted by the D.R. with an industrialised economy and the EPA template, as it was being developed, was less embracing in its commitments as the D.R.-CAFTA.

Other opportunity costs

The much experienced and efficient negotiating structure of the D.R., where the negotiating team has been involved in all negotiations suggest a large degree of specialisation of the unit in these issues, and therefore large opportunity costs are unlikely.

4. Perceptions and lessons of the process

This section draws extensively on interviews and the views of people involved in the negotiating process. It does not aim to establish facts, but to document the experience of these countries during the negotiations.

Ethiopia

Expectations

The main expectation of the process was one where the EU would significantly increase financial aid over and above the traditional EDF funding, so as to enable ACP countries to enhance their supply side capacities

Resource constraints impact on negotiations

The perception is that the constraints on negotiating capacity have affected EPA negotiations significantly. It is believed that with more resources the country (and other ACP/ESA countries) could have conducted more detailed sectoral studies to get in-depth understanding of the merits and demerits of completing the EPA. Lack of resources was especially important in the areas of trade in services and SPS.

Regional negotiation and integration

The perception is that at the beginning of the process negotiations at the regional level were generally good, as most regional (ESA) member states had similar interests. However, positions changed and the fact that some ESA member countries signed an interim EPA with EU has weakened the outcome of ESA negotiations. This suggests that the prospects of integration process after the IEPAs may become more challenging.

Intangibles

The main intangible benefits from the process can be summarised as follows:

- The country's ability to negotiate in the area of trade has been sharpened
- Basic knowledge on Cotonou Agreement, the WTO rules, experiences of other regional EPAs and awareness amongst wide spectrum have been created
- Useful national and sectoral studies have been undertaken

Incentives from assistance

There is the perception that since most of the negotiation process and studies have been financed by the EU, it may do so expecting a positive return (i.e. concluding agreement). However, the perception is that national interest prevails above and beyond other issues, including the capacity created by donors. Funding by EU has instead enhanced the understanding of EPA issues by ESA countries (through trainings, studies etc), thus has facilitated effective negotiation positions from well informed Ethiopian negotiators.

Lessons

According to the case study, the main lessons can be summarised as follows:

- The need for building in-house capacity
- The need for strengthening regional voices
- Civil society as partners to promote same cause
- It is not easy to come to consensus when negotiating as a large group especially with varying interests
- More resources are required, especially in areas such as funding of sectoral studies

- Deadlines for concluding negotiations should not be a priority at the expense of reaching an agreement on substantive negotiation issues

Nigeria

Expectations

Expectations about the process were not high for Nigeria, as the country's main reason to engage with EPAs was the fact that Nigeria was negotiating under the ECOWAS configuration. Expectations were higher on Nigeria's application for GSP+, however, after being rejected twice, Nigeria was left without option but to negotiate the EPAs.

From early on, Nigeria focused on the issue of development finance, the impact on its productive sectors which enjoy high level of protection and how countries will cope during EPA implementation. The region has estimated and requested for \$9.25bn to cushion the effect of implementation of EPA.

Resource constraints impact on negotiations

The perception is the fact that lack of political willingness to engage probably constrained more than any resource constraints.

Regional negotiation and integration

Though the current negotiating structure appears deceptively costly, it is cost effective to negotiate at the regional level as is being done, especially when considering preserving ECOWAS regional integration. The Interim EPA by Ghana and Cote d'Ivoire affected Nigeria's EPA strategy initially but Nigeria and other countries seem to have survived that shock of breaking the ranks of ECOWAS negotiations by the EC.

Intangibles

The main intangible benefit is the fact that is pushing ECOWAS country to face the realities of their integration process, since none of the protocols signed has been fully implemented. EPA has provoked enquiries about West African regional institutions and the political exigencies of two regional institutions, ECOWAS and UEMOA, coexisting; whether a custom union in the whole of West Africa is possible with these two, and why is there no free *de facto* movement in the real sense of goods, services and people in the region.

Another significant intangible benefit of the EPAs is the involvement of NGOs, many of which have emerged with interest and objectives in poverty reduction using the trade channel, and mainstreaming gender issues in trade.

Incentives from assistance

The perception is that donor assistance has helped to cover some important gaps in preparation of negotiating positions. On the other hand, some specific forms of assistance have created suspicions. For example, at the regional level, the ECOWAS

Commission was forced to take up the serious challenge of ownership of the process by rejecting EU's initial plan to send consultants and economists to ECOWAS, to help in the technical analysis. The EPA has facilitated the awareness and use of regional and national experts which hitherto was lacking, in particular because of scepticism regarding external consultants as the outcomes of their studies become suspicious.

Lessons

The main lessons can be summarised as follows:

- It has taught West Africa in general and Nigeria in particular to brace up to realities of tough trade negotiation
- ECOWAS countries have to get more serious in negotiations, making effective preparations towards negotiations and the need to have an adequate stock of trained manpower to negotiate
- Adequate impact analysis is crucial to correct initial positions and reach compromise

Dominican Republic

Expectations

As suggested above, the expectations of EPAs were based on obtaining market access in certain key products. Although prior to the start of the negotiations only about 10% of Dominican exports were directed to the European Union, but concentrated in a few sectors. For banana and rum producers, the EU market was the primary market of exports, 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 its regional partners,

Resource constraints impact on negotiation

No major resource constraints were identified.

Regional negotiation and integration

The fact that the D.R. had previously negotiated an important trade agreement with the United States, which included all the market opening topics covered by the EPA, gave it also a certain degree of tolerance to a regional approach, particularly taking into account that for many issues, such as services, investments, government procurement, and fiscal concerns regarding market opening in goods, the CARIFORUM overall position tended to be more conservative than the D.R.'s. Also the role of the CRNM facilitating the formulation of regional positions was crucial for the D.R.

Intangibles

The EPA process has really improved the regional integration process by increasing the understanding by D.R. negotiators of CARICOM institutions. As a result, the D.R. has formally applied for CARICOM membership.

Incentives from assistance

No major assistance to trade negotiations was identified in the D.R. However, some suspicion aroused around the ownership and role of the CRNM during the EPA negotiations. This suspicion was highly fuelled by some CARICOM countries wanting to delay the EPA agreement, and resulted in the integration of the CRNM within the structure of the CARICOM secretariat.

Lessons

- Importance of involvement of private sector during negotiations
- Experience acquired in previous negotiations is key for successful negotiations
- The MFN clause included in the EPA for developed countries and countries with more than 1% of world exports, has placed CARIFORUM's EPA commitments as the most likely ceiling for future market opening agreements.

5. Main Lessons of the case studies

This section concludes the case studies with the main lessons arising from the analysis.

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 a very significant in the case of Ethiopia, and to a lesser extent for 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 better allocation of resources

Despite existing resource constraints some interesting elements emerged around the allocation of relevant ministry staff. The most interesting resource allocation being Nigeria, where most ministry staff dedicated to trade negotiations is allocated in the WTO area. Also, Ethiopia allocates significant amount of staff to bilateral and trilateral trade agreements. While these choices surely reflect domestic trade policy preferences, they do not necessarily imply more real commitment in these areas.^{96 97}

This has clear implications when considering the opportunity costs of negotiating these agreements. While it may be the case that the most qualified staff has been absorbed by the EPA negotiations, it is also true that larger numbers of staff remain linked to other trade negotiating processes, which are likely to have less impact on their respective economies (i.e. staff for trilateral agreements in Ethiopia or for UNCTAD in Nigeria).

⁹⁶ While Nigeria is a big and important developing country voice in the WTO, the allocation of resources do not necessarily correspond with more WTO action, and with certainty it is not associated with more commitment to multilateral liberalisation.

⁹⁷ The fact that the EPAs are negotiated regionally implies a stronger role for regional secretariats during the negotiations, and some countries may rely on secretariat staff to carry out some of the negotiating tasks.

Therefore, while negotiators could spend more time formulating other policies if they were not involved in EPA negotiations, it is also the case that a large amount of staff is devoted to less important trade negotiations.

A very resource intensive process

Despite some disparities, the EPAs forced countries to use significant resources for travelling and preparation of the different negotiating rounds. The amount of resources is much larger than any other trade negotiating process, but depends on each country degree of engagement. Funding of these meetings came often from EU funds, bilateral donors and NGOs, and the case studies do not indicate that lack of travelling budget has been a major constraint during the process.

Incentives arising from donor assistance

Donor assistance has been crucial to complement scarce or inexistent budget allocations for trade negotiations in Ethiopia and Nigeria, both for travelling and preparation of impact studies. While the importance of this assistance is recognised, some suspicion is raised about the ownership of negotiations when using these funds, especially in the case of 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

In addition to financial resources, the broader scope of the EPAs has forced to expand traditional negotiating teams to other ministries and stakeholders. Despite that some coordination difficulties have arisen in the case of 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 the civil society in the process in a more structured and effective way

As a result, one question that arises is whether these inter-ministerial teams, including private sector representatives, civil society and other consultants or academics, will constitute the core structure for future trade policy formation and trade negotiations, and whether this will depend on the availability of donor funding.

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 on driving the process and reaching an agreement. On the other hand, the Ethiopian case study shows significant discontent with the lack of positive role from the regional secretariat, and in the Nigerian case 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 reflected on the Nigerian case study. However, the post-EPAs impact on regional integration is unclear. As reflected in other sections of this report serious issues arise from

implementing different tariff schedules. In addition, the signing of interim agreements by only some members of some regional grouping has created some tension, as manifested in the Ethiopian case study. Nevertheless, it would not be reasonable to associate these tensions uniquely to the EPA process. More likely, the EPA experience only shows the serious underlying problems in some regional groupings to credibly implement their regional commitments and advance in their regional integration processes.

Cost-benefit analysis of counterfactual options

This is perhaps one of the most important elements of the study, since an intensive use of resources would be justified in the case of the EPAs bringing about large benefits. The analysis of the case studies gives us a diverse picture. For the case of the D.R. there are clear benefits of EPAs as compared to GSP. This is due to loss of preferences in GSP in key products and benefits from trade creation in an economy where trade diversion and revenue loss has been minimised with the DR-CAFTA.

In the case of Nigeria, GSP+ could have provided additional market access at almost zero costs of negotiation and negligible adjustment costs. However, it has been rejected twice. In addition, due to its large tariff barriers, there are potential large benefits from domestic liberalisation and trade creation under EPA that would probably outweigh the adjustment costs.

The analysis for Ethiopia is clearly different. While EBA guarantees full coverage of exports at zero costs of negotiation, more than \$1.2 million has been spent of negotiating EPAs with uncertain outcome. Trade diversion and adjustment costs are likely to be large if implementing the EPAs. This implies that EBA could be a better option for Ethiopia in economic terms. However, binding development finance for supply constraints and adjustment within an EPA agreement and commitments on services could make EPAs an option with larger benefits.

Perceptions on trade and non-trade related content of the EPAs

It is clear from the case studies that for Ethiopia and Nigeria their main objective during the negotiations have been binding funding for adjustment and enhancing supply capacity. While this objective may be justified, it is quite striking the perception that EPAs and other trade related issues will not bring any significant additional benefits in specific areas. For example, there is a clear lack of interest on services liberalisation, mainly due to defensive reasons. Despite the broader scope for EPAs, including binding funds in the agreements remains as the most important issue to conclude an agreement.

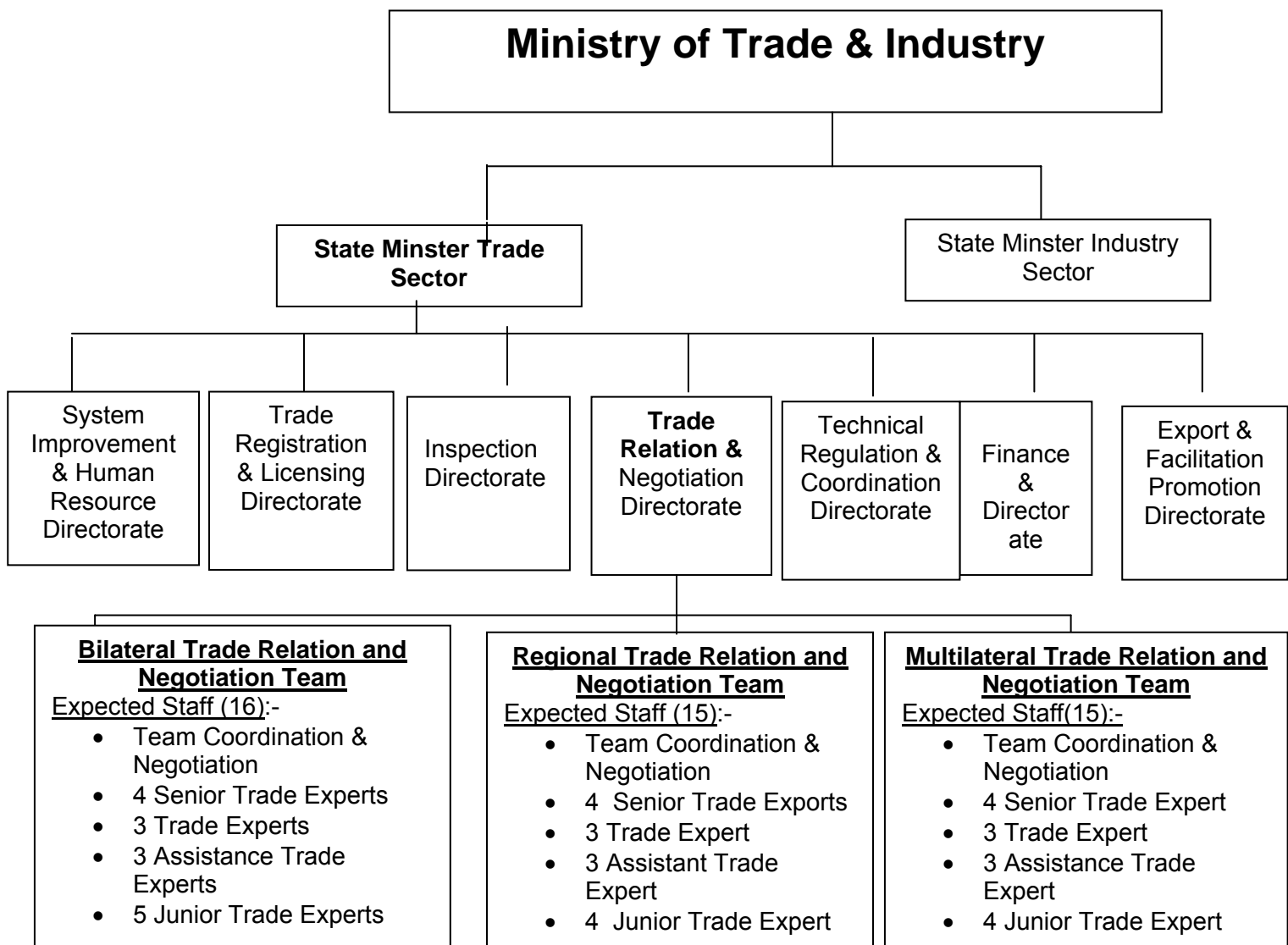
Staff incentives

Without doubting about the commitment of trade negotiators towards defending their own policy objectives, it is worrying the financial incentive problems that *per diems* introduce. The average salary of ministry staff involved in negotiations in Ethiopia and Nigeria is around \$400, while per diem were estimated in around \$70 or \$200 depending on whether the hotel was included. This creates a large financial incentive for travelling to negotiations or training courses, which may be reinforced in the case of EPAs when negotiations are so travel intensive.

6. Appendix

Ethiopia

Organisational Structure of the Ministry of Trade & Industry of the Trade Sector Trade, Trade Relation & Negotiation Directorate



List of Ethiopian NDTPF Members

	Name	Institution	Position
1	Mr. Geremew Ayalew	Ministry of Trade and Industry	Director
2	Mr. Berhanu Lakew*	National Bank of Ethiopia.	Research Expert
3	Mr. Demirew Getachew	Ministry of Revenue (Now- Ethiopian Revenue & Customs Authority)	Director
4	Mr. Tekola Shimelis*	Ministry of Infrastructure (Now-Ministry of Transport & Communication)	Director
5	Mr. Kassa G/Yohanes*	Ministry of Foreign Affairs	Director
6	Mr. Genet Teshome*	Ministry of Foreign Affairs	Diplomat
7	Mr. Demissie Asfaw	Ministry of Justice,	Director
8	Mr. Fekre Markos*	Ministry of Agriculture & Rural Development	Director
9	Dr. Seleshi Zewde*	Ministry of Agriculture & Rural Development	Director
10	Mr. Lisanework Gofu	Ministry of Trade and Industry	Team Leader
11	Mr. Belachew Beyene*	Ministry of Finance & Economic Development	Team leader
12	Mr. Tesfaye Desalegn*	Ethiopian Tourism Commission	Director
13	Mr. Mohammed Seyed*	Ethiopian Investment Commission	Director
14	Mr. Wondwossen Belet	EIPO/Ethiopian Science & Technology Com.(Now-Ministry of Science & Technology)	Director
15	Mr. Kebede Aberra (MP)*	Parliament	MP
16	Mr. Girma Mikru	Ethiopian Environment Protection Authority	Director
17	Mr. Gashaw Workineh*	Ethiopian Quality and Standards Authority	Director
18	Ms. Kebedech Erdachew	Ethiopian Women Exporters Association.	President
19	Ms. Nigist Haile*	CAWEE	President
20	Mr. Ahmed Ali*	OXFAM-UK, Ethiopia	Expert
21	Mr. Gebremedine Birega*	Ethiopian Consumers Protection Association	Vice President
22	Mr. Haile-Kiros Wolde-Michaile	Ethiopian Trade Union Confederation	Expert
23	Dr. Astatke Bayu	Ethiopian Agricultural Economists Association	Expert
24	Mr. Mohammednur Saney*	Ethiopian Manufacturing Industries Association	President
25	Mr. Yabowork *	ACORD	Country Representative
26	Mr. Worku Gebeyehu	Ethiopian Economists Association,	Expert
27	Mr. Yohanes Beshah	Ethiopian Employers Association,	Expert
28	Ato Andu Alem Tegegn	Ethiopian Chamber of Commerce & Sectoral Association	Secretary General
29	Mr. Teferi *	Addis Ababa Chamber of Commerce & Sectoral Association	Director

* **Members of the NDTPF interviewed for the case Study**

Ethiopia - List of RNF meetings

Among a number of regional meetings, the following were found fully documented and for which a number of research and discussion papers were prepared by the Secretariat.

No.	Name of the Meeting	Time
1.	ACP /COMESA Meeting on EPAs	August 2001
1	Presentation of the EPA impact Assessment Study.	February 2002
2	Seminar on EPAs for Senior Officials and Ministers.	October 2002
3	Co-organizing a Seminar for the Private Sector on EPA negotiations with FES.	April 2003
4	Meeting of Senior Officials, Ambassadors and Ministers on developing an EPA Negotiating Mandate.	May 2003
5	Launch of the EPA negotiations and associated meetings	February 2004
6	Orientation Seminar for Senior Officials in Brussels	March 2004
7	First dedicated session on the Ocean Fisheries cluster	April 2004
8	Firs meeting of the Regional Negotiating Forum (1 st RNF)	April 2004
9	Second dedicated session on the Ocean Fisheries cluster	July 2004
10	Second meeting of the Regional Negotiating Forum.(2 nd RNF)	July 2004
11	First Meeting of the Regional Preparatory Task Force	July 2004
12	First negotiations between ESA lead Ambassadors and EC senior officials.	July 2004
13	Third dedicated session on the Ocean Fisheries cluster	October 2004
14	Third Regional Negotiating forum (3 rd RNF)	October 2004
15	Second Regional Preparatory Task Force	October 2004
16	Training Session in Trade in Services – trade economists and lawyers from member states met to develop the GATS Templates	October 2004
17	Second ESA Ministerial Meeting	December 2004
18	Dedicated Session on Inland Fishing	February 2005
19	Training Session on Intellectual Property Rights	March 2005
20	Training session in trade in services ten sectoral specialists from each country trained in the administration of questionnaires.	March 2005
21	Dedicated Session on Agriculture	April 2005
22	Training session in trade in services a small group of sectoral Specialists met to finalise the secoral assessment questionnaires to ensure that they reflect the regional dimensions of trade in services.	April 2005
23	Brainstorming Meeting with the EC pm EPA Negotiations in Nairobi	May 2005
24	Dedicated Session on Development in Lusaka	July 2005
25	Regional Negotiating Forum in Seychelles (4 th RNF)	August 2005
26	Dedicated Session on Market Access and Agriculture in Nairobi	August 2005
27	ESA EPA Preparatory Negotiating Session in Nairobi	August 2005
28	ESA EPA Preparatory Negotiating Session in Nairobi	August 2005
29	ESA-EU RPTF meeting in Brussels on marine fisheries and market access	September 2005

30	5 th RNF on development, agriculture, fisheries and market access in Lusaka	October 2005
31	5 th ESA-EC RPTF on development, agriculture, fisheries and market access in Lusaka	October 2005
32	2 nd ESA-EC Senior official Negotiations on development, agriculture, fisheries and market access in Lusaka	October 2005
33	Dedicated session on trade related issues in Khartoum	November 2005
34	ACP regions meeting on EPAs and ACP trade ministers and Council meetings in Brussels	November
35	Update on progress of negotiations of EPA to the COMESA Council of Ministers in Lusaka	December 2005
36	Technical Team meeting on Fisheries. Harare	30 January 2006
37	Dedicated Session on Development. Harare	31 January 2006
38	6 th RNF. Harare	1-2 February 2006
39	Joint EC-ESA Session on Development. Harare	February 2006.
40	Joint ESA-EC Session on Development Harare	3 February 2006
41	ESA Ambassadors-EC Senior negotiators, Mauritius	7 February 2006
42	2 nd ESA Council, Mauritius	8 February 2006
43	2 nd Joint ESA-EC ministers meeting. Mauritius	9 February 2006
44	PMU training on negotiation skills on market access for ESA Group Nairobi	6-10 March, 2006
45	Joint EC-ESA RPTF on market access and fisheries, Nairobi	11-14 March 2006
46	Joint SADC-ESA-ECA consultations on EPAs, Kigali	15-18 March, 2006
47	Development experts meeting on EDF 10 Programming, , Brussels	21-22 March, 2006
48	Dev experts, RAO, NAO meeting on EDF 10 Programming, Brussels	23-24 March, 2006
49	ESA trade and legal experts meeting to work on draft EPA, Lusaka	27-30 March, 2006
50	7 th ESA RNF, Kigali	9-13 May, 2006
51	Joint EC-ESA RPTF Kigali	14 May, 2006
52	ESA Ministers Council, Kigali	15 May, 2006

Nigeria

Cost of EPA negotiation-related meetings Nigerian officials attend within the regional grouping

Name of Activity/Location ⁹⁸	Date	No of days	No of persons	per diem (\$)	Subtotal (\$)	Distance (nautical miles)	sub total (\$)	Total (\$)
Togo	15/1/05	3	2	262	1572	104	170.1	1742.1
Senegal	38693	5	2	262	2620	1301	2127.3	4747.3
Senegal	17/7/05	3	2	262	1572	1301	2127.3	3699.3
Ghana	38420	3	2	262	1572	206	336.8	1908.8
Togo	24-29/1/06	5	2	262	2620	104	170.1	2790.1
Kenya	38754	3	2	262	1572	2081	3402.7	4974.7
Benin	18/4/06	3	2	262	1572	16	26.2	1598.2
Ghana	20/11/06	4	2	262	2096	206	336.8	2432.8
Paupau New Guinea	30/5/06	5	2	262	2620	8675	14184.6	16804.6
Mauritania	39083	2	2	262	1048	1310	2142.0	3190.0
Burkina Faso	28/1/07	5	2	262	2620	442	722.7	3342.7
Benin	39177	6	2	262	3144	16	26.2	3170.2
Turkey	16/5/07	3	2	262	1572	2485	4063.3	5635.3
Cote d'Ivoire	22/5/07	7	2	262	3668	498	814.3	4482.3
Accra Ghana	1-11/7/2007	11	2	262	5764	206	336.8	6100.8
Banjul	39092	2	2	262	1048	1235	2019.4	3067.4
Ethiopia	39183	3	2	262	1572	2128	3479.5	5051.5
Validation Workshop on the Supplementary Acts on Competition and Investment, LOME-TOGO	19-22 March 2007	4	3	262	3144	104	255.1	3399.1
Stakeholders meeting on 10th EDF, Bonn Germany	12-13 March 2007	2	3	0	0	0	0.0	11571.4
National Stakeholders Workshop to validate sensitive Products, RoO, CET, Development Issues on GPA Abuja	8-10/10/08	3	63		0	0	0.0	25000.0
MAN-NESG Workshop on the EPA Lagos	15-16/5/08	2	4		0	0	0.0	1633.3
Technical Committee on EPA, Abuja	39544	1	27		0	0	0.0	12500.0
ECOWAS Common Investment and Competition Code Accra & Lome	21-28 May 2008	8	3	262	6288	206	589.5	6877.5
Sensitisation Workshop On The Supplementary Act And The Framework Of The Investment Policy For The Implementation Of The Ecowas Common Investment Market, Accra, Ghana	4-5 August 08	2	1	262	524	206	196.5	720.5
Meeting of Dialogue and Project of Regional Sensitive List S/W Ghana/Nig/Sen/CI Grand Bissau	2-4/12/08	3	3	262	2358	1152	3296.4	5654.4
Validation Workshop of Regional Sensitive Products Dakar Senegal	4-5/8/08	2	5	262	2620	1301	6204.6	8824.6
ECOWAS Validation Workshop on Regional Sensitive Products, Burkina faso,	14-16/10/08	3	4	262	3144	442	1686.3	4830.3

⁹⁸ Dates and Locations were recorded from Reports of the EPA Desk Officer as well as his travel documents from where dates of meetings relating to between 2005 and early 2007 were taken.

Extra-ordinary meeting of the ministerial monitoring committee (mmc) meeting nouakchott, Mauritania,	18th – 21st February, 2008.	4	7	262	7336	1310	8746.5	16082.5
Quadraphite Consultative Meeting CI, Ghana, Senegal, Nigeria, Abidjan, CI	2-4/12/08	3	2	262	1572	498	950.0	2522.0
Advisory Committee on EPA, Abuja	29-31 July 2008	3			0	0	0.0	23592.5
African Workshop on EPA (Reaping the benefits of EPAs) Ethiopia	8-10 October 2008	3	10	262	7860	2128	20297.2	28157.2
Advisory Committee on EPA, Abuja	39848	1	10		0		0.0	0.0
Tech Committee on EPA Abuja Bolingo Hotel	23/3/09	1	27		0		0.0	0.0
2nd Forum of ECOWAS Affairs Harnessing Agric potential regional partnership, Burkina faso	12-14/2/09	3	1	262	786	442	383.3	1169.3
Training Workshop on the CGE Model, Dakar Senegal	23-27/2/09	5	4	262	5240	1301	4512.4	9752.4
Interactive Session on the EU-ECOWAS EPA within which senate committees on common, Abuja MMC Abuja Ecowas	31/3/09	1	3		0		0.0	0.0
	12-15/5/09	4	7		0		0.0	0.0
Thematic Working Group on West Africa Market Access Offer. Dakar Senegal	13-15/7/09	3	2	262	1572	1301	2256.2	3828.2
TWG on ECOWAS MO Accra GHANA	1-5/9/09	5	2	262	2620	206	357.2	2977.2
TWG on West Africa MO Dakar Senegal	13-15/7/09	3	2	262	1572	1301	2256.2	3828.2
ASSESSING & ADDRESSING THE LABOUR MARKET EFFECTS OF EPAs-WEST AFRICA, Dakar Senegal	14-17 September 09	4	7	262	7336	1301	7896.7	15232.7
Inauguration of NFP	40087	1	2		0		0.0	29881.0
WTO Informal Ministerial Meeting India	3-4/9/09	2	3	262	1572	4386	11409.4	12981.4
								231,015.62

Source: Computed from field data

Dominican Republic

Distribution of the Main Trade Negotiators among DR institutions with an assessment of their skill levels D.R.-CAFTA negotiations

D.R.-CAFTA	Number of Negotiators		Level Of Skills
	Principal Ministry	Others Ministry	
	State Secretary of Industry and Trade (SEIC)		
Lead Negotiator			
Minister	1		Masters Degree
Under Secretary- Team Leader	2		Masters Degree
Legal Advisor	1		Masters Degree
Market Access			
Team Leader	1		Masters Degree
Technicians		5	Masters Degree
Agriculture			
Team Leader	1	1	PHD
Technicians		5	Masters Degree
Services and Investments			
Team Leader		2	Masters Degree
Technicians		2	Masters Degree
Financial Services			
Team Leader		1	PHD
Technicians		2	Masters Degree
Government Procurement			
Team Leader		1	Masters Degree
Technicians	1	1	Masters Degree
Intellectual Property Rights			
Team Leader		1	Masters Degree
Technicians		2	Masters Degree
Legal and Institutional Issues			
Team Leader	1		Masters Degree
Technicians	1		Masters Degree
Labor			
Team Leader		1	Masters Degree
Technicians		1	Masters Degree
Enviroment			
Team Leader		1	PHD
Technicians		1	Masters Degree
Telecommunication			
Team Leader		1	Masters Degree
Technicians		1	Masters Degree

EPA Review Study

Ethiopia

November, 2009

1. Overview of existing resources for trade negotiations

1.1. Trade negotiation Structure of Ethiopia

The Ministry of Trade and Industry (MoTI) was re-organised by the Proclamation No. 471/2005 of the Federal Gazette as a Federal Ministry in 2005. This legal instrument gave MoTI a number of additional powers, duties and responsibilities among which ***entering into contracts and international trade negotiation and agreement***. In addition to the Common Powers and Duties given for all Federal Ministries stated under Article 10 Proclamation 471/2005 (which gives power to ***enter into contracts and international agreement***), exclusive powers given for MoTI are also stated under Article 15 of the Proclamation.

Article 15, among others, empowered MoTI to carry out duties and responsibilities of trade and industrial development negotiations and agreement as follows;

- Strengthen the country's foreign trade relations and negotiate and implement trade, port and transit agreements.
- Create conducive conditions for the promotion, acceleration and development of the country's industry and export trade and investment.
- Provide support to industries considered to be of strategic importance.

Based on the given mandate, duties and responsibilities to handle international trade relation and negotiations and agreements, MoTI has been engaged in bilateral, regional and multilateral trade negotiations since 1992 (since the present government took power). Since then, 14 bilateral trade agreements (general trade agreements) were negotiated, concluded, ratified and implemented. These bilateral trade arrangements are; seven with African countries - Algeria, Equatorial Guinea, Kenya, Libya, Nigeria, Sudan, and Tunisia; five with Asian & Middle East countries - India, Iran, Malaysia, South Korea and Yemen and the remaining two with Russia from Europe and Cuba from Latin America.

At regional level Ethiopia played the leading role as a founding member of the COMESA (the then Preferential Trade Area - PTA). COMESA launched its Free Trade Area (FTA) in 2000 and Customs Union in June 2009. Although Ethiopia is the founding member of COMESA, to date it has not joined either the FTA or the Customs Union. It could be argued that their reasoning for not joining is because the empirical facts and conclusions of an impact assessment study findings justifies for not joining the FTA. The country negotiated the Economic Partnership Agreement (EPA) with the ultimate goal of entering into an agreement of establishing an FTA, and following on from that also expected to join the COMESA-FTA and Customs Union. It was in order to evaluate the real impact of such FTAs on the overall economy, the competitiveness of domestic industries and employment in particular, the government commissioned three different studies by three different consulting firms at different times and two studies on the impact of the EPA Agreement. However, the findings of the studies on the impact of joining the COMESA-FTA did not encourage Ethiopia to join such a FTA.⁹⁹

⁹⁹ The following conclusion is taken from one of the study reports "...Based on the international competitiveness computed, only those manufacturing activities with Industrial Competitiveness Index /ICI/, less than or equal to one will survive the pressure of the free trade arrangement on equal footing. Manufacturing activities that could cope with the - pressure of competition in Ethiopia are... manufacture of sugar and sugar confectionery, publishing and printing services, manufacture of parts and accessories for motor vehicles and their engine, manufacture of tobacco products, manufacture of basic iron and steel, manufacture of wood and cork, except furniture, manufacture of other fabricated metal products

However, despite not having joined the FTA, the Government is playing an important role at the Trade and Customs Committee and at the level of other COMESA organs.

Ethiopia is a member of the Inter-Governmental Agency for Development (IGAD) whose treaty also encompasses trade and economic relation among the Member States. The Ministry of Foreign Affairs is the focal ministry regarding IGAD but any negotiation on trade matters are handled by MoTI. IGAD has seven Member States; Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan and Uganda.

Currently Ethiopia is negotiating to conclude an EPA (which this case study focuses on), under the auspices of the Eastern and Southern Africa (ESA) States configuration level. Regarding the EPA MoTI is the focal ministry. At the multilateral level, the country is in the process of acceding to the WTO. The country's WTO accession process is also handled by MoTI.

Regarding the WTO accession, the Government of Ethiopia applied for membership to the WTO pursuant to Article XII of GATT. A working party was also established in February of the same year in January 2003. Since then, Ethiopia has undertaken various activities aimed at securing a better understanding of the multilateral trading system and the process of accession. Among the activities undertaken by the MoTI are: various national awareness building programmes, impact assessment studies, trainings, and legal reviews. Now, there is a better understanding of the WTO system among Ethiopian stakeholders, which has paved the way for the enhancement of the accession process and Ethiopia's full membership.

The first working party meeting was held in May 2008. This meeting paved the opportunity for the government to clarify its economic policies and the measures taken over the course of several years to exercise free market economy in the country. Following this productive meeting, the Government has also been able to take several other crucial steps towards fulfilling membership requirements. Accordingly, it has submitted answers to the second round of questions that were raised by certain WTO member states and other documents that capture measures as pertaining to trade draft legislative action plan. Currently the Government is working hard in the preparation of additional technical documents yet to be submitted to the WTO and is also proactively preparing for the second working party meeting which is expected to be held shortly. Generally, Ethiopia's accession process has been proceeding steadily.

In order to effectively execute its powers, duties and responsibilities, MoTI used to be organised into 11 functional departments, four agencies, one institute and seven service giving unities. The relevant functional departments related to trade relation and negotiation (related to this case study in particular), were the Foreign Trade Relation Department (FTRD), and the WTO Affairs Department (WAD).

and manufacture of plastic products. All the other manufacturing activities with ICI greater than one might not cope with the pressure of competition and could close down sooner or later. This implies that whatever contributions these manufacturing activities made in terms of value-added at factor cost, employment, and exports could be at risk. The externalities and linkages associated with the activities could also be lost. Based on current levels of operation, value-added that might be lost could be in the amount of Birr 1.2 billion or about 55.1 percent of the manufacturing GDP. About seventy-two thousand jobs or 77 percent of the industrial employment will also be at risk. The impact on Government revenue will be in the amount of the loss in personal income tax, profit tax on enterprises, customs duty on imported raw materials, and sales tax (value added tax) on domestic production".

The FTRD that was responsible for bilateral and regional trade relations and negotiations, while the WAD was mandated with the task of handling the country's WTO accession process. These two departments were further organised into different teams to fully affect their duties and responsibilities directly related to trade relations and negotiation cited above. Accordingly, the FTRD was organised into two teams; Bilateral and Trilateral Trade Relation Team, and Regional and European Commission Trade Relation Team, while WAD was organised into three teams; Trade in goods, Trade in Services, and Trade in Intellectual Property Rights Team.

Within FTRD, the Bilateral¹⁰⁰ and Trilateral Trade Relation Team, besides being responsible for bilateral trade matters, also handle Ethiopia's trilateral trade relations (a trilateral arrangement is a regional arrangement among three countries). Currently, Ethiopia is a member of two trilateral groupings; the Ethio-Sudan-Turkey and Ethio-Sudan-Yemen (the Sana'a Forum) trade relations. The "Ethio-Sudan-Turkey" Trilateral is a regional arrangement between the three countries aimed at cooperating on regional developmental projects mainly on infrastructure projects; however, it is not currently active. The "Sana'a Forum" has incorporated Djibouti and the Transitional Government of Somalia. The Sana'a grouping has an objective of establishing an FTA and entering a higher form of integration; customs union and beyond. However, the Regional and European Commission Trade Relation Team handles all regional trade issues, which includes the African Union, COMESA, IGAD, European Union (EPA), etc.

As of the finalisation of this case study the Ministry had restructured its organisational structure and FTRD and WAD was merged into one directorate - Trade Relation and Negotiation Directorate. This will be led by a director who will be the chief negotiator for the country's trade relation and negotiation matters including the EPA and WTO accession process. The new structure of MoTI trade sector is attached as Annex-V

1.2. Overview of existing resources for trade negotiations in Ethiopia

1.2.1. Human resources

According to the previous structure in place, a total of 40 experts should have been placed in the two Departments (FTRD and WAD) to be responsible for trade relations and negotiations. However, due to high labour mobility, less attractive salary and lack of incentives to maintain experts, on average there were not more than 16 experts that were actively engaged in the process at any given time for the last five years. Moreover, on average out of the 16 experts, six experts were engaged in regional and bilateral matters. Out of these six experts only three experts were handling the three regional trade matters related to EPAs, and the other two regional trade arrangements (RTAs), COMESA and IGAD.

Therefore with only three staff on average, the Regional and European Commission Trade was handling the EPA related negotiations on permanent basis in addition to other activities. The challenge of working efficiently with this lack of resources has been added to because of the extensive, complex and demanding nature of the EPA negotiation. The staff were overstretched due to shortage of manpower in general duplication of responsibilities. The lack of trained

¹⁰⁰ The bilaterals' are forums for bilateral trade relation that goes into detail issues of bilateral trade facilitation. Such forums does not need much resources and are covered from government budget or bilateral arrangement and do not need donor support.

negotiators with the lack of expertise in international trade, international trade law or international business was a continuing critical problem that had been faced previously.

As each ESA country was required to establish a National Development and Trade Policy Forum (NDTPF),¹⁰¹ experts delegated for the NDTPF from different institutions and organisations working on trade matters with diverse expertise and experience have been reinforcing/supporting the negotiating team.

The Ethiopian NDTPF comprised of 29 experts and senior officials from 26 institutions and organisations involved in trade and development work (agriculture, trade, investment, services, etc), as well as representatives from the public and private sector and non-state actors (NSAs). Members of the NDTPF were all experts in their respective fields of specialisation and their educational skills range from a first degree to PhD level in the fields. The range of expertise included economics, development, law and political science, combined with significant years of professional experience.

The earnings of the NDTPF members varied depending on the institution they delegated from (public/private), their educational level, experience and level of specialisation. In the case of those working in the public institutions, ministries and agencies; the monthly salary for experts like those involved in the NDTPF varies from Birr 3,500 to 7,500 (\$1 equitant to Birr 12.78 selling rate November 2009). List of NDTPF members, institution they represent and their position is shown in Annex VI. On an official basis the average salary for civil servants for example, is not known. However, the current GDP per capita of the country is \$333.33.¹⁰² This is equivalent to about Birr 4,300, and the minimum wage is Birr 320 per month.

In the past four years the FTRD has also been assisted by young Trade Policy Analysts (TPAs), who were assigned by the EC. Through its Hub and Spoke Project, the Commonwealth Secretariat has been sponsoring young TPAs, economists or lawyers to assist selected ACP countries in the EPA process. The TPAs were usually assigned for two years with a possibility of extension. Two TPAs have in Ethiopia so far in the areas of the EPA negotiation process. The first TPA served for two years and his successor is assigned to serve for two years until June 2010.

Moreover, in the last three years, the four staff of the Trade Capacity Building Unit (TCBU), of the EU Project also provided professional support in the negotiation process especially in the EPA process.

¹⁰¹ Establishing NDTPF was a requirement as part of the EPA process. Each NDTPF is multi-sectoral (Agriculture, Trade, Investment, Services, etc) and has incorporated representative of the public and private sectors and NSAs involved in trade and development work. The function of the NDTPF was to determine what the optimal development and trade negotiating position for each negotiating country would be and to prepare briefs outlining those positions which would then be used by the representatives of the countries at the Regional Negotiating Forum (RNF) in preparation of the ESA position for the negotiations with the EC. In Ethiopia's case this forum was represented from all stakeholders involved in trade and development work directly or indirectly. As the negotiation needs multi-sectoral expertise, the expertise of the NDTPF being multi-sectoral has served a lot in Ethiopia's EPA negotiation. In the case of the WTO accession negotiation we have similar a composition called Technical Committee for WTO negotiation represented from pertinent stakeholders. Experiences so far in the EPA and WTO negotiation suggest maintaining such forums in the future.

¹⁰² World Economic outlook database, October 2009.

The support of the NDTPF and the expatriate experts (the TPA and TCBU staff), the challenge for Ethiopia's EPA negotiation in the area of human resource, and relevant expertise would have been much more critical and serious. As the NDTPF members have their own duties and responsibilities in their institution/organisations; their expertise contribution was limited only at their spare time and at a meeting once in a month and if necessary, more. However, the experience and expertise of the NDTPF members has helped Ethiopia's preparation for the negotiation. However, members of the NDTPF do not have equal understanding of all trade matters. But, continuous awareness creation programs provided through trainings, workshops, and seminars has contributed in narrowing the gaps in understanding. Currently the knowledge of the NDTPF members on most EPA and WTO matters can be said that is almost equal. Lack of incentives for their additional contribution was one of the preventatives to fully utilise and take advantage of the expertise of the NDTPF members.

On a structural basis, the NDTPF in all ESA countries negotiating the EPA was designed to be multi-sectoral (agriculture, trade, investment, services, etc...) and include representatives both from the public and private sectors and non-state actors (NSAs) of those that are involved in trade and development work. The various institutions that have been involved in the Ethiopian NDTPF for the purposes of EPA negotiations are presented in Annex VI. The MoTI has been the chair and secretary for the whole EPA negotiation process, while other ministries including; Ministries of; Revenue, Transport and Communication, Foreign Affairs, Justice, Finance and Economic Development, Agriculture and Rural Development Culture and Tourism were also part of the country's NDTPF.

The Ethiopian NDTPF was structured to have a team leader and an alternate to the team leader. The main task of the team leader or his alternate was to represent the country at all Regional Negotiation Forum (RNF) meetings. The rest of the NDTPF team members who are experts in various fields negotiated under the EPA attended the specific sessions at regional level, and they were also serving as advisers to the team leader (or his alternate) in their own fields depending on issues being negotiated.

The function of the NDTPF in general was to determine the optimal development and trade negotiating position for the country that would be negotiated at the RNF level. Furthermore, the NDTPF prepares briefs which outline the country's negotiation positions which can be used by the representatives at dedicated negotiation sessions or at the RNF level in preparation of the ESA position for negotiations with the EC. Ethiopia's negotiation structure is presented in Annex II.

There was not a private sector lobby group within the NDTPF, however representatives of the private sector were there to protect and promote the interest of the private sector and this has served to voice the interest of the private sector.

The NDTPF meetings were held twice a month at the beginning (in 2005 and 2006), and once a month and as deemed necessary as the negotiation progressed in 2007. In 2008 and 2009 since most of national positions were put on the table for negotiation or was under negotiation, the NDTPF met as deemed necessary only to exchange information on the status of the negotiation and/or in some cases to discuss on the need for some flexibilities of positions or strengthening negotiating position.

In order to fasten the negotiation process, the structure of the ESA-EPA negotiation was changed in 2008 for the mere objective of enhancing the negotiation by bringing the negotiation more in the hand of the experts than political representation, the ambassadors. According to the

changed structure, the role of the RNF was transferred to ESA senior officials and permanent secretaries and ambassadors residing in Brussels with the responsibility to give only policy guidance. Initially the spokespersons were ambassadors based in Brussels and the negotiation was conducted in six clusters; development, market access, agriculture, fisheries, trade related issues and services. For each cluster a Brussels based ambassador has been designated as spokesperson for the region. Two alternates were also designated in their capacity to negotiate with the EC representing the region and a team of ESA negotiators represented by group of senior experts or permanent secretaries was also formed to conduct the negotiations supported by subject specific technical.

Before the restructuring of the ESA negotiation structure, Ethiopia was delegated as a spokesperson for the region on the development cluster negotiation at ambassadorial level and as alternate spokesperson on agriculture cluster at ministerial level.

1.2.2. Financial Resources

For all regional negotiations related to the EPA, each ESA state including Ethiopia has been sponsored by the regional project managed by the Inter-Regional Coordinating Committee-(IRCC) from the budget earmarked by the EC for the EPA negotiation. Each member state sent three negotiators for the RNF negotiation. For the purpose of continuity and institutional memory, the negotiation guideline requires same three people to attend all the negotiation processes. But, in practice countries were changing people when necessary. The RNF negotiations were held at least once every three months and in some instances more frequently, (especially during the beginning of the EPA negotiating process and in 2007 to meet to set the dateline for the WTO waiver).

Ethiopia as most countries in the ESA region, do not have budget required for the EPA negotiation and therefore could not delegate more experts. This was evident in the circumstance of issues such as diversity and the need for expertise in each field when negotiating at the RNF level to develop the regional negotiating position. There was a shortage of budget so it was impossible to send necessary additional experts from the NDTPF members to the RNF negotiation. This was one of the challenges faced by Ethiopia.

Before the any RNF takes place, a number of dedicated sessions were taking place to negotiate technical issues. For dedicated sessions two experts from each country were sponsored by the IRCC. Negotiations at dedicated sessions were the bases for all negotiations at RNF level and the negotiation with the EC.

Since the start of the EPA negotiations until the end of 2007, the overall ESA EPA negotiating structure was composed of a number of organs. These include the RNF which was made up of three representatives from the capitals' of each country participating in the ESA negotiations (public and NSAs); ambassadorial lead spokespersons from Brussels; and representatives from one or more regional NGOs involved in trade and development issues and representatives of the regional organisations involved in the negotiations. The secretariats of the regional organisations involved in the ESA-EPA negotiations (COMESA, EAC, IOC and IGAD) with COMESA taking the lead and co-ordinating role were also mandated to act as the secretariat for the RNF.

After the restructuring of the regional negotiation structure, and because of budgetary constraint and limited resources at the secretariat level, only two negotiators per country were expected to attend and represent their countries at RNF negotiation session and only one expert at

dedicated sessions during the year 2008 and 2009. As indicated above, due to budget constraint at national level, sponsoring more experts for negotiation faced further challenges because of the reduced number of sponsored negotiators. Limiting the number of experts attending dedicated sessions where divers' issues are discussed and real expertise negotiations were taking place has limited the participation and contribution of the countries like Ethiopia both at the RNF and dedicated sessions. Annexes III and IV shows the old and new ESA-EPA regional negotiation structures, respectively.

1.3. Other Budgetary support for negotiation and relation

The Government of Ethiopia has been reserving Birr 200,000 on average every year for the last five years for bilateral trade relation and negotiations and for attending permanent and known regional meetings like; COMESA Trade & Customs Committee meeting, COMESA trade ministers, ESA Council, AU trade ministers, ACP trade ministers, and WTO Trade Ministerial meeting, etc..., The above budget was to cover all travel related costs. However, the budget was quite short and impacted the ability to effectively participate in all regional and bilateral negotiations and meetings.

Trade negotiations normally took more time to conclude. The length of negotiation depends on the complexity of the negotiation and flexibility of the parties to reach an agreement. It is clear that if a particular negotiation is planned to be completed in a certain specific timeframe it requires the flexibility and understanding of the parties and sufficient budget. Therefore the annual budget for bilateral and regional negotiations will not be comparable with relatively substantial amount of budget allocated/spent for a negotiation planned to be completed within a certain timeframe like that of the EPA.

In Ethiopia's case the indicated budget was only for bilateral and regional negotiations and meetings. No budget was dedicated to the EPA related negotiation. However, NGOs like OXFAM GB and Friedrich Ebert Stiftung who work in trade related areas have supported the negotiation by attributing budget on a demand basis. Both OXFAM-GB and Friedrich Ebert Stiftung are working on trade related issues and they provide support in several ways when requested.¹⁰³

Although other institutions who are members of the NDTPF did not have budget saved specifically for the purpose of the EPA negotiation, they did fund the relevant experts (from their institutions).

¹⁰³ The Government has been receiving technical and financial support from different donors. The EU through its Trade Capacity Building Project, the Commonwealth Secretariat through its Hub and Spokes Project, the COMESA Secretariat, the ACP Secretariat, OXFAM GB, Fredric Evert Eshtuting etc..., have supported the EPA negotiation process technically and by allotting financial budget. Moreover, the Government of the United States has supported and is still supporting the country's WTO accession process through its "WTO Doha Project" and its successor project "WTO Accession plus Project", through support extended under its USAID.

2. Quantification of costs incurred during EPA trade negotiations

2.1. Cost of Trainings and workshops

The focus of this section is to show how resource constraints have impacted the country's negotiations as well as enumerating particular elements of the EPA negotiations (different from other negotiation processes) which have made the negotiating process more or less costly, challenging and difficult.

For the preparation of the EPA negotiations, the starting point was the establishment of the NDTPF which as explained is composed of multi-sectoral institutions and organisations that are involved in trade and development work. Representatives of the institutions were diverse and had experience in a variety of professions (economists, lawyers, social workers etc).

The direct cost related to the EPA process include, training and workshops that were organised for the NDTPF members and other stakeholders. These training workshops were mainly focused on the dissemination and sensitisation of information on the Cotonou Agreement, the concept of the EPA and its compatibility with the WTO agreement specifically with Article XXIV of GATT and Article V of GATS. The main participants in these training workshops were NDTPF members, stakeholders from government, private sector and NSAs. The training sessions were organised in different Ethiopian regional government cities with the aim of involving as many stakeholders as possible at minimum costs. The holding of these workshops in different regions reduced cost of holding the workshops and did avoid inconveniences of travel to the capital city, Addis Ababa.

Funding of the training workshops came from a number of sources, among them, the COMESA Secretariat which has contributed a total of Euro 10,000. OXFAM-GB has contributed Ethiopian Birr 550,000 and Fredric Evert Eshetusting provided Birr 125,000. Moreover, Project Management Unit (PMU) of the ACP Secretariat has financed two impact assessment studies in relation to the EPA negotiation.

Besides costs of the training workshops other costs that were incurred include the preparatory meetings of the NDTPF. The NDTPF meetings were held twice a month at the beginning and once a month and then only when required. Though there was no direct budget that was assigned for NDTPF meetings lasting only half a day in most cases, it is important to note that sometimes the costs of those half day meetings were more or less the same as the cost for full day meeting, especially in cases where professionals (whose consultancy costs were relatively high) were part of the meetings.

2.2. Cost of Regional Meetings

The costs of regional meetings related to RNF meetings and dedicated session negotiations, were covered by the IRCC. Before the EPA negotiation structure changed beginning of 2008, 13 RNF meetings and a number of dedicated sessions were conducted (Annex VII). For each RNF, three negotiators from each ESA State were delegated (the chief negotiator, one from the private sector and one expert from the sector the negotiation focuses on; agriculture, fisheries, services, etc).

Direct cost for the negotiators include; round trip ticket, hotel accommodation (normally bed and breakfast), and daily allowance for lunch, dinner and other miscellaneous expenses. The costs of air ticket depend on the place where the meetings were taking place. For instance, a ticket to

Mauritius, Seychelles, and Madagascar, could be as expensive as travelling to Khartoum, Djibouti or Nairobi. Therefore, taking a simple average of \$1500 per person per trip, the cost of the three negotiators who travelled to negotiate at 12 RNF sessions in the region (Ethiopia hosted the 9th RNF out of the 13 RNFs), an estimated travel cost of \$54,000 ($\$1500 \times 3 \times 12$) was spent to attend an RNF meeting up until the end of December 2007.

Hotel accommodation was normally arranged by the secretariat at a negotiated group rate. The rates depended on the city where the meetings took place, and the level of the hotel (3, 4 or 5 star), an estimated cost of \$100 per person per night can be considered as an average rate. The length of the meetings was also depending on the depth and complexity of the issues that were being negotiated. Normally such meetings took 3 to 5 days. Thus, taking an average of four days, an estimated cost of \$14,400 ($\$100 \times 4 \times 3 \times 12$) has been spent for hotel accommodation.

The other cost is per diem and subsistence allowances. For each participant \$70 per day was paid as a subsistence allowance in the form of per diem, and this translated to a total of \$10,080 ($\$70 \times 4 \times 3 \times 12$). In total \$78,480 ($\$54,000 + \$14,400 + \$10,080$) has been spent for the three Ethiopian RNF negotiators.

Annex VII shows a list of 53 meetings including seven RNFs (1st-7th RNFs) that information is found from the secretariat held up until May 2006. It is estimated that the list would be twofold if not more until the end of 2007. That means about 100 more meetings including dedicated sessions, seminars, meeting of senior officials and ambassadors; training sessions, joint EC-ESA meetings, etc were held. These take the number of meetings to more than 150. In 2008 and 2009 no dedicated sessions took place and the negotiations were less frequent. It can be estimated that no more than 30 meetings held 2008 and 2009.

To summarise about 180 regional meetings were conducted in relation to the EPA negotiation, not including the RNFs. Each ESA State was sponsored to send on average two experts for a particular meeting, training, session or negotiation.

Table 1 Estimated Costs

Type	Calculation	Estimated cost in USD
Travel/Air ticket (number of meetings X estimated cost X number of participants)	$180 \times 1500 \times 2$	\$540,000
Hotel (number of meetings X estimated cost X number of days X number of participants)	$180 \times 100 \times 4 \times 2$	\$144,000
Per Diem (number of meetings X estimated cost X number of days X number of participants)	$180 \times 70 \times 4 \times 2$	\$100,800
Total estimate for non-RNF negotiations		\$784,800
For RNF negotiation		\$78,480
Grand estimate		\$863,200

Source: Author's own calculations

Taking the above estimate and the estimates made earlier for tickets, per diem and hotel cost, one can estimate that \$784,800 has been spent for Ethiopians attended the EPA negotiating.

The cost of the RNF negotiation indicates the cost of three Ethiopian negotiators who have travelled to 12 RNF negotiations held at 12 different ESA countries but not the cost for all RNF negotiation for all countries. The total expenditure for non-RNF meetings indicate the cost of attending 180 different meetings; including dedicated sessions, seminars, meeting of Senior Officials and Ambassadors, training sessions, joint EC-ESA meetings, etc.

As indicated in section 1.3 above, Government budget for bilateral trade relation and negotiation is on average Birr 200,000 per annum. This budget is for ordinary annual budget directly allocated for bilateral trade talks. The budget referred above is the cost incurred for the EPA negotiation, a negotiation which was planned to be concluded within a specific time period (before end of 2007). The figure seems equivalent to a five year annual budget and is quite large. However, 69% of the \$78,480 is the cost of air ticket and it has to be considered that the air ticket cost in the budget for bilateral trade talk is every minimal.

2.3. Costs related to preparatory studies

Two impact assessment studies were conducted in preparation for the EPA negotiation in collaboration with local and international consultants. A total of Euro 210,000 has been spent for these impact assessment studies and validation workshops. The costs of the studies were financed by the PMU.

Four working and training workshops were conducted in four cities (Addis Ababa, Nazareth, Dire-Dawa and Baher-Dar) in relation to the preparation of national negotiating position and awareness creation on the concept of the Cotonou Agreement. They particularly focused on the principles and objectives of the EPA and its compatibility to the principles of the WTO Agreement. (Associated to Article XXIV of GATT and Article V of GATS). Birr 550,000 and Euro 10,000 was spent for these training, awareness and preparatory workshops.

The trainings mainly focused on the similarities between the EPA and WTO and the need for the EPA to be WTO compatible, most notably to be compatible to Article XXIV of GATT. Otherwise EPA is a bilateral negotiation through a regional configuration and WTO is a multilateral one. In the case of Ethiopia negotiating both the EPA and WTO on two fronts in parallel made the processes more challenging.

For Ethiopia, the overlapping of the EPA negotiation and the WTO accession negotiation happened by coincidence rather than by choice. The Government made an informed decision to enter into both the negotiations. The decision made to negotiate the EPA was based on the Government's commitment under the Cotonou Agreement Article 37 (5).¹⁰⁴ In the Cotonou, it was agreed to start the negotiating the EPA in 2000 and conclude at least by the end of 2007.

Moreover, the Government was convinced that there is a lot to benefit by being member of the multilateral economic club and therefore it was decided to start the accession process. The overlapping then happened by a mere coincidence. The overlapping has caused unnecessary pressure and overstretches on the limited staff capacity and limited resources.

¹⁰⁴ Article 37(5) "...Negotiations of the economic partnership agreements will be undertaken with ACP countries which consider themselves in a position to do so, at the level they consider appropriate and in accordance with the procedures agreed by the ACP Group, taking into account regional integration process within the ACP".

3. Quantification of costs of counterfactual negotiations

The EBA is a unilateral offer by the EU which does not hold any binding commitment. It is argued by some that the danger remains that if the EU withdraws the offer at any point and they could advise countries like Ethiopia (non-WTO members) to give prior attention in concluding the EPA.

However, others argue that, though the EBA seems a unilateral offer, in reality it is the result of a multilateral commitment that all developed and developing countries including the EU, committed to extend Duty-Free-Quota-Free (DFQF) market access to all LDCs, whether WTO or non-WTO members. Therefore, withdrawal of the EBA seems remote. Moreover, there will be moral onerous on the EU if it tries to deny such preferences to poor LDCs like that of Ethiopia merely for not being WTO member.

Second and most important is that, though not clearly stated as “EBA” in the Cotonou Agreement, Article 37 (9) offers similar preference like that of the EBA.¹⁰⁵ Therefore one can conclude that even though the EBA seems to be a unilateral offer, it is actually an offer provided as a result of an agreement.

In fact for Ethiopia, the impact does not have any difference. Firstly, the duty of main export of Ethiopia to the EU are either already 0% or are covered under the GSP DFQF Preference. Secondly it is arguable that the EBA is covered under the Cotonou. Therefore, there was no specific pressure to negotiate the EPA or acceding to the WTO.

However, Ethiopia voluntarily decided to rigorously negotiate the EPA with EC rather than entirely rely on the unilateral EBA/GSP offered at the goodwill of the EU.

For Ethiopia, the motive and driving force to negotiate EPA (and continues to be) overriding trade and/or market access that they may get from this envisioned EPA, was the promise and potential benefits clearly stated on the Cotonou Agreement. Article 34-37 of the Cotonou Agreement clearly states the objectives, principles, modalities and procedures of the Economic Partnership Agreement.

Box-1:- Objectives, Principles, Modalities and Procedures of the EPA

Article-34, Objectives states that;

- *... aim at fostering the smooth and gradual integration of the ACP States into the world economy, with due regard for their political choices and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the ACP countries,*
- *... to play a full part in international trade.... to participate actively in multilateral trade negotiations, ... aim at enhancing the production, supply and trading capacity of the ACP countries as well as their capacity to attract investment.*

Under ARTICLE 35, Principles it is stated that;

- *... shall build on regional integration initiatives of ACP States, bearing in mind that regional integration is a key instrument for the integration of ACP countries into the world economy,*
- *... shall take account of the different needs and levels of development of the*

¹⁰⁵ Article 37 (9) “...at the latest 2005 will allow duty free access for essentially all products from all LDC building on the level of the existing trade provisions ... that apply to their exports”

ACP countries and regions. ...ensuring special and differential treatment for all ACP countries and to maintaining special treatment for ACP LDCs and to taking due account of the vulnerability of small, landlocked and island countries.

Article-36 related to modalities based on the objectives and principles stated;

- *... removing progressively barriers to trade... introduced gradually and recognize the need, therefore, for a preparatory period... the non-reciprocal trade preferences applied under the Fourth ACP-EC Convention shall be maintained.*

Under Article-37, Procedures;

- *... the preparatory period shall also be used for capacity-building in the public and private sectors of ACP countries,*
- *... trade liberalization shall build on the acquis and shall aim at improving current market access for the ACP countries through inter alia, a review of the rules of origin.*
- *... Negotiations shall take account of the level of development and the socio-economic impact of trade measures on ACP countries, and their capacity to adapt and adjust their economies to the liberalization process. Negotiations will therefore be as flexible as possible in establishing the duration of a sufficient transitional period, the final product coverage, taking into account sensitive sectors, and the degree of asymmetry in terms of timetable for tariff dismantlement.*

Some of these potential benefits that will accrue to Ethiopia (and other ACP countries) as noted in the articles of the Cotonou Partnership Agreement include:

- i. That Ethiopia's political choices and developmental priorities will be respected. This is a positive stance when compared to EBA or GSP where the country's political choices and development needs are not guaranteed as these two latter regimes are unilateral offers rather than mutually agreed commitment (even though the argument is there).
- ii. It supports the smooth and gradual integration into the world economy, with due regard for the country's political choices and development priorities, by promoting and availing sustainable development support for the country and contributing to its effort to reduce poverty.
- iii. The country will benefit from the promised support in the areas of production, supply and trade capacity building and attract investment.
- iv. EU's support for the country's development strategies and ensuring special and differential treatment.
- v. EU's potential assistance to budgetary adjustment and fiscal reform, infrastructure upgrading and development, and for investment promotion.
- vi. The promised capacity building in the public and private sectors including measures to enhance competitiveness at the country level and also for strengthening of regional organisations (such as COMESA/ESA to which Ethiopia belongs) and for support to regional trade integration initiatives .

Therefore, given the above potential benefits for Ethiopia that have been identified within the Cotonou Agreement which outweigh the EBA/GSP preferences, Ethiopia from the very beginning decided to voluntarily negotiate the EPA. As a result they do not have any counterfactual negotiations to consider.

Ethiopia took a clear stance from the outset, and its involvement into the EPA negotiation is to benefit from the development component of the Agreement. The country has placed development at the forefront of the negotiations.

However, lessons learnt from EBA and Lomé/Cotonou preferential access provisions so far indicate that, the net impact on development has been insignificant overall. Accordingly, the country's position was to insist on linking tariff liberalisation to achievement of a set of development benchmarks and to link liberalisation to disbursement of resources and adjustment support to achieve the set benchmarks. It was also Ethiopia's position that a budgeted and prioritised development matrix be annexed to the Agreement to secure a legally binding commitment on the part of the EC to provide additional funds beyond and above the normal EDF.

The general issue was to make EPA more attractive to the LDCs by providing resources and creating and enhancing competitiveness of different sectors of ESA member countries. Otherwise the EPA would remain unobtainable for the LDCs like Ethiopia.

In fact improving the Rules of Origin (RoO), is another important issue to be considered. On RoO, the ESA group identified a set of issues that needed improvement in the full EPA. The issues are as follows; cumulation with all other ACP as under Cotonou; cumulation with South Africa and reducing the list of excluded products; cumulation with South Africa and the definition of identical RoO. Though the EC agrees on these principles, it still argues that cumulation should be facilitated with ACP countries that have the identical RoO.

As an LDC, Ethiopia is already benefiting from the Everything but Arms (EBA) provisions. Therefore, the addition of an EPA should rest essentially on its development dimension, including the simplification of RoO requirements.

This position was supported by a motto "**No development no EPA**". Until the end of 2007, this firm negotiation position was fully supported by all ESA LDCs including Eritrea. The EC came with the so called "Interim Agreement" that has divided the ESA group into "**signatories**" and "**non-signatories**".

Box-2:- AGOA

AGOA is also a unilateral offer by the Government of the United States of America, DFQF market access to cover about 6450 tariff line products produced in the Sub-Sahara African countries for specific time period (until 2015). Unlike EBA, AGOA is not related to a specific multilateral commitment for a specific group of countries who have same level of development, i.e., LDCs. AGOA is a DFQF preference for both LDCs and developing countries in the sub-Saharan Africa. Firstly, AGOA is a time bound preference which is due to expire in 2015. Second, it is unilateral offer with no attachment to a multilateral commitment for a mixed group of countries without any bilateral negotiation. Therefore the cost paid or to be played will not be comparable with that of the EPA.

The EU is an important market for almost all of the ESA countries, specifically for Ethiopia. Because of this, there is a need to distinguish between market access for LDCs and market access for Developing Countries. As an LDC, Ethiopia is eligible for EBA which is a Generalised System of Preference Scheme that does not require any reciprocal duty-free quota-free market access to the EU. However, the EU is signing a number preferential trade arrangement with many other developing countries extending almost same preferential market treatment which

really erodes the preferential treatment offered to LDCs. The recent EU South Korea Agreement exemplifies this point. While the EU market is progressively opening up its market for developing countries like South Korea, unless LDCs like Ethiopia are supported technically and financially to improve their supply side problems and competitiveness it is certain that the market access through agreements such as EBA or GSP will remain meaningless.

By concluding an EPA as it is, the EU will surely benefit by securing at least 80% preferential market. However, for many LDCs unless the EPA take due consideration for development the EPA would be considered failure. Of course, the need for development support has been a contentious issue from the start of the EPA negotiations. Ethiopia emphasised its “**no development no EPA**” position by stressing on the need for further resources and compensation for possible loss of revenue as a result of opening up markets and entering into additional commitment. However, the EC has repeatedly maintained its inflexible position that development component is provided under the EDF, and has reiterated that additional financing that would be available from individual EU member states as Aid for Trade. The EC also argue that development is about more than just the money available as countries signing EPAs would benefit from the lock-in effect that would signify a more stable investment climate and result in higher levels of inward investment.

The challenge faced now upon the conclusion of the full ESA EPA is on how to introduce the development component, through improved market access and development support to make the EPAs a true development tool. If this does not occur then it is certain that countries like Ethiopia will not be able to take advantages promised in the full benefits of EPAs.

From the perspective of Ethiopia the EPA was considered pro-development from the outset. The belief was that it would enhance its development endeavours and was not a mere market access arrangement. This goes some way in explaining why Ethiopia tried to make its position clear by saying “**No development no EPA**” from the initial stages. Ethiopia maintains its position on the need to explore further how to elevate the development dimension component in the negotiations. The EPA should take care of this.

Box-3:- Trade Related Issues

Negotiations on the trade related issues in general are still young; both sides (ESA and EC) are still in the process of articulating the scope and level of ambition of their proposals. For example, with regard to intellectual property, ESA has provided preliminary comments on the EC proposal indicating the primary concerns that the proposal is TRIPS-plus and lacks asymmetry. On competition policy, the EC side has presented its main objectives with respect to the content of the EPA. Both sides have agreed that further discussions are needed on issues such as nascent industries, monopolies and anti-competitive practices. ESA continually underlines and is insisting on the need to have technical assistance in this area. Regarding transparency in public procurement, both sides have presented their respective positions. ESA has highlighted the challenges faced by its member states on this area. Ethiopia's position in most trade related issues has been in line with the regional position, basically cooperation in capacity building, simplifying rules and procedures in these areas.

4. Perspectives on EPA negotiations

In order to capture Ethiopia's perspective regarding the use of resources by the locals who were involved in EPA negotiations, this section relies on the responses that were obtained from stakeholders by means of a questionnaire. The summary of responses or answers (**Ans**) from the questionnaires (**Qns**) that were distributed to the main stakeholders (mainly NDTPF members) who were involved in the EPA process is attached as Annex I. Annex VI (Names with*) indicates those interviewee NDTPF members. The detail analysis is in Annex I.

5. Main lessons learnt from negotiations

The following are some of the main lessons that the country has learnt from the EPA process.

- i. Resource constraints: The country has been severely affected by resource constraints mainly in areas such as funding of sectoral studies and country negotiators in attending meetings (in most cases funds were provided for a limited number of negotiators per negotiation session even if the issues to be negotiated required different expertise).
- ii. Timeframes should not be a priority at the expense of substance: One of the main lessons learned with regards to the negotiation process itself is that deadlines for concluding negotiations should not be a priority at the expense of reaching an agreement on substantive negotiation issues. Rather, deadlines and conclusion of EPA negotiations should be premised on achievement of mutual agreement on the substantive issues being negotiated.
- iii. Difficulty to reach consensus in a multi-diverse group: It is extremely difficult to reach consensus on any issue being negotiated in a multi-country group with diverse interests and level of economies. The ESA group comprises of 16 countries who decided to negotiate the EPA as one economic configuration even if the configuration has no legal base as an economic regional grouping. Aside from this, the group comprises countries of different levels of growth and economic interest. Out of the 16 countries 12 are LDCs and four are non-LDC. The economy of most countries in the group is based on agriculture, while for some the economy is based on industry, fishery and services. Such divers' interest has impacted on the unity and strength of the countries during the negotiation.

Summary of responses to the questionnaire

1. **Qns:** In your view why did the country engage in the process of EPA when there is an option of full market access under the EBA/GSP preference?

Ans:

- a) EBA and GSP schemes are unpredictable and not negotiable as they are unilaterally offered by EU which means it is non-contractual (or non-obligatory), and can be revoked at any time by the provider. Negotiating the EPA was a wise decision for the country considering as once agreed; it will be contractual, legally binding, predictable and more transparent.
- b) Unlike in the EBA and GSP schemes the EPA, if properly negotiated and implemented, may provide an enabling environment for both private sector participation and growth.
- c) EPA promises negotiated and lenient rules of origin (RoO), and sanitary & phyto-sanitary standards (SPS) unlike the EBA's stringent and cumbersome RoO and SPS which makes it impossible to maximise the benefit of LDCs
- d) EPA promises development support.

2. **Qns:** What were the expectations at the beginning of the process?

Ans:

- a) At the beginning of the process Ethiopia and many of the ACP countries expected that the negotiation would create an enabling environment for the advancement of their economies and that the EU would facilitate towards achievement. Nevertheless, this seemed to have been met with resistance from the EU side given that the community has been refusing to seriously consider Ethiopia's financial development benchmarks.
- b) Developing ACP countries expected the EU to compensate the losses incurred upon the government and some of the sectors due to premature liberalisation. However, this seems to be difficult as the EU has not been forthcoming in terms of increasing significant financial aid over and above the traditional EDF funding.
- c) Many ACP countries had hoped that as a result of these negotiations, their domestic capacity of trading with EU would ultimately be enhanced. However, to date, this seems to be problematic as the EU has not been forthcoming in terms of increasing significant financial aid over and above the traditional EDF funding which would enable ACP countries to enhance their supply side capacities.

3. **Qns:** To what extent the constraints of negotiating resources have affected EPA negotiations?

Ans: Very significant

4. **Qns:** Do you think that the EPA negotiations require more resources than other negotiations? If so, why? What specific aspects have been especially cumbersome to negotiate?

Ans:

- a) Yes. Effective EPA negotiations demand that the country should conduct detailed sectoral studies to thoroughly identify the strength, weakness, opportunities and threats (SWOT) for each of the sectors in terms of competitiveness, both locally and internationally (in EU market). Sectoral studies were also required to identify sensitive products and sectors (or exclusion lists) and these were done at a cost.
- b) Our negotiators are negotiating with qualified, trained and experienced EC experts. The negotiators have to be supported by experts on each issue. But due to budget constraint this could not happen.

5. **Qns:** Had you had more resources, would the outcome have differed? If so, in what way?
Ans: Yes. With more resources the country (and other ACP/ESA countries) could have conducted more detailed sectoral studies to get an in-depth understanding of the merits and demerits of joining the EPA. Also the country could have done more capacity building, especially in the form of training of negotiators. Armed with these studies and more human capacities, the outcome of the EPA negotiation was likely to be different as the country (or ESA group) was going to have greater chance of negotiating and getting favourable positions based on enhanced, clearer, firm and strong negotiating positions.
6. **Qns:** How does the fact that negotiations were conducted at the regional level impact the pace and outcome of negotiations? Do they save or consume resources?
Ans: At the beginning, negotiations at the regional level were generally good as most regional (ESA) member states had similar interests and held harmonised positions. However, as time progressed and divergences arose regional member countries' positions were not kept intact. This resulted in some original ESA member countries initialising interim EPA with EU as a subset group called EAC which weakened the outcome of ESA negotiations. Therefore, conducting negotiations at the regional level where member states had (have) different positions have not helped the outcome. Due to the absence of consensus at regional level on major issues, it was impossible to get the desired outcome, and that might have been an inefficient use of the scarce resources.
7. **Qns:** Do you see the EPAs as an instrument for development? Why?
Ans: Yes and No.
- a) **Yes**, EPA can possibly be an instrument for development as it promises and calls for building human; institutional, and infrastructural capacities (in ESA countries), and introduces efficiency through competition.
- b) **Yes**, if the development aspect of the negotiation is given both due priority and maximum attention, with legally binding commitments being included in the final comprehensive EPA document to be signed once agreed.
- c) **No**, if the development aspect of the negotiation is not given due priority and maximum attention. In that case EPA would be an unrealistic aspiration for the least developed countries (LDCs).
8. **Qns:** So far in your opinion, has the EPA process enhanced or hindered development progress in your country?
Ans: Partly Yes and partly Not yet
- a) **Partly Yes** in that the process has initiated Ethiopia (ESA States) to take inventory of the various sectors, conduct assessment studies, involve stakeholders around common agenda and created awareness so that effort is made to be effective and efficient in business.
- b) **Partly Not yet** since the EPA is still in the negotiation stage, no concrete agreements have been implemented (so cannot infer their development impacts at this point).
9. **Qns:** Would you have preferred to negotiate some of the elements of the EPAs differently? If so, in what aspects?
Ans: Yes. The development cluster (or aspects) should have been given more attention during the negotiations. Also trade in services should come at the later stage in fact after testing the development part of the agreement of the partnership.

10. Qns: Have resources constraints have impacted the following elements of negotiations and which elements has been more resource intensive? (put x mark)

Ans

a. Tariffs and NTBs in manufactures and agriculture	
b. Impact on regional (south-south) integration	
c. Aid finance	
d. Trade in Services	x
e. SPS	x
f. Singapore issues/deep integration: competition, government procurement, investment, trade facilitation.	

11. Qns: What elements would you have not included in the EPAs or would you have negotiated outside the EPAs?

Ans: Trade in service should have been treated out of the EPA.

12. Qns: How do you see the EPAs shaping your regional integration processes?

Ans: The ESA region has become much more disintegrated since EPA process started.

13. Qns: What elements do you think are necessary to conclude an EPA agreement?

Ans: Development needs of Ethiopia (and other ESA/ACP countries) should be taken on board for a successful conclusion of a comprehensive EPA agreement. There is also need for agreement on the various "contentious issues" currently causing disagreements within the EPA negotiations*.

14. Qns: What additional resources (staff, skills, time, studies,...) would have helped to achieve more effective negotiations?

Ans:

- a) Sectoral studies with a view to identifying sensitive products and vulnerable sectors of the economy that might be affected by the EPA negotiations.
- b) Enhancement of negotiating capacity (e.g., training on negotiating skills, increased training on such aspects as trade in services etc) of the member countries could have supported the negotiations of ACP countries.

15. Qns: Are there any intangible benefits from the negotiations, such as strengthening negotiating capacity, better relationship with regional neighbours...? Any negative intangible outcomes?

Ans: Yes,

- a) The country's ability to negotiate in the area of trade has been sharpened.

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1. * Substantially All Trade (SAT) and Time Frame Article 12
 2. Rules of Origin Article 13
 3. Standstill clause Article 14
 4. Duties and taxes on exports Article 15
 5. MFN Article 16
 6. Prohibition of quantitative restrictions Arti. 17
 7. Special XX Agricultural Safeguard
 8. Development Chapter,
 - The need for additionality of resources
 - Development Cooperation,
 - Development Matrix (DM)
 - Development Benchmarks (DB)

- b) Basic knowledge on Cotonou Agreement, the WTO rules, experiences of other economic partnership arrangements and awareness amongst wide spectrum have been created.
- c) Very useful national and sectoral studies have been undertaken.
- d) Specialised short term trainings in various sectors and aspects related to trade have been done

16. Qns: What is the future of their regional integration process after the EPAs? Better or worse prospects?

Ans: The divisive nature of the EPA process to date suggests that the prospects of integration process after the EPAs may be difficult or worse.

17. Qns: Does involving civil society during negotiations help the negotiating process?

Ans: Yes. Participation of consumer associations and other civic societies operating at the grassroots level might help to reflect and capture the interests of the societies they represent. Their contributions will be even more helpful in the case where the civil society is well aware of the national objectives and has internalised them, and also if they are well equipped with the particulars of the issue under consideration.

18. Qns: Does the fact that the EU may finance some of the negotiating costs impact the negotiations to any degree? (Careful with this question. It is not about corruption, it is just to know about the fact that large sums of technical assistance go to finance their negotiation expenses).

Ans: Yes and No

- a) **Yes;** as most of the negotiation process and studies have been financed by EU, EU expects a positive return at the end (concluding agreement).
- b) **No:** Because national interest prevail above and beyond other issues including the capacity created by anybody; funding by EU has instead enhanced the understanding of EPA issues by ESA countries (through trainings, studies etc), and has facilitated effective negotiation positions from well informed ACP (Ethiopian) negotiators.

19. Qns: What are the main lessons that you take from the process?

Ans:

- a) The need for building in-house capacity.
- b) The need to strengthen regional voices.
- c) Civil society as partners to promote same cause.
- d) It is not easy to come to consensus when negotiating as a large group especially with varying interests.

20. Qns: The EC suggested that one on the positive intangible was that Ethiopia and Eritrea were negotiating on common positions. What is your perception of this view? Any intangibles: positive or negative?

Ans: Partly yes. This will be true only if Eritrea was seriously participating in the negotiations. However, Eritrea has not been consistently participating even though it is a member of ESA block.

21. Qns: What are your perspectives about existing negotiating resources in other countries?

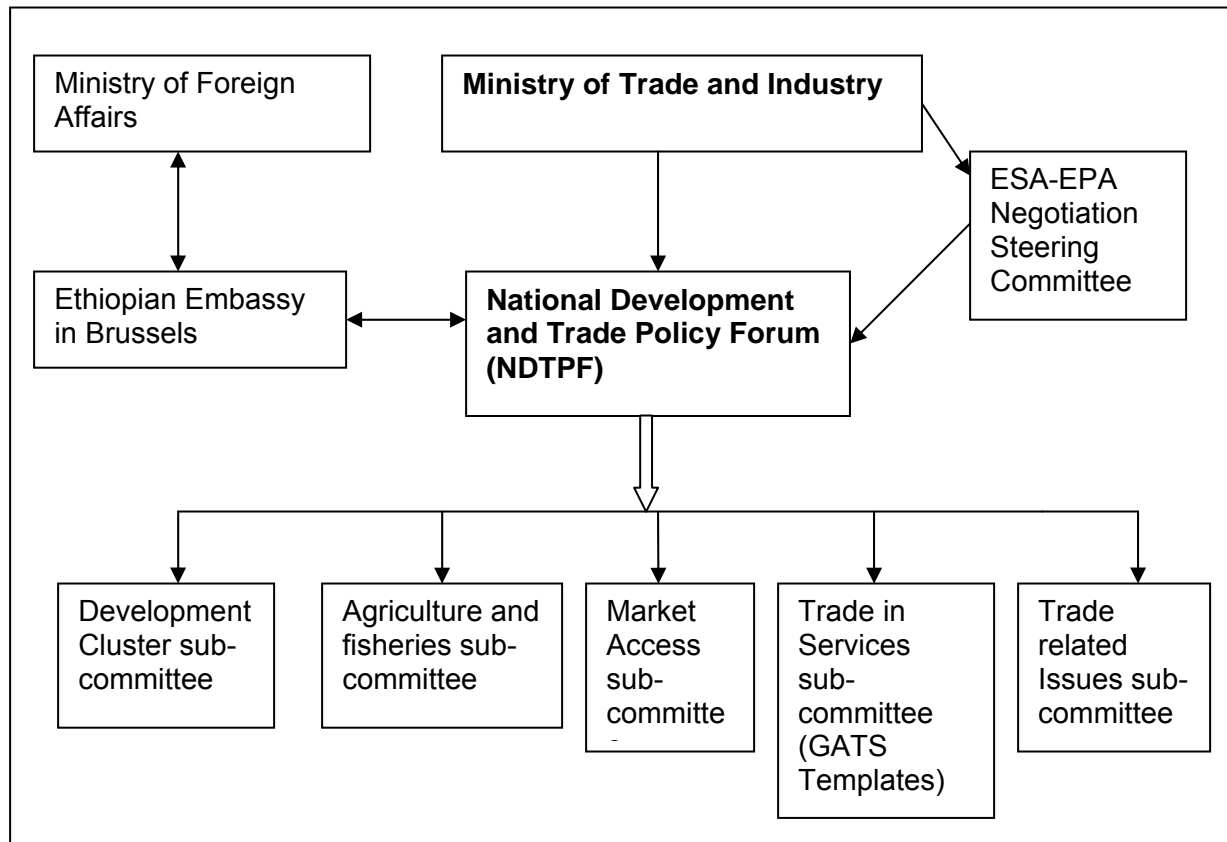
Ans: This can only be answered if there are relevant resource figures on other countries.

22. Qns: Some people feel that Ethiopia seems very uninterested on the process, and question why negotiators are still negotiating and using resources. What is your view on this perspective? What are the prospects? What areas are the problems?

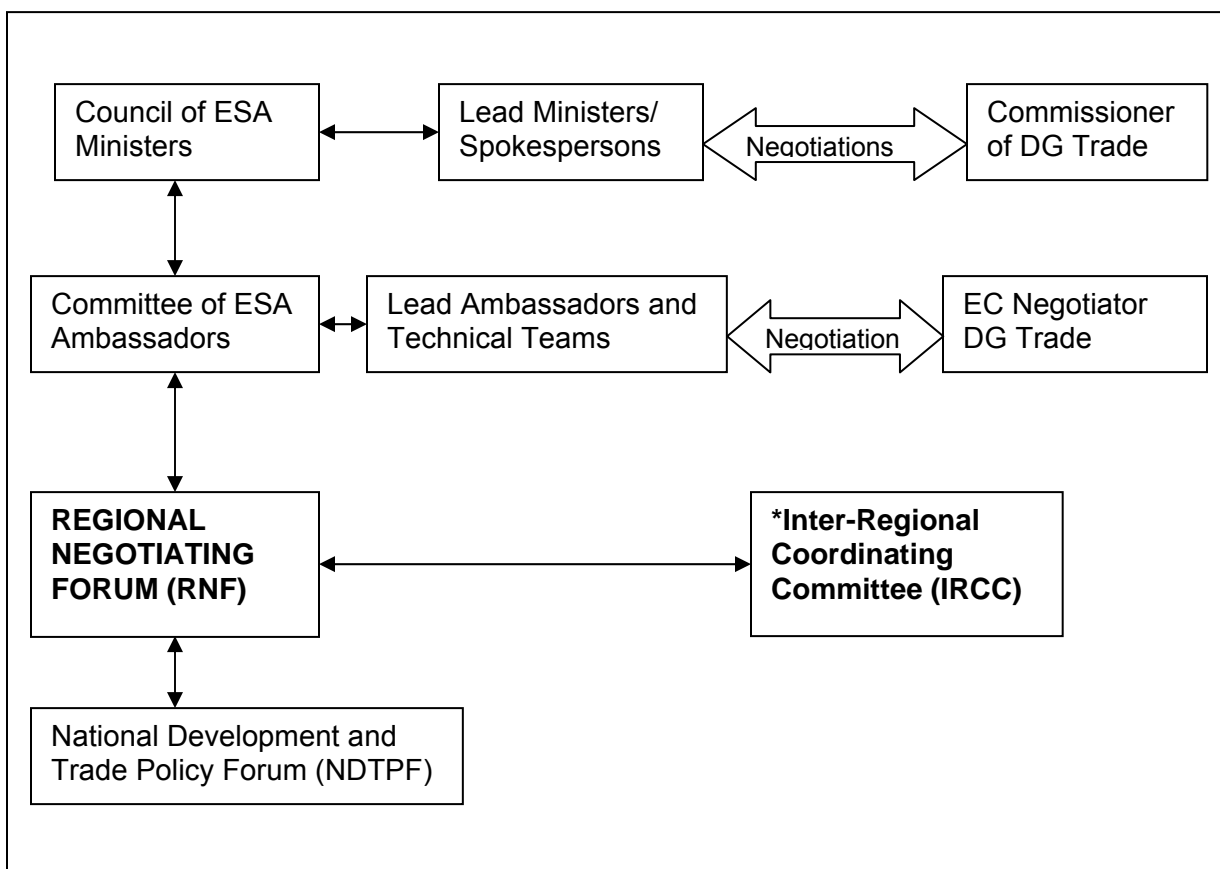
Ans: It is not correct to categorise Ethiopia as an uninterested partner. The country's EPA negotiation enthusiasm has always been there. The issue is that the EU has to make EPA more attractive to the LDCs by providing resources and creating and enhancing competitiveness of different sectors of ESA member countries including Ethiopia.

ANNEX II

Ethiopia's EPA Negotiation Structure

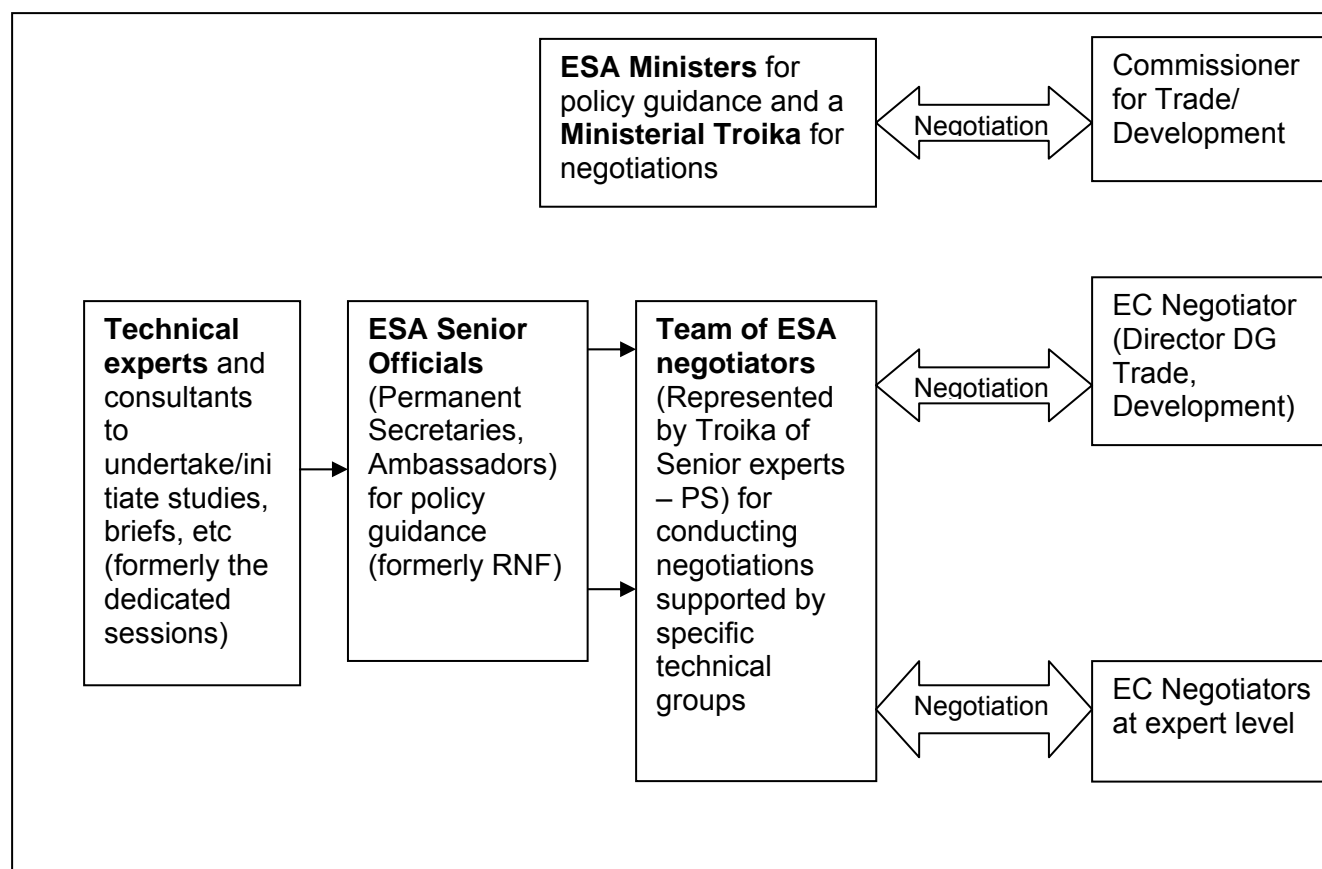


Old ESA EPA Negotiation Structure

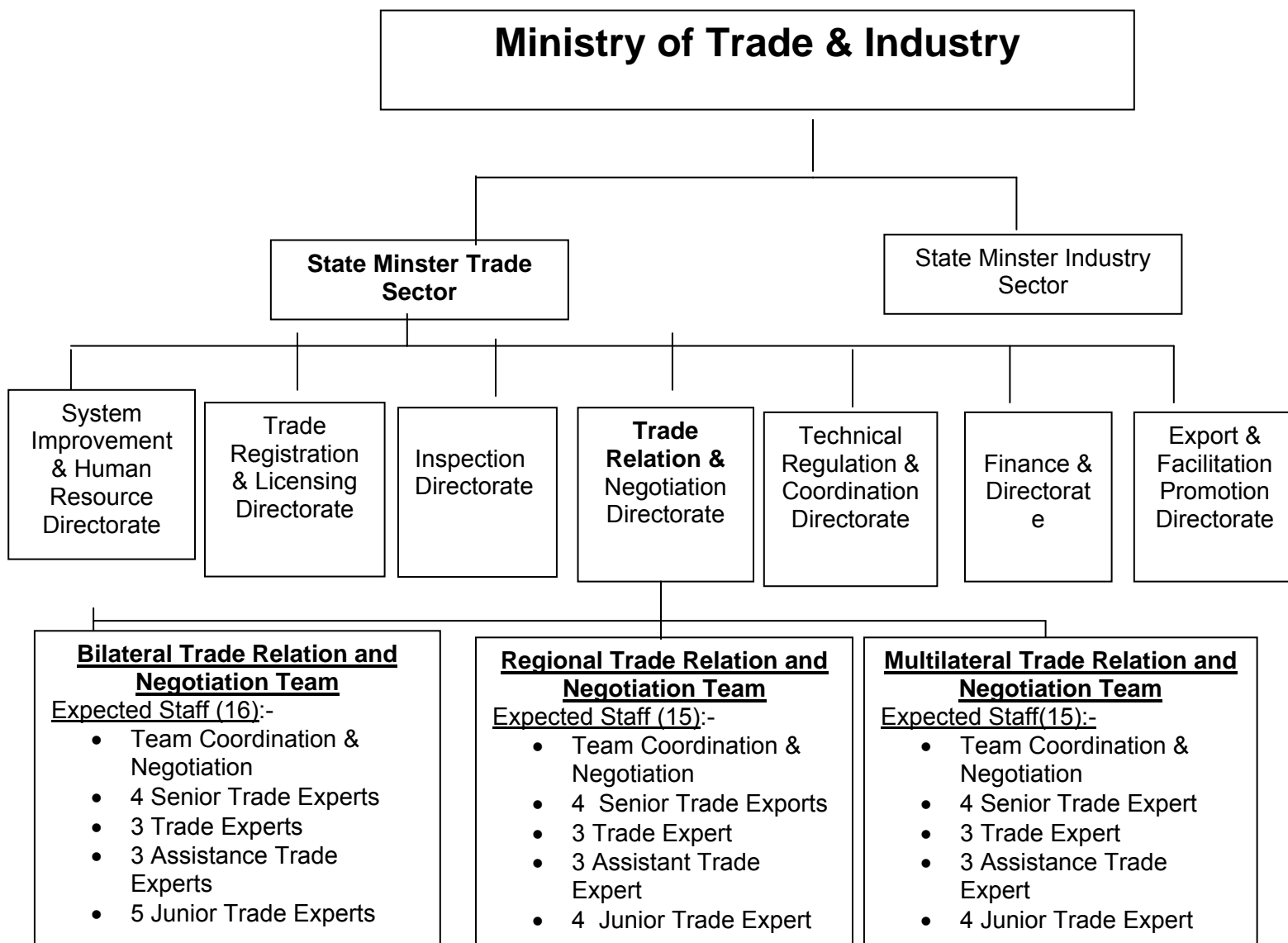


* Regional Secretariats namely COMESA, IGAD, EAC and IOC to serve as an Inter-Regional Co-ordinating Committee (IRCC) with the COMESA Secretariat acting as the lead agency to provide secretarial and technical support to the negotiating process

New ESA EPA Negotiation Structure



**Organisational Structure of the Ministry of Trade & Industry
of the Trade Sector Trade, Trade Relation & Negotiation Directorate**



ANNEX VI

List of Ethiopian NDTPF Members

	Name	Institution	Position
1	Mr. Geremew Ayalew	Ministry of Trade and Industry	Director
2	Mr. Berhanu Lakew*	National Bank of Ethiopia.	Research Expert
3	Mr. Demirew Getachew	Ministry of Revenue (Now- Ethiopian Revenue & Customs Authority)	Director
4	Mr. Tekola Shimelis*	Ministry of Infrastructure (Now-Ministry of Transport & Communication)	Director
5	Mr. Kassa G/Yohanes*	Ministry of Foreign Affairs	Director
6	Mr. Genet Teshome*	Ministry of Foreign Affairs	Diplomat
7	Mr. Demissie Asfaw	Ministry of Justice,	Director
8	Mr. Fekre Markos*	Ministry of Agriculture & Rural Development	Director
9	Dr. Seleshi Zewde*	Ministry of Agriculture & Rural Development	Director
10	Mr. Lisanework Gofu	Ministry of Trade and Industry	Team Leader
11	Mr. Belachew Beyene*	Ministry of Finance & Economic Development	Team leader
12	Mr. Tesfaye Desalegn*	Ethiopian Tourism Commission	Director
13	Mr. Mohammed Seyed*	Ethiopian Investment Commission	Director
14	Mr. Wondwossen Belet	EIPO/Ethiopian Science & Technology Com.(Now- Ministry of Science & Technology)	Director
15	Mr. Kebede Aberra (MP)*	Parliament	MP
16	Mr. Girma Mikru	Ethiopian Environment Protection Authority	Director
17	Mr. Gashaw Workineh*	Ethiopian Quality and Standards Authority	Director
18	Ms. Kebedech Erdachew	Ethiopian Women Exporters Association.	President
19	Ms. Nigist Haile*	CAWEE	President
20	Mr. Ahmed Ali*	OXFAM-UK, Ethiopia	Expert
21	Mr. Gebremedine Birega*	Ethiopian Consumers Protection Association	Vice President
22	Mr. Haile-Kiross Wolde-Michaile	Ethiopian Trade Union Confederation	Expert
23	Dr. Astatke Bayu	Ethiopian Agricultural Economists Association	Expert
24	Mr. Mohammednur Saney*	Ethiopian Manufacturing Industries Association	President
25	Mr. Yabowork *	ACORD	Country Representative
26	Mr. Worku Gebeyehu	Ethiopian Economists Association,	Expert
27	Mr. Yohanes Beshah	Ethiopian Employers Association,	Expert
28	Ato Andu Alem Tegegn	Ethiopian Chamber of Commerce & Sectoral Association	Secretary General
29	Mr. Teferi *	Addis Ababa Chamber of Commerce & Sectoral Association	Director

* **Members of the NDTPF interviewed for the case Study**

ANNEX VII

List of RNF meetings

Among a number of regional meetings, the following were found fully documented and for which a number of research and discussion papers were prepared by the Secretariat.

No.	Name of the Meeting	Time
1.	ACP /COMESA Meeting on EPAs	August 2001
53	Presentation of the EPA impact Assessment Study.	February 2002
54	Seminar on EPAs for Senior Officials and Ministers.	October 2002
55	Co-organizing a Seminar for the Private Sector on EPA negotiations with FES.	April 2003
56	Meeting of Senior Officials, Ambassadors and Ministers on developing an EPA Negotiating Mandate.	May 2003
57	Launch of the EPA negotiations and associated meetings	February 2004
58	Orientation Seminar for Senior Officials in Brussels	March 2004
59	First dedicated session on the Ocean Fisheries cluster	April 2004
60	Firs meeting of the Regional Negotiating Forum (1 st RNF)	April 2004
61	Second dedicated session on the Ocean Fisheries cluster	July 2004
62	Second meeting of the Regional Negotiating Forum.(2 nd RNF)	July 2004
63	First Meeting of the Regional Preparatory Task Force	July 2004
64	First negotiations between ESA lead Ambassadors and EC senior officials.	July 2004
65	Third dedicated session on the Ocean Fisheries cluster	October 2004
66	Third Regional Negotiating forum (3 rd RNF)	October 2004
67	Second Regional Preparatory Task Force	October 2004
68	Training Session in Trade in Services – trade economists and lawyers from member states met to develop the GATS Templates	October 2004
69	Second ESA Ministerial Meeting	December 2004
70	Dedicated Session on Inland Fishing	February 2005
71	Training Session on Intellectual Property Rights	March 2005
72	Training session in trade in services ten sectoral specialists from each country trained in the administration of questionnaires.	March 2005
73	Dedicated Session on Agriculture	April 2005
74	Training session in trade in services a small group of sectoral Specialists met to finalise the secoral assessment questionnaires to ensure that they reflect the regional dimensions of trade in services.	April 2005
75	Brainstorming Meeting with the EC pm EPA Negotiations in Nairobi	May 2005
76	Dedicated Session on Development in Lusaka	July 2005
77	Regional Negotiating Forum in Seychelles (4 th RNF)	August 2005
78	Dedicated Session on Market Access and Agriculture in Nairobi	August 2005
79	ESA EPA Preparatory Negotiating Session in Nairobi	August 2005
80	ESA EPA Preparatory Negotiating Session in Nairobi	August 2005
81	ESA-EU RPTF meeting in Brussels on marine fisheries and market access	September 2005
82	5 th RNF on development, agriculture, fisheries and market access in Lusaka	October 2005
83	5 th ESA-EC RPTF on development, agriculture, fisheries and market access in Lusaka	October 2005
84	2 nd ESA-EC Senior official Negotiations on development, agriculture, fisheries and market access in Lusaka	October 2005
85	Dedicated session on trade related issues in Khartoum	November 2005

86	ACP regions meeting on EPAs and ACP trade ministers and Council meetings in Brussels	November
87	Update on progress of negotiations of EPA to the COMESA Council of Ministers in Lusaka	December 2005
88	Technical Team meeting on Fisheries. Harare	30 January 2006
89	Dedicated Session on Development. Harare	31 January 2006
90	6 th RNF. Harare	1-2 February 2006
91	Joint EC-ESA Session on Development. Harare	February 2006.
92	Joint ESA-EC Session on Development Harare	3 February 2006
93	ESA Ambassadors-EC Senior negotiators, Mauritius	7 February 2006
94	2 nd ESA Council, Mauritius	8 February 2006
95	2 nd Joint ESA-EC ministers meeting. Mauritius	9 February 2006
96	PMU training on negotiation skills on market access for ESA Group Nairobi	6-10 March, 2006
97	Joint EC-ESA RPTF on market access and fisheries, Nairobi	11-14 March 2006
98	Joint SADC-ESA-ECA consultations on EPAs, , Kigali	15-18 March, 2006
99	Development experts meeting on EDF 10 Programming, , Brussels	21-22 March, 2006
100	Dev experts, RAO, NAO meeting on EDF 10 Programming, Brussels	23-24 March, 2006
101	ESA trade and legal experts meeting to work on draft EPA, Lusaka	27-30 March, 2006
102	7 th ESA RNF, Kigali	9-13 May, 2006
103	Joint EC-ESA RPTF Kigali	14 May, 2006
104	ESA Ministers Council, Kigali	15 May, 2006

EPA Review Study

Nigeria

December, 2009

1. Introduction

It is widely acknowledged that trade and investment negotiations between countries, bilateral, regional or multilateral, require substantial amount of resources from the stage of initiation to completion. Countries, particularly the developed ones, which envisage disproportionate systematic gains from the outcomes of such negotiations, are more than prepared to raise the required resources to sustainably engage. In contrast, developing countries, except the recently advanced group, i.e. Brazil, China and India, are not in such a position to swiftly and adequately raise and direct sufficient resources towards negotiating all the thematic areas of international cooperation agreements. This is partly because of deficient financial, human and institutional capacities. Furthermore, the lack of capacity to determine the potential gains from an eventual trade and investment agreement, as well as other competing areas for the limited financial resources available to meet development obligations ensures that developing countries' participation in international negotiations is characterised by ineffectiveness and lack of clear strategy while their responses are mostly reactive. The implication of this characterisation is can be a slow, tasking, and suspicious negotiation process featuring ambivalent country positions or hurriedly signed agreements that have little input from domestic stakeholders, with grave post-agreement socio-political implications. In effect, relatively ample negotiating resources are a critical factor needed to shape the speed, context, and content of negotiations as well as the final outcome and implementation.

The Economic Partnership Agreement (EPA) under negotiation between the ACP countries and the European Union was scheduled to have been signed on 31 December 2007 and to come into force on 1 January 2008, if negotiations were completed. The failure to sign the EPA as planned has brought about the strategy whereby some countries were persuaded to initialise or sign an Interim EPA.¹⁰⁶ In other words, while the hope of signing EPA as contained in the Cotonou Partnership Agreement of 2000 was not realised, the negotiations have remained long-drawn with both sides unsure of when the agreement will be consummated. In view of the role which sufficient negotiation resources, among other factors such as the need to focus on regional integration, plays in the negotiation process, this case study broadly assesses the process of negotiating the EPA in West Africa with a view to clarifying the nature and magnitude of influence of the role of resources. In particular, this case study provides a detailed description of the resources used on EPA negotiations, analyses the different negotiation capacities in Nigeria and the main problems encountered during the negotiating process as well as the resource costs of negotiating EPAs.

The remainder of this report is organised into six sections. Section 2 provides an overview of existing resources for trade negotiations by describing in detail the trade negotiation teams in Nigeria in terms of the government's existing structure for trade negotiations. Relevant therefore are such issues as the structure and composition of trade negotiations team for EPAs, WTO, regional integration, bilateral agreements in terms of the basic qualifications and on the job training, the number of staff and time spent, number of internal and external advisers, compensation levels as well as government budget towards negotiations and aid programmes and technical assistance programmes. In section 3, the quantification of costs incurred during EPA trade negotiations is estimated from the number of EPA negotiation-related meetings officials attend with the EU, the number of EPA negotiation-related meetings that Nigerian officials attend within the regional grouping, preparatory work and studies undertaken before meetings, and negotiators' incentives arising from participating in the negotiations. Section 4

¹⁰⁶ Cote d'Ivoire and Ghana initialised interim EPA on 31 December 2007 while the latter signed in June 2009.

contains the quantification of costs of counterfactual negotiations such as a bilateral trade agreement, the GSP+, AGOA among others. In section 5, synthesised stakeholders' perspectives on EPA negotiations are presented. They have been obtained from the main actors involved in the EPA negotiations such as head negotiators, other officials from National Planning Commission, Nigerian Export Promotion Council, and external advisers, academics, and civil society. The main lessons from the negotiations are identified in section 6.

2. Overview of Existing Resources for Trade Negotiations

2.1 Nigeria's Trade Negotiations teams: Structure and Composition

The Department of Trade of the Federal Ministry of Commerce and Industry (FMCI) is divided into three main departments: multilateral, bilateral and domestic trade. The multilateral department is composed of units charged with UNCTAD, World Trade Organisation (WTO), and Intra-Africa trade issues mainly related to EPA and regional integration. The domestic trade department deals with trade information and complaints as well as weights and measure while the bilateral department has two units with responsibility for trade and investment cooperation with the Americas, Asia, Australia, Africa and Europe. Table 1 indicates the number of staff in each section and the relative distribution of staff over the sections and location. All members of staff in the section except Weights and Measures are located in Abuja because there are many branch offices spread all over the countries to be able to effectively perform its function of ensuring that Nigerians obtain correct measures for their money. The members of staff of this section have monitored pump machines of petrol at filling stations and have sealed off many for reasons related to under-dispensing value of petrol to buyers. The more important issue reflected in the table is the proportion of staff in the core international trade sections such as WTO and Intra-Africa sections that are involved in trade negotiations. This proportion is clearly inadequate in view of the huge human capacity requirement that trade negotiations demand. There is also the issue of more personnel in the WTO unit than the unit negotiating the EPA. The reason is that the current Department of Trade is made up of about 80% of the former External Trade department which in turn was dominated by the WTO unit. This accounts for the preponderance of staff in the WTO unit relative to the Intra-Africa unit in the current structure.

Three teams are in charge of trade negotiations. The first is the team charged with the responsibility of ensuring adequate participation in the multilateral negotiations at the World Trade Organisation in Geneva. The second is the team responsible for negotiating the EPA while the third team deals with bilateral trade and investment negotiations. The WTO team is structured to function at two levels, the Geneva-based negotiators and the capital based (Abuja) officials who provide directions and national positions for the multilateral negotiations. The WTO unit of the department of external trade is at the peak of the multilateral negotiating structure which works through the Enhanced National Focal Point (ENFP) on Multilateral and other Trade related Matters, itself divided into several subcommittees. The Geneva-based team requests for directives from the WTO unit headed by the Directorate level of the department of trade, which in turn convenes a meeting of the ENFP to discuss the issue and make recommendations that are forwarded to the WTO negotiators in Geneva, after approval from the Minister of Commerce and Industry. Due to the infrequent meeting of the ENFP, ad-hoc inter-ministerial committees with flexible membership deals have arisen with requests for negotiating directives and national positions. Often in these circumstances, official responses arrive too late to be useful to the Geneva-based negotiators who often revert to experience and group decisions, such as those of the African Group and G33.

The regional integration team and the bilateral agreement team work in a similar fashion to the WTO team with the exception of the source of request for negotiation guidance. In many cases,

the need for deliberation on regional integration issues arises either from within the ministry, from the ECOWAS Commission or from problems associated with the implementation of some of the ECOWAS protocols. Thus, when Ghana released a legislation that increased the capital base of trading enterprises in which many Nigerians in Ghana are engaged, there was a need for inter-ministerial meetings between the then Federal Ministry of Commerce, Foreign Affairs, and the Nigeria Investment Promotion Commission. Activities of the bilateral agreement team are stepped up from mostly political pronouncements of stronger socio-political and economic bonds between Nigeria and other countries or visitations between Nigerian and foreign governments, which are composed of meetings to identify areas of mutual interest that often culminate into signing of memoranda of understanding (MOUs).

Table 1 Structure of Nigeria's Department of Trade and Staffing

S/N	Section	Number of staff	Number in Abuja	Share of Total
1	Director's Office	5	100	2.3
2	Bilateral	14	100	6.5
3	Multilateral	9	100	4.1
4	Intra-Africa	8	100	3.7
5	UNCTAD	7	100	3.2
6	World Trade Organisation	28 ^a	78.6	12.9
7	Trade Promotion	43	100	19.8
8	TIC&P	3	100	1.4
9	Weights and Measures	91	17.6	41.9
10	SCUML	9	100	4.1
		217		100

Source: Federal Ministry of Commerce and Industry, Abuja, 2009; 'a' includes six staff at the WTO office: 1 Ambassador, 3 Counsellors, 1 Accountant and 1 Secretary.

The EPA negotiating team features two additional committees that the others do not have. These are the Ministerial Advisory Committee and the Technical Committee on EPA. The Technical Committee on the EPA (see composition on Table 2) ideally meets once a month, however in some cases will not meet for up to three months because in some cases the committee's meetings are funded in by the DFID. In the ENFP is an EPA sub-committee which should perform the functions of the Ministerial Advisory Committee and the Technical Committee on EPA but for the fact that the ENFP hardly ever convenes meetings. Indeed, it is because the ENFP can be regarded as moribund that the advisory and technical committees were created to fill the advisory and technical vacuum in the case of the EPA; this need was also induced by the intensity of discussion required. The ad-hoc inter-ministerial committees are undeniably also more active in the case of the other negotiating areas. Unfortunately, with the quantum of preparations required to negotiate the EPA, only 3.3% of the staff of the Department of Trade are in the Intra-Africa section which negotiates the EPA (Table 1). In totality, despite the inadequacy of staff at the Ministry, the EPA negotiating structure appears to be the most visible and active. Many reasons explain the high level of activities of the EPA negotiating team

which appear to have crowded out activities of other teams. One is the perception of the generality of the stakeholders about the potential impact of the EPA on Nigeria's industrialisation, government revenue and the consequent trade relations between Nigeria, the European Union and Nigeria's other trading partners. The expected negative impacts have certainly ensured stakeholders' vigilance to the various issues being negotiated under the EPA. This attentiveness, demonstrated by civil society organisations involvement in the negotiation process (in the form of the creation of awareness about the EPA negotiations beyond government officials among industry and farming as well as trading associations) provides further explanation of the visibility and vigour demonstrated by the EPA negotiating team. This is because it creates pressure on the government negotiating team to really ensure that it understands fully the negotiating process, issues and implications and carry along non-state actors. Hence, the team becomes not only relatively proactive, though in a limited sense, in dealing with many of the negotiation issues but also it ensures that the process in Nigeria assumes a bottom-up approach. Finally, the advisory and technical arms embedded in the EPA negotiating structure are made up of seasoned national professionals and academics of high integrity that have worked on trade and trade policy-related issues who are available to interrogate proposals and perform technical analysis though on very short term basis.

Table 2 Composition of Members of the Technical Committee on EPA

Organisation	Number present
Federal Ministry of Commerce and Industry	12 including the Chairperson
Nigeria Export Promotion Council	1
Nigeria Customs Service	2
Ministry of Finance	1
National Association of Nigerian Traders	4
National Bureau of Statistics	1
Nigeria Labour Congress	1
Standards Organization of Nigeria	1
National Association of Chambers of Commerce, Industry and Agriculture (NACCIMA)	1
Others	3

Source: Minute of EPA Technical Committee meeting, 25 June 2009.

The EPA team also boasts of an agglomeration of few numbers of lawyers and economists who work together to analyse negotiation issues and examine their socio-economic implications under mostly external funding support. Finally, perhaps because of the availability of external resources and better access by the technical committee of EPA, more activities are generated by seeking funding from available donor organisations which have formed part of the negotiating strategies. The disadvantage of this however, is that in most cases the funding arrives very late and this negatively affects the effective use of recommendations, apart from the fact that results of studies are also made available to these external funders who also constitute the opposing side in the negotiations. Therefore, negotiating strategies are known and responses are predetermined at the negotiation table. As can be gathered from the composition of the EPA Technical Committee, no academician is included, but mostly civil servants and business membership organizations (BMOs). Academicians have been responsible for carrying out studies needed to arrive at certain decisions, an example of which constitutes the study on the selection of Nigeria's sensitive products and on rules of origin. Apart from discussing the negotiation issues based on their field and professional experience the civil servants' role ensures necessary updates of their ministry's top echelon about the negotiations. This is to

ensure that they have foreknowledge of issues by the time Federal Executive Council Memos are prepared by the Ministry of Commerce and Industry for discussions at the Federal Executive Council Meetings. The BMOs role is strictly interest-related. They are in the Committee to always ensure that the interests of their members are considered in any decision and, where there is lack of understanding, to insist on technical studies to illuminate such lack of clarity of issues.

The Ministry's Department of Trade has 211 members of staff on its nominal roll. The EPA negotiating team has only eight of these officials, six of whom have basic degrees in social sciences and business administration and two of whom has additional degree in Law and one a higher degree in political science. None has an economics degree¹⁰⁷ but all have been exposed to different on-the-job training through short trade policy related workshops within and outside the country, with some at the level of the WTO through the regional trade policy course mounted for 3 months per year. The desk officer for EPA, an Assistant Chief Commercial Officer in the Intra-Africa section, attended this training course in Nairobi in 2005. In view of the structure of staff in the different sections, while the negotiations last, it appears that more staff is required to be involved in the negotiation of the EPA either through new employment or through temporary redistribution of existing staff from the Trade Promotion and WTO sections, which is the more feasible option.

More detail of the Intra-Africa section which deal with the EPA negotiations is provided on Table 3. The average salary range of the members of staff of the Intra-Africa unit is between grade levels seven and 13 while the departmental head who directs activities in the Trade department is on grade level 17 and his deputy on grade level 16 (see Appendix Table 1). The EPA team does not yet have an external adviser on the EPA negotiations, while it has four external national consultants who do not receive any compensation except when they are involved in conducting EPA-related studies that are paid for by donor organisations, mainly by DFID Nigeria and to a little extent the ECOWAS Commission. Their travel costs and per diems are also reimbursed by these organisations.

The part of the Ministry's budget spent on trade negotiations is a more challenging task because negotiations involved capacity building, workshops, carrying out negotiations related studies, travels for actual negotiations and staying over in either Brussels, Geneva or any of the West African countries that the EPA negotiation meeting would be taking place. All of these details are not shown in the budget apart from a lump sum that makes reference to EPA negotiations. The only year that a budget head was designed for EPA negotiation was in 2008 when the negotiations gathered momentum. The EPA budget for 2008 was N200million but only N3million (or about \$20,000), representing 1.5% of allocation, was released and spent, this was induced by the falling oil prices which ensured that budget performance fell well below expectation in that year. This amount is clearly too little even for travelling of three experts only once.

Aid programmes and technical assistance programmes directed at the members of staff of the Department of Trade relate to capacity building with regard to both the WTO and the EPA negotiations. Table 4 indicates for those who responded in the WTO and Intra-Africa units the types of training that have been attended and the sponsors.¹⁰⁸

¹⁰⁷ The head of the department is an economics graduate.

¹⁰⁸ The sample includes four officers in WTO unit and five officers in Intra-Africa unit. It was a difficult task convincing respondent officers that this census of capacity building programmes was not meant to redistribute the opportunity to attend, this suspicion pointing to uneven distribution of capacity programmes among staff.

Table 3 Resource Detail of Intra-Africa Section

Resource	Magnitude
Number of Staff	8
Number with Economics or Law Degree	2
Average Salary range	GL07-GL13
Number of Advisers	0
Number of External Advisors (Consultants)	4
Part of Ministry's budget spent on trade Negotiation (N million)	3

Sources: a) Federal Ministry of Commerce and Industry, Abuja, 2009; b) Key In-depth Interview; c) Federal Budget, 2008

Capacity-building programmes range from courses at the WTO for general courses and internship on trade policy and trade negotiations in Geneva and in East Africa. The programmes also include attending workshops on specialised trade policy issues such as sanitary and phytosanitary standards, technical barriers to trade, agriculture notification process, environmental goods and services. The four officers who responded attended these programmes between 2005 and 2009. In view of the fact that this sample suggests there are about three capacity-building programmes per officer per year, in a unit of 12 staff, this translates to 36 aid and capacity programmes in all per year for the WTO unit, not counting the ones sponsored by the Ministry itself. Most of the capacity-building programmes related to this unit are mounted and sponsored by the WTO while only few ones are sponsored by the Ministry, representing about 14.3% per year.

In the case of the Intra-Africa unit, capacity building programmes include workshops on identification and treatment of sensitive products, market access on goods and services, impact analysis of EPA using computable general equilibrium model, and aid for trade. The five officers who responded attended these programmes between 2007 and 2009 (Table 5). This census also suggests there are about 0.933 capacity building programmes attended per officer per year, and in a unit of eight staff, this translates to about eight aid and capacity programmes in all per year for the Intra-Africa unit, but here the ones sponsored by the Ministry itself are counted. The sponsorship of the capacity building are split equally between the ECOWAS and the Ministry representing a share of 43.8% each while WTO and EU sponsorship account for 6.3% each. It is likely that EU sponsorship is larger than estimated while ECOWAS sponsorship is smaller since some of the EU funding for meetings and capacity building related to the EPA are routed through the ECOWAS Commission. Using ECOWAS rates, \$262 per day flat rate is paid per person, apart from an average transportation cost of about \$1530.¹⁰⁹ So far, training applies mostly to the Ministry officials and in few cases to the technical support team, perhaps because they are perceived as experts in their own right. In very few cases, the Chairman of the EPA Advisory Committee, who is a Professor of Economics, attended for example the CGE training in Dakar, with another Professor of Economics that is an expert in CGE modelling but who is not a member of the Technical Committee. Both are currently in a team that conducted an analysis of the impact of EPA on Nigeria's economy, using a partial equilibrium framework as a first step to an impending CGE study. The Organised Private Sector (OPS) also attended the CGE training.

¹⁰⁹ This is the direct cost for training one person in Dakar during the CGE training. ECOWAS also paid for the training venue and usually one lunch and two tea/coffee breaks.

Table 4 Capacity Building Programmes in WTO Unit

	NAME OF MEETING & VENUE	DATE	SPONSORED BY
1	Regional Trade Policy Course-Namibia	6 th June-26 August 2005	WTO Secretariat
2	First Specialize Course on Technical Barrier to Trade Geneva	Oct/Nov. 2008	WTO Secretariat
3	Internship on WTO Negotiations Geneva	2 nd Jan-30 th June 2008	AITIC-Agency for International Information and Cooperation
4	4 th WTO Specialised Course on SPS, Geneva	29 Sept-17 Oct. 2008	WTO Secretariat
5	Workshop on Agriculture Notification-Geneva	22-24 Sept. 2009	WTO Secretariat
6	Regional Intensive Course on Trade negotiation skill, 4 th -15 th May 2009 Cape Town South Africa	11-15 th May 2009	WTO Secretariat
7	WTO Informal Material meeting, New Delhi, India	3-4 th Sept. 2009	Ministry
8	WTO Informal Material meeting, Cairo Egypt	Oct. 2009	Ministry
9	WTO Workshop on Environmental Goods & Services, Geneva	23 rd -25 th Sept. 2009	World Trade Organization (WTO) Secretariat
10	WTO Regional Workshop on Dispute Settlement, Tanzania	Mar-09	WTO Secretariat
11	Workshop on Trade in services Morocco	June 15-18 2009	IDB Islamic Development Bank
12	WTO/Regional Trade Policy Course, Swaziland	1 June to 20 August 2009	WTO/University of Swaziland

Source: Survey of Federal Ministry of Commerce and Industry Officials, October 2009

Table 5 Capacity Building Programmes in Intra-Africa unit

	NAME OF MEETING & VENUE	DATE	SPONSORED BY
1	Identification and Treatment of Sensitive Products, Burkina Faso	29 January 2007	ECOWAS Commission
2	Issues on Sensitive Product, Senegal	28 June - 5 July 2007	ECOWAS Commission
3	Workshop on Trade in Services and Market access negotiation skill, Togo	2007	Organisation Internationale Francophonie PMU and ECOWAS
4	Update on Sensitive Product list, Mali	26 April - 2 May 2008	ECOWAS Commission
5	Training Workshop on Selection of Sensitive products list, Dakar Senegal	2008	ECOWAS Commission
6	ECOWAS Thematic Group on EPA Market Access, Ghana	September 2009	ECOWAS Commission
7	ECOWAS CGE model Training Workshop, Dakar	April 2009	Ministry and ECOWAS
8	ECOWAS Thematic Group on EPA Market Access, Dakar	July 2009	Ministry and ECOWAS Commission
9	Impact Assessment Study on Services and development	September 2009	Ministry
10	EPA Workshop	October	Ministry
11	EPA Chief negotiations meeting, Brussels	15 June 2009	Ministry
12	Workshop on A4 Trade	4-8 May 2009	Ministry
13	Workshop on Trade in services in South Africa	8-12 June 2009	WTO Secretariat
14	Regional Seminar on Trade in services, Dakar Senegal	22-24 Jan 2009	EU

Source: Survey of Federal Ministry of Commerce and Industry Officials, October 2009

3. Costs incurred during EPA Negotiations

Certain assumptions were made to obtain the costs under this section, particularly as they relate to the transportation to and from the meetings. Because it was a bit difficult to obtain the airfares to and from the meetings, the distance between Lagos in Nigeria and the meeting destinations measured in nautical miles were obtained and estimated using the fare derived from roundtrip fare to Cote d'Ivoire from Lagos. The number and cost of EPA negotiation related meetings attended by government officials with the EC are those that involve travelling to Brussels to confer with the EC. These are four in number and are quite a few because the negotiations are designed to be undertaken at the level of the ECOWAS Commission while Nigeria only attends as an observer. The ECOWAS Commission was responsible for the passages of the Honourable Minister and one expert, while the Ministry was responsible for the remaining two participants. The per diem per day is estimated at \$262 while that of the Minister is a little bit higher but quite insignificant. The total cost of attending EPA-related meetings by the Ministry Officials spent so far during the period of negotiations is US\$56,420.8 between 2006 and 2009 (Table 6). There should have been more meetings with the EU except that Nigeria did not

initially show serious interest in the EPA until later in the process. This was due to the 'business as usual' attitude of the officials, the slow start and 'learning by doing' even at the ECOWAS Commission as this is the first time the Commission would be involved in a reciprocal trade agreement of this nature that would commit all its members. Most activities before 2007 were local-oriented within the Ministry in charge of EPA negotiations.

Table 6 Cost of EPA negotiation-related meetings officials attend with the EU (US\$)

Name of Activity	Date	No of days	No of persons	per diem	Costing	Distance (nautical miles)	sub total	Total (US\$)
EPA Negotiation Meeting Brussels Belgium	2006	2	5	262	2096	4386	15212.5	17308.5
Negotiating session between the EU and West Africa Brussels	21-25 September 2009	5	4	262	5240	2651	9194.8	14434.8
EPA Negotiation Meeting Brussels	20-24 April	5	4	262	5240	2651	9194.8	14434.8
Meeting of Chief Negotiating on EPA Brussels	17 June 2009	1	4	262	1048	2651	9194.8	10242.8
								56,420.8

Source: Computed from field data

The negotiators' incentives arising from participating in the negotiations consist of the per diem paid and the allowances that government pays for travelling usually referred to as daily travel allowance (DTA). It is paid according to the level of the officer claiming it. Interview indicates that due to budget constraints, this allowance was not paid for EPA meetings since the ECOWAS Commission paid per diem rates to the officers. The cost calculated above is the explicit costs that did not take account of the time that members of staff spend travelling and the lost hours of work undone at the office during travel. It is difficult to calculate this opportunity cost but is quite substantial particularly when it comes to EPA meetings in the region which are conducted almost on a monthly basis sometimes. Table 7 contains the cost of EPA-related meetings Nigerian officials attend within the regional grouping. Similar assumptions as in the case of Table 6 were made to estimate the total costs as the sum of the cost of the individual meetings. Between 2005 and 2009, a total of \$231, 015.62 has been spent on Nigerian officials and experts attending negotiations within the region. This covers payment for meetings, workshops, travel and allowances which are paid for by the ECOWAS Commission, the EC, UK Department for International Development (DFID) and Nigeria's Ministry of Commerce and Industry.

Table 7 Cost of EPA Negotiation-Related Meetings Nigerian officials attend within the regional grouping

Name of Activity/Location ¹¹⁰	Date	No of days	No of persons	per diem (\$)	Subtotal (\$)	Distance (nautical miles)	sub total (\$)	Total (\$)
Togo	15 January 2005	3	2	262	1572	104	170.1	1742.1
Senegal	38693	5	2	262	2620	1301	2127.3	4747.3
Senegal	17 July 2005	3	2	262	1572	1301	2127.3	3699.3
Ghana	38420	3	2	262	1572	206	336.8	1908.8
Togo	24-29 January 2006	5	2	262	2620	104	170.1	2790.1
Kenya	38754	3	2	262	1572	2081	3402.7	4974.7
Benin	18 April 2006	3	2	262	1572	16	26.2	1598.2
Ghana	20 November 2006	4	2	262	2096	206	336.8	2432.8
Paupau New Guinea	30 May 2006	5	2	262	2620	8675	14184.6	16804.6
Mauritania	39083	2	2	262	1048	1310	2142.0	3190.0
Burkina Faso	28 January 2007	5	2	262	2620	442	722.7	3342.7
Benin	39177	6	2	262	3144	16	26.2	3170.2
Turkey	16 May 2007	3	2	262	1572	2485	4063.3	5635.3
Cote d'Ivoire	22 May 2007	7	2	262	3668	498	814.3	4482.3
Accra Ghana	1-11 July 2007	11	2	262	5764	206	336.8	6100.8
Banjul	39092	2	2	262	1048	1235	2019.4	3067.4
Ethiopia	39183	3	2	262	1572	2128	3479.5	5051.5
Validation Workshop on the Supplementary Acts on Competition and Investment, LOME-TOGO	19-22 March 2007	4	3	262	3144	104	255.1	3399.1
Stakeholders meeting on 10th EDF, Bonn Germany	12-13 March 2007	2	3	0	0	0	0.0	11571.4
National Stakeholders Workshop to validate sensitive Products, RoO, CET, Development Issues on GPA Abuja	8-10 October 2008	3	63		0	0	0.0	25000.0
MAN-NESG Workshop on the EPA Lagos	15-16 May 2008	2	4		0	0	0.0	1633.3
Technical Committee on EPA, Abuja	39544	1	27		0	0	0.0	12500.0
ECOWAS Common Investment and Competition Code Accra & Lome	21-28 May 2008	8	3	262	6288	206	589.5	6877.5
Sensitisation Workshop On The Supplementary Act And The Framework	4-5 August 2008	2	1	262	524	206	196.5	720.5

¹¹⁰ Dates and locations were recorded from reports and travel documents (where dates of meetings relating to between 2005 and early 2007 were taken) of the EPA Desk Officer.

Of The Investment Policy For The Implementation Of The Ecowas Common Investment Market, Accra, Ghana								
Meeting of Dialogue and Project of Regional Sensitive List S/W Ghana/Nig/Sen/CI Grand Bissau	2-4 December 2008	3	3	262	2358	1152	3296.4	5654.4
Validation Workshop of Regional Sensitive Products Dakar Senegal	4-5 August 2008	2	5	262	2620	1301	6204.6	8824.6
ECOWAS Validation Workshop on Regional Sensitive Products, Burkina faso,	14-16 October 2008	3	4	262	3144	442	1686.3	4830.3
Extra-ordinary meeting of the ministerial monitoring committee (mmc) meeting nouakchott, Mauritania,	18- 21 February2008	4	7	262	7336	1310	8746.5	16082.5
Quadruplicate Consultative Meeting CI, Ghana, Senegal, Nigeria, Abidjan, CI	2-4 December 2008	3	2	262	1572	498	950.0	2522.0
Advisory Committee on EPA, Abuja	29-31 July 2008	3			0	0	0.0	23592.5
African Workshop on EPA (Reaping the benefits of EPAs) Ethiopia	8-10 October 2008	3	10	262	7860	2128	20297.2	28157.2
Advisory Committee on EPA, Abuja	39848	1	10		0		0.0	0.0
Tech Committee on EPA Abuja Bolingo Hotel	23 March 2009	1	27		0		0.0	0.0
2nd Forum of ECOWAS Affairs Harnessing Agric potential regional partnership, Burkina faso	12-14 February 2009	3	1	262	786	442	383.3	1169.3
Training Workshop on the CGE Model, Dakar Senegal	23-27 February 2009	5	4	262	5240	1301	4512.4	9752.4
Interactive Session on the EU-ECOWAS EPA within which senate committees on common, Abuja	31 March 2009	1	3		0		0.0	0.0
MMC Abuja Ecowas	12-15 May 2009	4	7		0		0.0	0.0
Thematic Working Group on West Africa Market Access Offer. Dakar Senegal	13-15 July 2009	3	2	262	1572	1301	2256.2	3828.2
TWG on ECOWAS MO Accra GHANA	1-5 September 2009	5	2	262	2620	206	357.2	2977.2
TWG on West Africa MO Dakar Senegal	13-15 July 2009	3	2	262	1572	1301	2256.2	3828.2
ASSESSING &	14-17	4	7	262	7336	1301	7896.7	15232.

ADDRESSING THE LABOUR MARKET EFFECTS OF EPAs- WEST AFRICA, Dakar Senegal	September 2009							7
Inauguration of NFP	40087	1	2		0		0.0	29881.0
WTO Informal Ministerial Meeting India	3-4 September 09	2	3	262	1572	4386	11409.4	12981.4
								231,015

Source: Computed from field data

The role of the ECOWAS Commission during the negotiations has revolved around helping Nigeria participate in the negotiations especially outside Abuja which is where the Commission is located. ECOWAS partly funded the trips to Brussels, and paid for Nigeria's national consultants' attendance at Dakar and Abidjan. Members of staff of the Trade Department of ECOWAS attended national workshops when invited to clarify negotiation issues. It is believed that the ECOWAS role has been quite helpful to Nigeria in the negotiations, despite on occasion when Nigerian stakeholders are suspicious of good intentions of ECOWAS. The suspicion arose as a result of the structure of the staffing in the secretariat where the population of officials from Francophone West Africa seems to outnumber the Anglophone. Since this perception is not from the government, it should be disregarded. Government officials' perception of the role of ECOWAS Commission in the negotiations is that it provides the necessary guidelines and methodology for the process towards reaching regional and EPA agreements. This includes discussions leading to the adoption of the 5th band of the CET and related issues, sensitive products, and West Africa market access offer, among others. ECOWAS's stance is that Nigeria should show leadership in the process by not only ensuring that it interrogates how the EPA will impinge on its development interests but also by accommodating small and vulnerable economies' interests in the negotiations so it is possible for the EPA can help achieve the long sought regional integration in West Africa

4. Costs of Counterfactual Negotiations

Section 4 contains the quantification of costs of counterfactual negotiations such as a bilateral trade agreement, including the GSP+, AGOA. Table 8 indicates that the costs involved in negotiating some trade agreements exemplified on the table are incredibly low when compared to the cost of the EPA negotiations. However, comparison of the totals could be considered unreasonable if there are differing objectives. The EPA involves a reciprocal trade agreement between two unequal partners. The disadvantaged partner requires understanding of the implications of that free trade on its own socio-economic and political structures. None of the issues on Table 8 have the capacity to substantially alter the socio-economic and political equation of Nigeria as much as the EPA. There was a meeting involving travel to USA whose cost can be compared to meetings involving travel to Germany or Brussels for example, under EPA negotiations. While it costs \$50,000 to travel for discussions at the TIFA Council meeting in the USA, the cost of a similar meeting under the EPA, such as the Stakeholders meeting on the 10th European Development Fund (EDF), Bonn, Germany was \$11,571.4. Similarly, the highest cost of travelling to Brussels to meet with the EC was \$17,308.5. Thus, while EPA is costlier in the aggregate because of the discussions in the several negotiation areas, it appears cheaper when individual processes that are similar are quantified.

Table 8 Cost of Counterfactual Negotiations

S/N	Name of Activity	Date	Amount (US\$)	Attendance
1	TIFA Preparatory Meetings (5 nos)	October 2008 to February 2009	892.9	MDAs + OPS
2	TIFA Council Meeting in Washington USA	30-31 March 2009	50000.0	HMC&I MDAs + OPS with US Counterparts
3	International/Meeting on Nigeria-Ghana trade (2 nos)	May 2009 & June 2009	428.6	MDAs + OPS
4	Breakfast Meeting on bilateral issues between Nigeria-Ghana	June 2009	3571.4	MDAs + OPS
5	International Meeting on Italy	June 2009	107.1	MDAs + OPS
6	Visits of Ambassadors India, Indonesia, Taiwan & check	June 2009 to September 2009	0.0	Ministry officials only

Source: Computed from field data

Another area that is comparable is the Nigeria's Trade Office in Geneva for which budget data is available. Nigeria maintains a Trade Office permanently in Geneva, which is staffed with the ambassador, three counsellors, one accountant, one secretary, and one driver. The ambassador is a GL 17 officer, the counsellors are about GL 13, the secretary is about GL 08 and the driver is a GL06. The Office in Geneva is a rented office though there are plans underway to purchase one. Table 9 shows that it cost \$2.4 million to maintain the Nigeria Trade Office in Geneva, which is several multiples of the amount that has been spent on the EPA negotiations so far. Directly comparable to the EPA costs is the personnel cost which is \$787,027.9, also many times more than the EPA costs to date. The differential in the costs has been a sensitive and worrisome issue for Nigeria's parliamentarians. This is in particular with the extreme position canvassed that Nigeria should pull out of the WTO not only because of the high annual budgetary provision but also for the reason that the benefits cannot be tangibly perceived. Despite the public dislike of WTO, as is with the EPA, Nigeria is more committed to the WTO and believes the WTO will offer more trade gains than the EPA, due to its many aspects of special and differential treatment (SDT) and capacity building as part of the Doha Development Agenda support. Nigeria applied for the GSP+ as an alternative having missed the opportunity to invoke the CPA article related to alternative trading arrangements before 31 December 2007.

Table 9 Annual Cost of Nigeria Trade Office, Geneva (2009)

External trade sector, Geneva (WTO)	Amount in Naira	Amount in US\$
Expenditure items		-
Total personnel cost	110183914.8	787,027.96
Salary & wages - general	0	-
Consolidated salary		-
Benefits and allowances – general	110183914.8	787,027.96
Non-regular allowances	110183914.8	787,027.96
Rent subsidy		-
Social contribution	0	-
NHIS		-
Pension		-
Total goods and non - personal services - general	121415101.7	867,250.73
Total capital project	105000000	750,000.00
Nigeria trade office (WTO)- Geneva, Switzerland	70000000	500,000.00
Purchase of office accommodation	35000000	250,000.00
Total allocation:	336599016.5	2,404,278.69

Source: Federal Government of Nigeria, Budget 2009.

5. Stakeholders Perspectives on EPA Negotiations

In this section, stakeholders' perspectives on EPA negotiations are presented. The perspectives were obtained from the main actors involved in the EPA negotiations such as head negotiators, other officials from National Planning Commission, Nigerian Export Promotion Council, and external advisers, academics, and civil society. Most of the issues discussed are as follows:

The first reason why Nigeria is engaging in EPA despite the availability of other options is due to the fact that Nigeria is not negotiating as a country but under the ECOWAS configuration and it is the leader of the other 15 member countries including Mauritania which depend on Nigeria's involvement. Essentially, EU prefers to negotiate with the region rather than with the individual country so even if Nigeria preferred to negotiate separately from the rest of the region it was not in line with the original Cotonou agreement.

Secondly, it is in the interest of Nigeria to have a strong West Africa. The ECOWAS Free Trade Agreement (FTA) has not progressed in the way it was initially anticipated. The EU/EPA negotiation seems to now be encouraging ECOWAS to start negotiating properly. For the first time West Africa is negotiating as a region, discussing the need to have a common West African policy, the most exclusive being the Common External Tariff (CET), without which a strong ECOWAS and an EPA are considered impossible.

Third, Nigeria's application for GSP+ has twice been rejected by the EU, so Nigeria is without option but to negotiate EPA even though the Cotonou Partnership agreement provides for alternatives. Similarly, other West African countries are engaging in this EPA process with the

availability of recourse to EBA because EU as a major trading partner historically traded with West Africa under the Lome conventions but were abandoned because of their incompatibility with the WTO rules and inability to promote regional integration. Since the EPA will be a regional agreement, it is inevitable that most of the sectors would be based on regional policies such as regional trade policies, common agricultural policy, common industrial policy, common investment policy, which are evolving for the first time in the last 34 years. Finally, the EU market is strategic and the EPA offers a better opportunity in terms of market access than the GSP+ because of its non-unilateral development package that is demand driven.

There were many expectations at the beginning, including that it would be a speedy process devoid of negotiation wrangling to emulate the successive Lome agreements and the CPA.

Negotiating resources in Nigeria has affected the EPA consultation because Nigeria did not have enough money during the negotiations. This is mainly because the government did not believe it would undergo a long negotiating process. It was also because Nigeria, as leaders of their region's negotiating process, did not provide enough funds so were not adequately prepared and relied only on external funds for the process. As a direct result all the required analysis and simulations was not done and the process was delayed.

For regional meetings, countries only sent one or two people each because ECOWAS did not have the required funding to take all the experts in one country to the meetings. In actual fact, there should not have been less than ten people as all were needed to participate directly by providing necessary information and technical support to facilitate the discussions. Impact assessment studies were not done or delayed for upward of two years, skills of negotiators were not upgraded, and only a few people attend negotiation meetings in Brussels. Therefore, lack of resources also slowed down the EPA process, while the availability of resources at a later stage, influenced the decision to continue negotiating because at that particular time, external resources particularly by DFID helped prepare studies of sensitive products list, rules of origin and common external tariffs (CET) as well as funding of meeting of the Technical Committee. The type of funding available in the initial stages were targeted at the NGOs since they are, according to the CPA, supposed to be critical part of the EPA process. However, by employing the approach used at the WTO Seattle meeting to scuttle the deliberations the NGOs started out with a negative mindset that added to the general attitude towards EPA.

Not only were the inadequate negotiating resources affecting the pace of EPA, the issues of how countries will cope during EPA implementation were not being adequately addressed was a massive contributory factor. The issue of how governments will raise funds for its expenditure to run governance is critical. However, there has not been any serious commitment from the ECOWAS as a commission or the EU as the trading partner that encouraged the EPA to give funding assistance for the first 1 to 5 years. This brought to the fore the issues of the EPA development programme. Though the region has estimated and requested for \$9.25bn to cushion the effect of implementation of EPA, the EU has so far been evasive, perhaps for the reason it did not anticipate it would need contribute that much.

The key programmes that Nigeria expects the EPA Development Programme (EPADP) to make a priority are the infrastructure, capacity building and industrial upgrading. However, Nigeria's initial submission to the ECOWAS Commission under the EPADP was ubiquitous, estimated at €11 billion while ECOWAS initial budget for five years is €12 billion. Nigeria is presently prioritising its submission to arrive at a figure that will accommodate other ECOWAS countries.

Though the current negotiating structure appears deceptively costly, it is currently being negotiated at the regional level, which is more cost effective. Analysing a thematic area for example, about seven meetings are required to agree when all countries are invited to deliberate. The same issue might involve a less number of meetings at the national level, say about three, but this in 15 places becomes quite colossal. This is the reason why the proponents of EPA process could have opted for regional.

In the EPA process, the aspect that required more resources is that so many meetings were required internally to reach a national consensus on each thematic issue. Bringing stakeholders together to agree, for Nigeria this involves pulling people from all parts of the country (requiring voluminous resources). At the regional level, Nigeria needed to bring other countries together from on occasion, while not in the way ECOWAS does but in a manner that shows leadership to facilitate regional integration. Nigeria spent huge resources to fast track regional integration but unfortunately, despite larger resources required in the EPA, funds are not available in the budget. EPA process however has used large resources from the European Union, European commission and the UK. Other negotiations have not enjoyed such funding and appear to have been discarded because of the EPA. For example, the WTO ministerial that should be coming up in Geneva in December does not have the required debate in Nigeria as the EPA does, due to heated pressure from the EPA process which is also making the units responsible for WTO to concentrate on EPA (no evidence of this in the discussion with ministry officials).

If there are more resources, the outcome of EPA would have been different as it would have helped provide a clearer visibility and understanding of issues to properly navigate the negotiations. In the absence of these, the pressure to sign mounts and suspicion is created around the true motive of EPA which further lingers the process.

If countries had the opportunity to negotiate individually, it would have been faster and resources could have been saved. Since negotiations are at the regional level, it involves wider and elongated process as preparations at the national level first need to be aggregated at the regional level through another round of negotiations with attendant pressure to make sure that each country's interests and concerns are reflected in the final outcome, so in result, creating the need for further resources, pressure, time, and the space for suspicion.

For example, from the EPA National Secretariat, the process involves identifying a thematic issue, study it and relate it to what EU is proposing, pull out the divergences and convergences, call for all stakeholder inputs (having informed them of the divergent and convergent views through debates informed by different interests and pressure), taking a national position to sustain the national economy and national interest. Experts then examine these issues within the context of overall development strategy and send to ECOWAS Commission where Nigeria also mounts pressure to ensure its interest is reflected in the final outcome. Hence, on the average, it takes up to 7 meetings.

However, the EPA would continue to be negotiated at the regional level to promote regional integration as individual countries negotiations will generate unequal distribution of benefits across countries of the region.

Also, the pace of negotiations is affected because of the non-existence of basic initial conditions such as lack of harmonisation of national policies at the regional level, given the unique feature of West Africa as an amalgamation of Anglophone and Francophone countries and Cape Verde with different colonial masters and political inclinations. During the EPA negotiations, around

three processes were going on simultaneously, process of reaching within-region consensus, process of West Africa-EU EPA negotiations itself, and harmonisation of policies to ensure the smooth take off of EPA. The first and the last are coordinated by the ECOWAS Commission but the Nigerian negotiators believe that ECOWAS lack the capacity to engage in all of these activities, in particular, with few professional staff in the Department of Trade (about two or three) while others are non-permanent staff that work on contract basis and sometimes funded by the EU.

One main objective of the EPA is to promote sustainable development. It remains an instrument of development but some of the prerequisites of the Cotonou agreement, for instance article 37 paragraph 3, which talked about capacity building before the conclusion of the negotiations, were not met. Capacity building in the private sector to make sure that supply side constraints can be removed is not forthcoming yet. Therefore, EPA could be an instrument of development but could also be a disaster for Nigeria. If it is negotiated properly by appropriate manoeuvring, or calibration, for example by protecting sensitive products that are critical drivers of domestic growth, EPA will at the end allow progress and development to be made. But if those critical areas are exposed to undue competition by too rapid liberalisation, development would be undermined as factories close down, workers become jobless and poverty deepens. But if through EPA, they are protected and EPA resources are additionally used to revitalise weak firms through infrastructure and management support, development will likely follow such an approach. The selection of sensitive products at the national level should go a long way in achieving such protection. However aggregation is ongoing at the regional level and at the end of which, some products selected by Nigeria may be compromised to reach regional consensus.

Market access, development and the rule regarding dispute settlement aspects have been particularly difficult to negotiate. The nature, institutional framework, evaluation, and compensation mechanisms etc. have not been defined. Specifically, the main divergences are:

- The exclusion of the UEMOA Community Solidarity Levy (CSL) and of ECOWAS Community Levy (CL) from the tariff liberalisation process (WA position). The WA region and the EU are searching for a constructive solution to ensure the regional organisations' revenues continues; with joint legal analysis to be carried out.
- The possibility for WA region to review the liberalisation timetable initially agreed in the framework of the supporting measures for the development of agricultural and industrial policies (WA position). The text of the article is nearly agreed; however, when it comes to this decision the role of the EPA Joint Council in this decision is yet to be agreed.
- The definition of customs duties in the EPA; a joint text has been agreed.
- The elimination of WA export taxes (EC position); a joint text has been agreed.
- The period for the implementation within WA of the free practice regime in order to facilitate the free movement of goods (EC Position); a joint text has been agreed.
- The MFN clause which would oblige WA region to automatically grant to the EC all future benefits offered to third countries, including some emerging countries considered as major commercial partners, (EC position); The senior officials in Dakar had a general debate on senior officials level, on the basis of chief negotiators discussions, opening a way to a more structured debate by experts.
- The elimination of all export subsidies and substantial and speedy reduction of internal support which are likely to create distortions in terms of trade in the WA region (WA position); discussions ongoing (particularly the impact of these subsidies in trade with WA).

- The simultaneous application of anti-dumping and compensatory measures on the same products especially when one of the measures is not sufficient to repair the damage caused (WA position); A joint text on trade defence instruments has been agreed.
- The elimination of the need for clearing agents and pre-boarding inspection (EC position); the parties have agreed to respect the WTO Agreement on pre-shipment inspections. The Parties recognise the desirability of moving towards the elimination of all requirements relating to pre-shipment or destination inspections and will tackle this question in the special committee on customs and trade facilitation. This is not an issue anymore.
- The mutual obligation to prevent exports of prohibited products (due to standard and safety reasons) to the other party's territory, except when the relevant authorities of the importing party otherwise allows (WA position); the text on SPS – TBT has already been agreed between the parties.
- Application of the principle of asymmetry in the rules conferring originating status and the possibility to cumulate with all developing countries (WA position); this is an area of disagreement. However, substantial progress was made in Rules of Origin in the last negotiating session in Dakar.
- The inclusion of a non-execution clause that introduces a link between the issues related to trade and political dialogue (EC position); this is an area where there is yet an agreement.
- The treatment for investment and competition which for WA should be limited to provision on cooperation with the view to reinforce capacities in the region (WA position); the chief negotiators decided in June 2009 to adopt a two-phase approach to the negotiations. These should be carried out as follows: an intensive phase of negotiation with a view to reaching agreement by October 2009 on a regional EPA covering trade in goods, EPA-related development cooperation and certain trade-related issues; a phase initiated no later than January 2010 with a view to broaden the negotiations in order to cover the remaining topics which will complete the regional EPA. The Chief negotiators also recognised the importance of trade-related rules in the regional integration context, as an instrument for the modernisation of the business environment, for improving economic governance, and for attracting investment capital. Investment and competition will then be considered in the second stage.
- Taking into account infrastructures in the EPA framework for the development of RIP 10th EDF (WA position); Infrastructure is one of the five main axes of the EPA Development Program, and that is what the EC is using as its basis to support the EPA.

While it may seem sensible for services negotiation and the Singapore issues to remain at the multilateral level so that it would be easier to negotiate and look forward to a “goods only” agreement rather than group together certain issues like competition, intellectual property, services, which make negotiations complex, it may be right to simultaneously negotiate all EPA issues from the development and not a trade perspective. The enthusiasm for EPA as a viable development instrument that has anti-poverty and human focus is a situation whereby economic liberalisation could fast track development. This is particularly in relation to what countries in the West African region can do for themselves to benefit and cut off the dependency syndrome by replacing aid with trade. The stronger and more economically independent countries there are in the region the more benefits for all the countries in the region. Therefore, a more holistic negotiating agenda such as currently structured is more development-friendly than ‘goods only’ EPA. Nonetheless, it will naturally take more time to complete negotiations the more issues there are to negotiate. There is adequate technical advisory capacity on all the issues in Nigeria, e.g. technical advisory committee on services, on WTO, etc., but it is the lack of political will to appropriately use this capacity that is problematic. Nigeria in turn, has the ability to drive ECOWAS to reduce the time constraint.

Resource constraints have impacted on this negotiation element through the inability to conduct required studies. For example, SPS, how many ministry people know about this? And how many laboratories does Nigeria have? Since this creates an inadequate negotiating environment, SPS is difficult for Nigeria. From this stance it is preferred to negotiate these outside the EPA.

In intangible benefits, EPA is shaping the regional integration process in West Africa by bringing to the forefront for the countries in the region the reality of integration. Since creation of ECOWAS in 1975, none of the protocols signed has been fully implemented. EPA has provoked enquiries about West African regional institutions and the political exigencies of two regional institutions, ECOWAS and UEMOA, coexisting; whether a custom union in the whole of West Africa is possible with these two, and why there is no free movement in the real sense of goods, services and people in the region.

In terms of capacity building, EPA has also created interest from people in international trade or trade economics, international relations, who are trying to build up their own capacities in different areas of trade. Another significant vague benefit of EPA is the involvement of NGOs, many of which have emerged with interest and objectives in poverty reduction using the trade channel, and mainstreaming women and gender issues in trade. At the regional level, it has tasked the ECOWAS Commission to take up the serious challenge of ownership of the process. This was done by the rejection of the EU's initial plan to send consultants and economists to ECOWAS Commission to help in the technical analysis for the process, where the interest of whom they serve would be suspicious. The EPA has facilitated the awareness and use of regional and national experts which prior to the process was lacking, in particular because of scepticism regarding external consultants as the outcomes of their studies became questionable.

The big four, Nigeria, Ghana, Cote d'Ivoire and Senegal, discussed their interests and aligned themselves together. For instance, there was a meeting Nigeria did not attend and Cote d'Ivoire knew the position of Nigeria and on its behalf, Cote d'Ivoire insisted on that position. However, in some instances, the smaller countries' negotiators could take the issues personally. **Therefore, the elusive benefits of negotiating EPA** include provoking practical discussion about West African regional integration, as well as deep reflection and assessment of the impediments to regional trade. This reflection triggered suspicion that had not been identified in the existing cooperation between the EU and West Africa, and as a result the genuineness of the good intentions of the EU is now being painstakingly scrutinised, including the EU funding of developmental projects. The pressure to sign an agreement to conclude is another negative factor arising from EPA. The pressure to put on board all the issues including those initially rejected at the multilateral level in disregard to the recommendation of UK parliamentary committee on international trade. Despite these, there were viewpoints in Nigeria which believed in the ability of the EPA to deliver positive results, perhaps indirectly. These viewpoints supported that any concessions that Nigeria grants to countries such as China, India and Brazil in future trade agreements should be accorded to the EU without further negotiations. The main reasons for this stance is because the EU is a strategic and traditional trading partner and the long years of trade relationship has created an environment of mutual trusts absent in more recent trade partnerships.

Additional resources required to conclude EPA include resources to conduct more studies and dissemination meetings/workshops. The relevance of this phase is ensure that people understand the implication of EPA for their livelihoods and to create awareness in people to

understand the changing environments that in the era of globalisation business techniques differ from as usual. It is also needed to build the capacity of negotiators to upgrade their negotiation skills through training in negotiation skills and trade policy, to rejuvenate the institutions that will implement the EPA such as the Federal Ministry of Commerce, other regulatory institutions, NAFDAC, Standard Organization of Nigeria (SON), quarantine service, and trade facilitators like customs.

Elements necessary to conclude the EPA process is the Goods Agreement after which such issues as intellectual property, services and other issues can be negotiated. As non-problematic as this may seem, going by ECOWAS Ministers' conditionality for signing the EPA at their meeting in Abuja on 15 May 2009 that "no EPA development fund commitment at acceptable threshold, no signing of EPA", and that "market access must be linked to development", concluding EPA may not be so soon if a compromise is not reached on these issues. The second conditionality is perhaps related to EU's interpretation of GATT Article 24 as 80%- or 20% exclusion of sensitive products, while West Africa has insisted on 60-40% or at worst 70%-30%. West Africa insists that the definition of the translation of GATT article 24 is self serving, i.e. defining in a way to suit one's own interest. Therefore, when the development fund is discussed more concretely in terms of magnitude, availability and access, West African countries will sign the EPA. Also, the ECOWAS CET, market access offer and Rules of Origin negotiations need to be completed quickly.

Non-state actors' especially civil society organisations have influenced the negotiations in several ways. One was to ensure that stakeholders' interests are created to discuss the EPA. Second was to make the focus of negotiations of the EPA more development-oriented. Third, the civil society organisations, though few in number, have strategized with government, ensuring that stakeholders are carried along in the process and that the procedure for the negotiation is a bottom-up approach.

The fact that most of the process in the country has been supported by the EU has impacted negatively on the negotiations. The ECOWAS Commission, that could have financed the negotiations but were not in a position to pay their community levies as they were underfunded (similarly to most member countries) due to poverty or not attaching sufficient importance to regional integration. Nonetheless, even if community levy was available, its ability to sufficiently control the financial challenges posed by the EPA is in doubt. Another school of thought, however perceives that financial support of the EU for the EPA negotiations is not completely wrong as such support is self-interest seeking. Furthermore, the EU wanted these negotiations more seriously than West Africa and should be able to support the process.

It has also affected the process negatively because of the issue of ownership. When experts from the academics who are indifferent to the source of funding are involved, the EU or a member country that provides funding becomes uncomfortable with the fact of the inconsistency of paying for a study which turns out to predict negative or unfavourable results. To reiterate, even the top level of the ECOWAS Commission feels awkward to own studies that were not paid for by the Commission.

Loss of preferences from Cotonou and impact on the incentives to sign EPA. EPA is itself a preferential arrangement that was supposed to replace Cotonou on 31 December 2007. The pressure to have a replacement which is reciprocal should have come from the private sector that benefit from the preferences. However, as this was not the case it suggests that the proportion of the private sector that lost the preferences is small. As a result, the loss of

preferences from Cotonou should have increased the pressure from the private sector to sign the EPA. This has not happened and it is the EC that is mounting that pressure.

Interim EPA by Ghana and Cote d'Ivoire affected Nigeria's EPA strategy because Nigeria remained the only developing country in West Africa that has not initialised an interim EPA and appeared as a divide-and-rule tactic from the EC side. Both countries wanted to maintain existing preferences in EU market, especially for Cote d'Ivoire's banana export to the EU. This situation initially confused the EPA negotiating team in terms of the way forward. The fact that Nigeria had applied for GSP+ to the EU in November 2007 for the developing countries and was not even acknowledged by the EU, sent a message that the EU was not interested in the integration of West Africa. Essentially, this was because the EU also invited Nigeria to Brussels to unveil a package for Nigeria.¹¹¹ These efforts at breaking the ranks of the ECOWAS negotiations through individual country interactions fuelled suspicions about the real intent of the EPA. The ensuing confusion in Nigeria led it to change its EPA strategy to work on these two countries through the ECOWAS and UEMOA Commissions at a meeting in Accra. At this meeting Nigeria impressed on them the need for strong regional integration as well as convening a meeting of the MMC in Mauritania which eventually led to the resolution that West Africa would only pursue a development-friendly EPA. It was also agreed that despite initialling an interim EPA by these two countries, whatever was signed would lapse once the West Africa EPA is signed.

EPA Development Fund

Two related events make the EPA Development programme imperative. Firstly, the subsisting legal position that makes EPA an objective of creating sustainable development. Secondly, West African sub region's decision to pursue a development-friendly EPA. It was agreed at a joint ACP Ministers conference in Bonn, Germany (convened by German Minister of Economy in Petersburg), the EPA development fund would be created. It was repeated in discussions in Brussels during the ACP Council of Ministers meeting. However it has become a political instrument as the EC currently insists it never promised to provide such fund, but has said that West Africa was entitled to create one. And that it is EDF 10 that will be made available. The EU promised to support WTO Aid for Trade with two billion Euros but the same two billion is being identified as part of the EPA process. Impact assessment of EPA has revealed how much losses will arise from implementing EPA for West Africa, the adjustment cost and the revenue loss. An analysis of the EU EPA text shows the creation of institutions upon EPA implementation, jointly owned institutions that will meet regularly and which will likely cost about six billion Euros to execute. This has negative implication for availability of funds for building the capacity of the private sector to increase their supply capacity. Therefore if EPA will be signed, the regional development fund needs to be created and supported on a long-term basis by the EU.

Future of regional integration in West Africa. Whether the region signs EPA or not, ECOWAS will remain very relevant. If EPA is signed, ECOWAS will take up the responsibilities of implementation, evaluation and monitoring. If otherwise, ECOWAS has the responsibility of protecting member states' interests in relation to their trade relationship with the EU as EU remains a major trading partner. It will also continue to foster ECOWAS cooperation to achieve its vision of becoming ECOWAS of people in 2020.

¹¹¹ The Nigeria team includes the Permanent Secretary, Ministry of Commerce, two Directors each from National Planning Commission and Ministry of Finance, one representative each from NATS and MAN

7. Summary of Findings and Main Lessons from the Negotiation Process

In spite of the general knowledge of the substantial costs involved in trade and investment negotiations, only developed countries appear to have learned to prepare due to their long years of experience as they can easily predict the systematic economic gains from such agreements. The developing and least developing countries of West Africa generally lack this experience, and this made their participation in the EPA negotiations initially ineffective and lacking clear strategy. While later on in the negotiations responses have been mostly reactive, leading to a slow, tasking, and suspicious negotiation process featuring ambivalent country positions. Though the Economic Partnership Agreement (EPA) under negotiation between the ACP countries and the European Union was scheduled to have been signed on 31 December 2007 and to come into force on 1 January 2008, many dates fixed after the initial date have also been missed. Ghana and Cote D'Ivoire were persuaded to initialise or sign an interim EPA. Insufficient negotiation resources, among other factors have played a critical role in the failure to reach an agreement. This Nigeria case study broadly assesses the process of negotiating the EPA in West Africa with a view to clarifying the nature and magnitude of influence of the role of resources, focusing in particular, on the resources used for EPA negotiations, negotiation capacities in Nigeria, main constraints during the negotiating process and the resource costs of negotiating EPAs.

Negotiation Resources

Personnel

- The proportion of staff in the core international trade sections such as WTO and Intra-Africa sections that are involved in trade negotiations is clearly inadequate in view of the huge human capacity requirement that trade negotiations demand. There is also the issue of more personnel in the WTO unit than the unit negotiating the EPA.
- The EPA negotiating team features two significant committees, the Ministerial Advisory Committee and the Technical Committee on EPA that the other teams do not have. The ENFP is an EPA sub-committee which ought to perform the functions of the Ministerial Advisory Committee and the Technical Committee on EPA, however the ENFP hardly ever convenes meetings. Indeed, it is because the ENFP can be regarded as moribund that the advisory and technical committees were created to fill the advisory and technical vacuum.
- Unfortunately, with the amount of preparations required to negotiate the EPA, there are only 3.3% of the staff of the Department of Trade are in the Intra-Africa section which negotiates the EPA.
- However, despite the inadequacy of staff at the Ministry, the EPA negotiating structure appears to be the most visible and active. This is because the perception of the generality of the stakeholders about the potential impact of the EPA on Nigeria's industrialisation, government revenue and the consequent trade relations between Nigeria, the European Union and Nigeria's other trading partners is negative.
- Stakeholders' vigilance to the various issues being negotiated under the EPA and the advisory and technical arms embedded in the EPA negotiating structure are also important factors.
- The EPA team also had access to better external funding support for technical analysis and meetings, although these arrived very late and negatively impacted the effective use of recommendations.
- Results of studies are also made available to external funders who were on the opposing side in the negotiations, revealing negotiating strategies before they are tabled.
- The EPA Technical Committee is composed of mostly civil servants and business membership organisations (BMOs), though academicians carry out studies needed for

negotiation positions. The civil servants discuss the negotiation issues and ensure necessary updates of the different Ministry's top echelon used for later discussions at the Federal Executive Council Meetings. The BMOs ensure that the interests of their members are considered in any decision and insist on technical studies to highlight unclear negotiation issues.

- The Ministry's Department of Trade has 211 members of staff on its nominal roll and the EPA negotiating team has eight, six of whom have basic degrees in social sciences and business administration and two who have additional degree in law and one a higher degree in political science. None have an economics degree. Therefore, a more qualified staff is required to be involved in the negotiation of the EPA either through new employment or through temporary redistribution of existing staff with training from the Trade Promotion and WTO sections.
- The average salary range of the members of staff of the Intra-Africa unit is between grade levels 7 and 13. The EPA team does not have an external adviser on the EPA negotiations, while it has just four external national consultants who get paid for conducting EPA-related studies through donor funds.
- The Ministry requires a huge budget for negotiations in terms of capacity building, workshops, carrying out negotiations related studies, travels for actual negotiations and staying over in Brussels, Geneva or any of the West African countries that EPA negotiation meeting is taking place, but it does not normally have a budget for EPA negotiations. The only year that a N200 million budget was provided for EPA negotiation was in 2008 when the negotiations gathered momentum but only N3 million (\$20,000), representing 1.5% of allocation was realised.
- There are about three capacity-building programmes per officer per year, in the WTO unit, and most of the capacity building programmes related to this unit are mounted and sponsored by the WTO while only a few ones are sponsored by the Ministry, representing about 14.3% per year.
- In the Intra-Africa unit, there are about 0.933 capacity building programmes attended per officer per year, and in a unit of eight staff, this translates to about eight aid and capacity programme in all per year for the Intra-Africa unit with sponsorship split equally between the ECOWAS and the Ministry representing a share of 43.8% each while WTO and EU sponsorship account for 6.3% each.
- Training applies mostly to the Ministry officials and in few cases to the technical support team, perhaps because they are perceived as experts in their own right.

Costs

- The number and cost of EPA negotiation related meetings attended by government officials with the EC are those that involve travelling to Brussels to confer with the EC. These are four in number and are quite few because the negotiations are designed to be undertaken at the level of the ECOWAS Commission while Nigeria only attends as an observer.
- The ECOWAS Commission is mostly responsible for the passages of the negotiators including the Nigerian participants.
- The total cost of attending EPA-related meetings by the Ministry Officials spent so far during the period of negotiations between 2006 and 2009 is \$56,420.8.
- The negotiators incentives for participating in the negotiations consist of the per diem paid and the allowances that government pays for travelling usually referred to as daily travel allowance (DTA). This allowance is not paid for EPA meetings since the ECOWAS Commission will pay per diem rates to the officers.
- The cost calculated is the explicit costs that did not take account of the time that members of staff spend travelling and the lost hours of work undone at the office during travel. The

opportunity cost could be quite substantial particularly when it comes to EPA meetings in the region which are on some occasions conducted almost on a monthly basis.

- Between 2005 and 2009, a total of \$231,015.62 has been spent on Nigerian officials and experts attending negotiations within the region, covering payment for meetings, workshops, travel and allowances which are paid for by the ECOWAS Commission, the EC, UK Department for International Development (DfID) and Nigeria's Ministry of Commerce and Industry.

Counterfactual Cost

- The costs involved in negotiating other trade agreements are ridiculously low when compared to the cost of the EPA negotiations because the latter is a reciprocal trade agreement between two unequal partners with the disadvantaged partner requiring understanding of the implications of that free trade on its own socio-economic and political structures.
- While EPA is costlier in the aggregate because of the discussions in the several negotiation areas, it appears cheaper when individual processes that are similar are quantified.
- It costs \$2.4 million to maintain the Nigeria Trade Office in Geneva in 2009, an amount that is several multiples of the amount that has been spent on the EPA negotiations so far. This differential is a reflection of Nigeria's better commitment to the WTO and its belief that the WTO will offer more trade gains than the EPA, due to its many aspects of special and differential treatment (SDT) and capacity building as part of the Doha Development Agenda support.

Role of ECOWAS Commission

- The role of the ECOWAS Commission during the negotiations has revolved around helping Nigeria participate in the negotiations especially outside Abuja. ECOWAS partly funds trips to Brussels, and sometimes Nigeria's national consultants' negotiations meeting attendance.
- ECOWAS Commission also provides the necessary guidelines and methodology for the process towards reaching regional and EPA agreements e.g. adoption of the 5th band of the CET and related issues, sensitive products, and West Africa market access offer, among others.
- The ECOWAS Commission wanted Nigeria to show leadership in the process by interrogating how the EPA will impinge on its development interests and by accommodating small and vulnerable economies' interests in the negotiations.

Stakeholders Perspectives

From stakeholders' perspectives on EPA negotiations

Negotiation Resources

- Inadequate negotiating resources in Nigeria slowed down EPA consultation as impact assessment studies are not done or delayed, skills of negotiators are not upgraded, and only a few people attended negotiation meetings.
- Arrival of external funds from DfID helped prepare studies of sensitive products list, Rules of Origin and common external tariffs (CET) as well as funding of meeting of the Technical Committee.
- Because many meetings needed to reach a national consensus on each thematic issue internally, by bringing stakeholders together to agree and for Nigeria this involved pulling

people from all parts of the country this was the aspect that required the input of voluminous resources.

- If there were more resources, the outcome of EPA would have been different as it would have helped provide a clearer visibility and understanding of issues to properly navigate the negotiations. In the absence of these, the pressure to sign mounts and suspicion is created around the true motive of EPA which further lingers the process.
- Though the current negotiating structure appears deceptively costly, it is cost effective to negotiate at the regional level as it is being done.
- If countries had the opportunity to negotiate individually, it would have been faster to reach an agreement and some resources may have been saved. However, the EPA should continue to be negotiated at the regional level to promote regional integration as individual countries negotiations will generate unequal distribution of benefits across countries of the region.
- The pace of negotiations is also affected because of the non-existence of basic initial conditions such as harmonisation of national policies at the regional level. During the EPA negotiations, about three things are being done simultaneously, process of reaching within-region consensus, process of West Africa-EU EPA negotiations itself, and harmonisation of policies to ensure the smooth implementation of EPA.

Additional resources required to conclude EPA include resources to:

- Conduct more studies and dissemination meetings/workshops to highlight livelihoods implications of EPA, the necessity of adopting different business techniques in changing environments;
- Build the capacity of negotiators to upgrade their negotiation skills through training in negotiation skills and trade policy.
- Rejuvenate and establish institutions that will implement the EPA such as the Federal Ministry of Commerce, other regulatory institutions, NAFDAC, Standard Organization of Nigeria (SON), quarantine service, and trade facilitators like customs.

Elements necessary to conclude the EPA process are:

- The Goods Agreement with EPA development fund commitment at acceptable threshold.
- When development fund is discussed more concretely in terms of magnitude, availability and access.
- The ECOWAS CET, market access offer and Rules of Origin negotiations need to be completed quickly.

EPA as Instrument of Development

- **Though EPA** remains an instrument for **promoting sustainable development**, some of its pre-requisites as enunciated in the Cotonou agreement (article 37 paragraph 3), on capacity building before the conclusion of the negotiations, are not met. For example, capacity building to remove private sector supply constraints; to ensure effective negotiations to protect sensitive products that are critical drivers of domestic growth; and to use EPA resources to revitalise weak firms through infrastructure and management support.
- The selection of sensitive products at the national level should go a long way in achieving such protection but aggregation at the regional level may compromise the extent.
- **Market access and development, and rules regarding dispute settlement aspects have been particularly difficult to negotiate.** Agreements are being reached in many of these areas.

- There is adequate technical advisory capacity on all the issues in Nigeria, e.g. technical advisory committee on services, on WTO, among others, but there is lack of political will to appropriately use this capacity and upgrade it.

EPA Development Programme

- Since EPA is legally targeted at creating sustainable development and since West African sub-regions has decided to pursue a development-friendly EPA, the EPA Development programme becomes imperative for EPA to be signed. Therefore, the regional development fund needs to be created and supported on a long term basis by the EU.
- The issues of how countries will cope during EPA implementation are not being adequately addressed and is also affecting the pace, as there has not been any serious commitment from the ECOWAS commission or the EU to give funding assistance for the first one to five years,
- Though the region has estimated and requested for \$9.25 billion to cushion the effect of implementation of EPA, the EU has so far been evasive on the issue, insisting that member countries do not legally commit themselves to long term aid but will encourage them to contribute to a development programme.
- Nigeria expects the EPA Development Programme (EPADP) to make infrastructure, capacity building and industrial upgrading as priority. Nigeria is presently prioritising its submission of €11 billion to arrive at a figure that will accommodate other ECOWAS countries.

There are intangible benefits of EPA which include:

- **Positively reshaping regional integration process** in West Africa showing reality of integration; through provoking enquiries about:
 - West African regional institutions and the political exigencies of two regional institutions coexisting;
 - The possibility of customs union with two institutions; and
 - Why there is no free movement in the real sense of goods and service and people in the region.
- Building capacity of a lot of people whose interests in international trade or trade economics, international relations are being created, some through own efforts in different areas of trade.
- The involvement of NGOs, some of which have emerged with interest and objectives in poverty reduction using the trade channel, and mainstreaming women and gender issues in trade.
- The ECOWAS Commission is tasked to take up the serious challenge of ownership of the process.
- Facilitation of the awareness and use of regional and national experts.
- Nigeria, Ghana, Cote d'Ivoire and Senegal are involved in discussions to strengthen regional integration.

Non-state actors especially civil society organisations have influenced the negotiations by:

- Ensuring that stakeholders' interests are raised to discuss the EPA.
- Making the focus of negotiations of the EPA more development-oriented.
- Strategising with government, ensuring that stakeholders are carried along in the process and that the procedure for the negotiation is a bottom up approach.

Loss of preferences from Cotonou is relatively small such that the incentive to sign EPA is not high.

- **Initialising interim EPA by Ghana and Cote d'Ivoire affected Nigeria's EPA strategy** initially but Nigeria and other countries seem to have survived that shock of breaking the ranks of ECOWAS negotiations by the EC.

The main lessons that emerge from the negotiation process are provided by the stakeholders' perspectives. One, it has taught West Africa in general and Nigeria in particular to brace up to realities of tough trade negotiation. Two, the African continent, not only the constituent regions, should be prepared to embrace change in this era of globalisation and interdependence because soon, there will likely be an Africa-wide negotiation that would be more demanding. Thus, the African continent should work towards African regional integration. Three, ECOWAS countries have to get more serious in negotiations, making effective preparations towards negotiations; the need to have an adequate stock of trained manpower to negotiate, to do the required background studies for negotiations, to understand the negotiation process, and to mount appropriate and effective advocacy campaigns to carry citizens along, an element which is currently lacking, so that they can differentiate between genuine and false justification for taking a particular decision in the trade agreement. This justifies the requirement to enlighten people via regional workshops, sensitisation and so on. Finally, in negotiations, initial negotiation issues that seem cast in stone will be ultimately decided with each party making reasonable compromise. Thus, while initial apprehensions about the effect of EPA on infant industry, government revenue loss, potential import dependence on EU, replacement of domestic production, and neo-colonisation remain, stakeholders are beginning to soften their position once impact analysis are being done, protection of sensitive sectors is promised, and the issue of EPADP is still on the table for discussion. However, it is this particular that will determine when the EPA is finally concluded.

5. Appendices

Appendix Table 1 Range of Monthly Salary Scale Range of Federal Workers (2007)

Salary Range of Civil Servants (Naira per month)			
Grade Level	Step 1	Step15	Average
01	11132	14531.67	12831.84
02	11312.83	15757.83	13535.33
03	11467.25	16930.75	14199
04	12011.92	18575.58	15293.75
05	13610.75	21236.08	17423.42
06	16595.42	25890.25	21242.84
07	27556.75	41821.58	34689.17
08	35610.17	52588.67	44099.42
09	41830	62044.83	51937.42
10	49103	71332.67	60217.84
11	Does not exist	Does not exist	Does not exist
12	56639.09	81268.25 ¹¹²	68953.67
13	63214.92	89253.25	76234.09
14	69821.25	97253.25	83537.25
15	96054	127814 ¹¹³	111934
16	118823.6	156993.6	137908.6
17	145150.7	189273.3	167212

¹¹² Last step is Step 11.

¹¹³ Last step is step 9

Appendix Table 2 List of Persons Consulted

S/N	Names	Designation
1	Mr Adejuwon	Acting Director, Department of Trade, Department of Trade, Federal Ministry of Commerce and Industry
2	Sunday Oghayei	Assistant Chief Commercial Officer, Intra- Africa Unit, Department of Trade, Federal Ministry of Commerce and Industry
3	Prof Mike Kwanashie	Chairman, Advisory Committee on EPA
4	Prof. E.Olawale Ogunkola	National Consultant, EPA, Trade Policy Research and Training Programme, Department of Economics, University of Ibadan.
5	Mr. Rasheed Adegbenro	Director, Corporate Affairs, Manufacturers Association of Nigeria
6	Dr Gbenga Obideyi	Acting Director, Trade, ECOWAS Commission
7	Mr Olanrewaju Opanubi	Project Officer, National Planning Commission
8	Mrs Opeyemi Abebe, Esq.	Assistant Manager, AGOA, Nigeria Export Promotion Council
9	Mr Ken Ukaoha, Esq.	President, National Association of Nigerian Traders

EPA Review Study
Dominican Republic

December, 2009

1. Background to the EPA's

With the Cotonou Agreement signed in June 2000, the parties involved (European Union (EU) and the African, Caribbean and Pacific Group (ACP)) agreed to review the previous ACP-EU trade regime. This was with the intention to create a new trade scheme which, while being compatible with WTO rules, could promote growth, sustainable development and alleviate poverty; while supporting the ACP countries' integration in the world economy.

The revised agreement took the form of EPAs (Economic Partnership Agreement). The main objective of these new economic and trade cooperation agreements was to "foster the smooth and gradual integration of the ACP States into the world economy, taking due regard for their political choices and development priorities so as to enable "the ACP States to play a full part in international trade."¹¹⁴

The CARIFORUM EPA was signed on 15 October 2008, between the European Commission (EC) and each CARIFORUM state¹¹⁵ establishing a free trade area between CARIFORUM countries and the EU. The signed agreement covered not only trade in (agricultural and industrial) goods, but also services and other trade-related areas. These areas included competition, investment, protection of intellectual property rights, standardisation and certification, sanitary and phytosanitary (SPS) measures, trade and environment, trade and labour standards, consumer policy regulation and consumer health protection, food security and public procurement.¹¹⁶

The Cotonou Agreement sets forth the negotiation of EPAs that enable the achievement of economic and trade cooperation objectives (one of the agreement's main drivers). The negotiation scheduled started in 2004, it was initialled in December 2007 and signed in October 2008. Until 1 January 2009, the ACP member states enjoyed unilateral preferential access to the European markets. .

Formal negotiations for the implementation of the Agreement however were initiated in September 2002 with the first phase lasting until September 2003. During this phase, common interests were raised and research was carried out to identify support measures and capacities strengthening actions. Final conclusions indicated the need to split the negotiations into regional groups, and it was agreed that Caribbean countries that make up the CARIFORUM would negotiate *en masse* with the EU.

On 16 April 2004, a meeting was held in Jamaica to launch the negotiation process. At this meeting, an agreement was achieved as to the outline design of the structure of the negotiations; as well as the schedules for their different phases. It was also agreed to structure the negotiation process in three levels:

- a. Ministerial Level
- b. Main Negotiator Level:

¹¹⁴ Articles 34 (1) and 34 (2) of the Cotonou Agreement.

¹¹⁵ With the exception of Haiti. Guyana signed one week after.

¹¹⁶ Articles 45-54 of the Cotonou Agreement.

c. Technical Level

At a regional level, a Regional Preparation Group was set up with the intention of facilitating and making trade and development cooperation negotiations compatible. This group was made up of representatives from the CARIFORUM and the EU. The group's structure is based on the provisions of the Cotonou Agreement; thus, taking into consideration the complementary relationships of economic and trade cooperation with the appropriate strategies and financing for development.

Finally a negotiation schedule was established in four phases:

- 1) **Phase one:** April to September 2004. During this phase, the main interests for the CARIFORUM and the EU within the framework of the negotiations were established.
- 2) **Phase two:** September 2004 to September 2005. Its main objective was the convergence and creation of a strategic approach to the regional integration of the CARIFORUM countries.
- 3) **Phase three:** September 2005 to December 2006. During this stage discussions were consolidated and common areas strengthened in the final draft of the EPA.
- 4) **Phase four:** 2007 - Concentration on the consolidation of results.

In order to achieve a successful negotiation, an organisation of the CARIFORUM negotiating mechanism was necessary. This would allow a consolidation of interests among all the Caribbean nations and the Dominican Republic (DR) facing the EU.

This organisation was necessary not only because of the trade related topics but also to achieve a significant administrative coordination among the countries. That responsibility was given to the Caribbean Regional Negotiating Machinery (CRNM) and to the College of EPA negotiators. This College of Negotiators was composed of main negotiators and alternate negotiators by theme and discipline. This College was headed by the main negotiator, Dr. Richard Bernal, who was supervised by Ministers of Trade and Head's of State of the CARIFORUM nations. In addition, a technical consultant was available for the negotiations.

The EPA negotiations were divided by theme in four main tables:

- 1) Market Access of Goods
- 2) Services and Investments
- 3) Trade Related Issues
- 4) Legal and Institutional Issues

Figure 1 Structure of Negotiating groups



All the working groups or negotiating tables were managed by a lead negotiator and by alternate negotiators. The CARIFORUM College Negotiators formed the negotiation team for each table. A Dominican national was selected to head the Services and Investment table. Although there was a political understanding at ministerial level, to allocate three seats to nationals of the Dominican Republic, the allocation of personnel at the College was conducted on a merit bases, and had to comply with the approval of the Ministers of Trade of the region. DR Ambassador to Brussels, Federico Cuello, who served previously as the DR Ambassador to Geneva at the WTO, with ample experience in services negotiations and in the services sector, became both CRNM candidate and DR's choice to lead in this field. The other two members of the team were incorporated later at the Market Access Group as alternate negotiators. Mr. Roberto Despradel, an independent consultant, who had participated in the DR-CAFTA (Central American and the United State) and the FTAA negotiations, was proposed as the alternate negotiator for market access for industrial goods. Mr. Luis Ramon Rodriguez, at the time vice-minister of agriculture in the DR, was placed as alternate negotiator in the field of agriculture. In the other two groups, Trade and Related Issues as well as Legal and Institutional Issues, the DR did not have a national representative. However, the nature of the process, both in structuring a regional position prior the rounds as well as during the actual negotiating sessions, made it easy for the DR to follow closely the course and the outcome of every particular issue.

It is important to clarify that the Board of Negotiators or the Colleague as it was known, only followed the mandate given by the countries, which was articulated in three phases:

- 1) From heads of Government of CARIFORUM– giving the political mandates in key sensitive areas.

- 2) From the ministers of trade of CARIFORUM – giving the broad positions and setting up strategic issues.
- 3) From senior officials of CARIFORUM– responsible for crafting specific mandates – regarding both the text of the agreement and the offers in goods, services and investments. These senior officials participated actively at the working sessions prior the rounds of negotiations, known as Technical Working Groups (TWG).

Prior to each CARIFORUM meeting, countries conducted internal consultations in order to present their own positions at caucus. This process of harmonising a regional position was a tiresome one and demanded a lot more time than the actual negotiations with the EU, which in most aspects were flexible in their negotiating positions. The DR prior to each meeting conducted internal consultations both between the different public offices and with the economic operators. On some occasions, mostly in regards to sensitive issues, CARICOM as a sub-group would consult internationally before meeting with the DR to coordinate a regional CARIFORUM position. In these instances the coordinator of those meetings was the secretary of CARICOM, not the CRNM.

A large amount of efforts and resources were required to simply coordinate the approaches and negotiating position among CARIFORUM members. This involved whole sequences of meetings at various levels. The Technical Working Group (TWG) served to harmonise positions within CARICOM and DR to present a CARIFORUM position to the EU.

On most occasions preceding the Technical Negotiation Group (TNG) between CARIFORUM and the EU, a Technical Working Group (TWG) meeting was held to coordinate each of the groups. Countries delegates usually travelled five days in advance of each TNG, in order to coordinate and harmonise CARIFORUM position. In other instances the TWG were held much in advance, giving the appropriate time for additional consultation between TNGs. The CRNM usually covered the cost of one country representative for each TWG. This included both travelling expenses and per-diem.

Although the DR or any other CARIFORUM country was not directly responsible for conducting the TNG, the process encouraged the participation of public officials for every CARIFORUM country. As for the DR, these meetings were open for the participation of the private sector (civil society) which was accredited as part of the official delegation. Although it was an open process, in these negotiations there was not a direct participation in the negotiating rounds of DR's NGOs or Trade Unions. Traditionally, these civil society stakeholders do not participate actively in trade negotiations.

During Stages 3 and 4 previously presented, some 15 rounds of negotiations (TNG) took place. Also in addition, numbers increased as there were meetings at the ministerial level, between CARIFORUM and the EU.

The rounds location was alternated between Brussels and different Caribbean countries; including the Dominican Republic. The negotiation rounds (TNG) lasted around one week, and the preparations (TWG) about three additional days. In addition, within the DR, a large amount of effort was put into the preparation for the agenda items and to understand its implications as well as the different points of view coming from the CARIFORUM countries.

Due to the lack of an earlier infrastructure to coordinate trade negotiations between CARICOM countries and the DR, at the beginning of the process there was a steep learning curve. In this part of the process the CRNM played an important role to reduce the friction that this new process generated to both parties, CARICOM and the DR.

The following sections concentrate on the process of the EPA negotiations during the last two years, 2006 and 2007, emphasising on the resources utilised, the structure established by the DR to follow these negotiations, concluding with an assessment of the outcome from a DR perspective.

2. Importance of the Caribbean Regional Negotiating Machinery (CRNM) in the outcome of the negotiations

Despite the fact that the DR had worked with CARICOM through the CRNM in coordinating positions, both at the WTO forum as well as in the FTAA,¹¹⁷ these processes did not match the amount of interaction required under the EPA negotiations. The DR did not have any precedence in articulating a “regional” position, as required by the EU, both at the beginning of the negotiations, but most importantly during the course of elaborating a “single regional” market access offer in goods.

From this perspective, the CRNM played a key role in channelling the DR concerns and positions to other CARIFORUM member states. The professionalism of the CRNM staff and its leadership, the transparency and commitment to obtain the best possible negotiation for the region, played a key role in the outcome of the CARIFORUM-EU EPA.

One important responsibility for CRNM was logistics, where the CRNM coordinated the meetings, facilitating venues, and financing delegates from every country, in particular to the Technical Working Groups. The second element was its expertise. Although the College was responsible for the actual negotiations, and they were appointed by the Council of Trade Ministers, the CRNM professional staff, and consultants, served as the back bone for assisting the College in articulating the different regional positions. The CRNM played the secretary role in regards to the EPA, both technically and logistically.

Another important element was the transparency of the process, documents were circulated with time prior regional discussions and the outcome of these meetings, as well as the results of the actual negotiations with the EU, were reported in a swift manner to all CARIFORUM states. In addition, the actual negotiating session were open to the countries officials that wanted to participate, not in a room “next door”, but in the row behind the College team.

These elements fostered trust among Dominican officials, who at the beginning of the process were apprehensive in negotiating the EPA indirectly through a College of Negotiators.

¹¹⁷ FTAA: Free Trade Area of the Americas

The fact that the DR had previously negotiated an important trade agreement with the United States, which included all the market opening topics covered by the EPA, gave it also a certain degree of tolerance to a regional approach, particularly taking into account that for many issues, such as services, investments, government procurement, and fiscal concerns regarding market opening in goods, the CARIFORUM overall position tended to be more conservative than the DR's.

The CRNM played a key function in every step of the negotiations. During the initial stages by creating the foundation and awareness, and the middle by supplying technical expertise to assist in drafting regional positions, offers and counteroffer, and the end by maintaining the momentum and articulating technical responses to political concerns at the different levels within CARIFORUM.

Despite its instrumental role in all the stages the CRNM was dismantled and transformed as the Office the Trade Negotiations (OTN) of the secretary of CARICOM after culminating the EPA negotiations. The CARICOM is an institution that has been a sceptical critic of both the process and the outcome of the negotiations.

Since the beginning the CRNM was established as a technical arm of CARICOM to coordinate trade negotiation on a regional base. In this endeavour the DR was invited to participate. Its leadership shadowed in some aspects the CARICOM secretariat ambit on regional negotiations. Therefore, on an institutional base, there existed overlapping of responsibilities, which generated rivalries.

The CRNM however worked very closely with the main trade ministers of CARICOM (and CARIFORUM) and it had direct access to head of states in the region. During the EPA negotiations, Ambassador Richard Bernal served as chief negotiator. Prior to this, he gained regional recognition during the FTAA negotiations, particularly in the quest to defend the notion of differential treatment for small and vulnerable economies. Although the CRNM did not have a legal chapter, its well founded structure, gave direct access to senior officials and head of states of CARICOM/CARIFORUM countries without having to channel it through the CARICOM secretariat.

CRNM funds were allocated through direct international donors, CARICOM secretariat (U.E funds), and by direct contributions of member states.

At the end of the negotiating process of the EPA, there were two distinct groups of countries in CARIFORUM, those that wanted to meet the deadline of 31 December 2007 achieving a full EPA, and those that wanted to wait, gain time, and possibly more flexibility by the EU, coordinating this approach with the other ACP negotiating regions. At the end, the countries that pushed for a full EPA got their way, however not without the resentment of some CARICOM member states. This regional disagreement at the end played a key role in the transformation of the CRNM to the OTN. In retrospect the political trade-off to maintain CARICOM regional cohesion, was to forfeit the CRNM. This was to offset the discontentment of some member states that wanted to approach the end of the negotiation on an ACP level. The indirect outcome of this was the strengthening of the CARICOM secretariat on its role regarding trade negotiations.

The CARICOM countries did want to maintain the CRNM, but at the end it became a negotiating chip for balancing CARICOM trade interest. Aside from the institutional aspect of conducting trade negotiations, the signing of the EPA CARICOM fostered a

more conservative approach for trade negotiations. During this process the DR did not participate in the internal debates due to the fact that the CRNM was considered a CARICOM and not a CARIFORUM institution.

3. The Dominican Republic Trade Negotiation Processes

a. Dominican Republic Negotiating Background

For the DR the previous negotiating processes played an important part in shaping the structure of the EPA negotiations at a national as well as at a regional level. In the period of over two years that the EPA negotiators met, the DR participated vigorously, both with public officials and with private sector representatives.

In order to understand the participative nature of Dominican institutions (both public and private) in the EPA process, it is important to contextualise the experiences of the past. The DR, as an island, during the 1980s and the beginning of the 1990s played a passive role in trade negotiations. With the culmination of the Uruguay Round, and the thrive of globalisation; the DR recognised late in the game that it did not thoroughly follow the market access commitments of the Round. Therefore after its conclusion, it was probably one of the few countries in the world that after signing at Marrakech began a process of renegotiation its market access commitments, in particularly with regards to seven sensitive agricultural products.¹¹⁸ This process in the DR was known as the “technical rectification” of the Uruguay Round, as was a very much publicised, with political connotations, denouncing that the agricultural sector of the country was not properly defended in the negotiations. The technical minister of the President, in charge of the Uruguay Round, was later removed from his post in part due to the outrage.

After this incident, both public officials and organised private businesses followed a closer track to the trade negotiations. Although more than 15 years have passed, the ghost of the “technical rectification” is still present in the mind of many Dominican negotiators and agricultural sector officials.

This incident produced changes in the structure and organisation of the Dominican negotiating team and the way it interacts with the civil society, in particular with private business organisations.

b. Organisation of the Dominican Republic negotiating Structure

In the DR the National Commission of Trade Negotiations (CNNC) has primary responsibility for developing and coordinating trade policy. It was established under the Presidential Decree No 74-99, as an interagency trade policy mechanism for trade negotiation and implementation.

The CNNC is headed, and coordinated, by the Secretary of the Foreign Affairs (SEREX). It is composed of different Government (GODR) agencies and offices, responsible for developing and coordinating negotiations on international trade and trade related issues.

These Institutions are primarily:

¹¹⁸ Milk, sugar, onion, garlic, beans, poultry, and rice.

- State Secretariat of Foreign Relations (SEREX)
- State Secretariat of Industry and Commerce (SEIC)
- State Secretariat of Agriculture (SEA)
- State Secretariat of Treasury (SEH)
- Export and Investment Centre (CEI-RD)
- Central Bank
- National Free Zone Council (CNZFE)
- Custom Administration (DGA)
- State Secretariat of Labour
- State Secretariat of Environment
- State Secretariat of Economy and Planning

The CNNC management team is currently conformed of an ambassador who is in charge of trade negotiations for all regional and bilateral forums, as well as for following the WTO. The Ambassador for Trade Negotiations has lead responsibility for conducting international trade negotiations. A technical team of approximately seven experts from SEREX serves as different forum coordinators, but there are not experts in negotiating disciplines. The SEREX staff assigned to the CNNC work as a support division that provide essential administrative services and coordinate agendas among the different forums. The CNNC staff worked in all trade negations, multilateral, bilateral or regional, however for each venue it has a coordinator. Due to the complexities of bilateral or regional trade negotiations historically, the DR has conducted one trade negotiation at a time, although there has been some overlapping in the past. For each negotiation a coordinator is appointed. They were chosen for their background and expertise. As for each of the specialised topics in the negotiations, they are the responsibilities of the trade specialist in each of the DR institutions. As for the multilateral negotiations the DR maintains a specialised team in Geneva, which receives instructions through the CNNC and the Ministry of Foreign Affairs.

The Ambassador of the CNNC coordinates with each principal negotiator in every negotiation. The technical negotiating team consists of different individuals of the GODR institutions, who are experts in their field. These officers participate in the negotiations at different forums: WTO, EPA and other trade negotiations. Negotiators of each of the GODR institutions actually undertake the negotiations for all forums under the overall coordination of SEREX, through both the undersecretary of economic issues and the ambassador in charge of coordinating trade negotiations.

During the EPA negotiation an average of 14 negotiators for different GODR agencies established the DR negotiation team for CARIFORUM-EU negotiations. Internal consulting groups were created in the following areas: market access, services and investment, trade related issues and legal issues. They consulted with civil society (primarily the business sector) on constant bases.

For the DR-CAFTA negotiation, a special office was created. The special office for DR-CAFTA negotiations was established under the Secretary of Industry and Commerce. This was the first instance that trade negotiations were conducted by a special office, instead of CNNC. This had an institutional and procedural rationale, although the human (personal) factor also played a role.

As the Central American countries started negotiations with the United States, the DR realised that its exporters (primarily in the garment sector) would be in comparative disadvantage compared to its Central American counterparts if under the CAFTA they obtained an incremental market access as was agreed under the Caribbean Basin Initiative. After a series of analysis the DR decided, that it could not afford being excluded from trade negotiations with the United States. The rationale was purely defensive, due to the Central America position.

In this context the DR approached the US to convey its interest to participate in the negotiations, however they received a negative response, indicating that the country was not ready for such commitment. As a reaction the DR signalled in different ways to the USA its seriousness to participate in such endeavour. One of the joint tasks taken by both countries was the re-enactment of the DR-US Trade and Investment Council (TIC), created in 1990 as a vehicle to resolve pending issues and to enhance cooperation in trade and investment. For the GODR the responsibility of the TIC was given to the Ministry of Trade and Commerce. Nine meetings took place between the two countries, where a series of issues were raised and pending issues resolved. After an intense political lobby complemented by advances at the TIC level, the US announced the inclusion of the DR in the CAFTA negotiation, under the scope of a “docking” mechanism.

Therefore it was rational decision due to the time limit and scope of the negotiations, to keep the process under the command of the Minister of Trade and Commerce.

Seven negotiation groups were created in the following areas: market access, services and investment, government procurement, dispute settlement, intellectual properties right, agriculture and trade capacity building. These groups reported to the Secretary of Industry and Trade and the participation of SEREX negotiators was very limited. However, as in other instances, all negotiation groups were formed with technical experts of the GODR institutions that compose the CNNC.

Table 1 Distribution of the Main Trade Negotiators among DR Institutions and Skill Levels - DR-CAFTA negotiations

	Number of Negotiators		
	Principal Ministry		
DR-CAFTA	State Secretary of Industry and Trade (SEIC)	Others Ministry	Level Of Skills
Lead Negotiator			
Minister	1		Masters Degree
Under Secretary- Team Leader	2		Masters Degree
Legal Advisor	1		Masters Degree
Market Access			
Team Leader	1		Masters Degree
Technicians		5	Masters Degree
Agriculture			
Team Leader	1	1	PHD
Technicians		5	Masters Degree
Services and Investments			
Team Leader		2	Masters Degree
Technicians		2	Masters Degree
Financial Services			
Team Leader		1	PHD
Technicians		2	Masters Degree
Government Procurement			
Team Leader		1	Masters Degree
Technicians	1	1	Masters Degree
Intellectual Property Rights			
Team Leader		1	Masters Degree
Technicians		2	Masters Degree
Legal and Institutional Issues			
Team Leader	1		Masters Degree
Technicians	1		Masters Degree
Labour			
Team Leader		1	Masters Degree
Technicians		1	Masters Degree
Environment			
Team Leader		1	PHD
Technicians		1	Masters Degree
Telecommunication			
Team Leader		1	Masters Degree
Technicians		1	Masters Degree

Source: Author's own elaboration

Table 2 Average Monthly Salaries

<u>DR-CAFTA NEGOTIATIONS</u>	Average Staff Number	Salary Range US\$ (monthly)	Level of Skills
Minister	2	5000-8000	Masters Degree
Team Leaders	11	3000-4000	PHD-Masters Degree
Technicians	23	1500-2500	Masters Degree

Source: Author's own elaboration

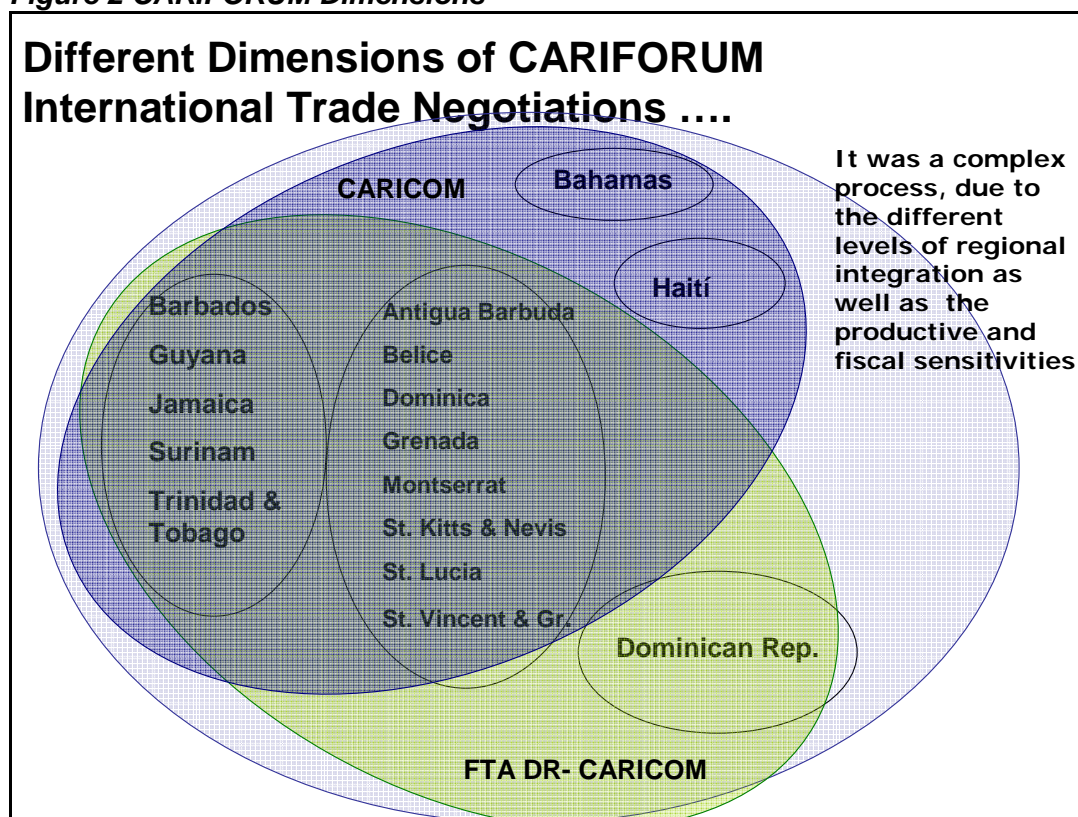
c. First steps towards Bilateral and Regional Trade Negotiations

With the signature of NAFTA and later the creation of the WTO, the DR realised that it was in its best interest to initiate a process of commercial integration with its close neighbours, who had similar levels of economic development and economic size. The process of globalisation that started in the middle of the 1990s coincided with the generational shift in the political leadership of the country. From 1986 to 1996 the President of the DR, Joaquín Balaguer, focused his attention to the domestic and internal matters of the country. At over 80 years old President Balaguer had limited mobility, so his participation in the presidential regional meeting that took place under the leadership of the United States was minimal. From 1996 to 2000, President Leonel Fernández, who was half the age of President Balaguer when he took office, was an internationalist. He was very aware of the thrust and importance of globalisation. Under his leadership a new policy of commercial engagement with DR neighbours took place. President Fernández also appointed key officers in the Ministry of Foreign Affairs that were able to put a vision into action.

At that point the two closest regions were targeted: the Caribbean Common Market and the Central American Common Market. These first steps would help it prepare the country to take on bigger challenges in the future, particularly with regards to the impending Initiative of the Americas, by the United States, and the Free Trade Area of the Americas (FTAA).

In 1997, the DR initiated its first trade negotiations with the Caribbean Common Market (CARICOM), and a few months later with the countries of the Central American Common Market. In 1998, the FTA with Central American was concluded, as well as the FTA with CARICOM. At the beginning of the year 2000 both agreements were implemented. During the process of the negotiations, the Dominican authorities had the opportunity to test the new structure for conducting trade negotiations, strengthening its interaction with civil society. In both cases the Dominican private sector participated in the negotiating round in the “room next door”, and coordinated its position in advance. On some instances a private representative was allowed to be inside the negotiating room.

Figure 2 CARIFORUM Dimensions



In 1997, by presidential decree the Commission of Trade negotiations was established, presided by the Ministry of Foreign Affairs, and agreed to by more than eight different ministries and official institutions, including the Ministry of Industry and Commerce and the Technical Minister to the President,¹¹⁹ the Ministry of Finance, the Export Agency, the Central Bank, the Ministry of Agriculture. The Commission was presided by the minister and at the technical level, by the vice-minister or a high ranking official. This set up the foundation for initiating negotiations with Central America and the CARICOM.

In addition, the business sector was also organised under the umbrella of the CENI,¹²⁰ with representation of the mayor chambers of industry and commerce of the country.

At the beginning of the millennium the DR had two trade agreements, and participated strongly with FTAA¹²¹ negotiations.

During this period, the public and private sector developed thorough knowledge of both scope and implications of trade negotiations. Until this point, the resources allocated (both public and private) to conduct and follow the negotiating process were basically from

¹¹⁹ Currently the Ministry of Economy and Planning.

¹²⁰ Comision Empresarial para las Negociaciones Internacionales (CENI).

¹²¹ Free Trade Area of the Americas.

internal sources, with very limited role of donor funds (focalised consultants to address technical issues).¹²²

The Dominican negotiators were accumulating experience and working hand in hand with the civil society, particularly the better organised business sector.

In 2003 the DR sat down with the United States to become part of the FTA being negotiated between the Central American and the United States (CAFTA). This process of negotiations although short and intense, due to the breadth of the topics and depth of the commitments that were being negotiated. More than 70% of DR exports and more than 40% of imports were traded with the United States. In 2004 the DR-CAFTA agreement¹²³ was signed.

From the “technical rectification” at the WTO, to the FTA with Central America and the later FTA with CARICOM, from the endless discussions of the Free Trade Area of the Americas to the conclusion of the DR-CAFTA with the United States, the DR had previously covered a path prepared it completely for the challenges of a regional negotiations under the EPA with the EU.

One of the areas that demanded important internal structural transformation in the DR, particularly after signing the DR-CAFTA was the shift of fiscal revenue sources. They went from an external base, dependant on customs tariffs, to one that relied on internal taxation. In 1993, when the Uruguay round was signed, 37% of government revenues was collected at customs, in 2004, the figure was reduced to 27%. However in 2006, after implementing the DR-CAFTA, the figure was dramatically reduced in a short period of time, to less than 8%. This remarkable shift in the nature of GODR revenues from tariffs revenues towards consumption and income taxes demanded three important tax reforms, which consumed a lot of political time and will and intensive consultation with the business community, which demanded a tax system to help improve the competitiveness of the productive sector. Consumption taxes were raised for tobacco, alcohol and petroleum products, income tax was increased from 25% to 30%,¹²⁴ the value added tax was increased from 12% to 16% and its base was amplified. In addition a 1% tax on the asset of corporations was established and a fee was instituted for all banking transactions. To achieve this dramatic change in government revenue structure demanded much time and effort from public officials, as well as negotiations with different stakeholders. All resources were internally generated; however it coincided in time with a stand by program by the International Monetary Fund.

Therefore under the EPA negotiations, although the fiscal issue was always present, it was not a major concern for Dominican negotiators. This allowed them to concentrate on the productive sensitivities as it related to market opening. The difference in fiscal dependencies in customs revenues among CARIFORUM countries was one of the most sensitive issues that had to be resolved internally among CARIFORUM and externally

¹²² This includes the DR-CAFTA negotiations that due to its importance mobilised an important segment of DR civil society (primarily the business sector), just in the last round, more than 80 representatives of the DR business sector participated in the “room next door”.

¹²³ DR Central America Free Trade Agreement with the United States.

¹²⁴ After a few years it was later reduced to 25%.

with the EU, in order to present a market access offer in goods that was compatible with WTO commitments.¹²⁵

The fiscal implications of the EPA although important to the DR, were much more important to the other CARIFORUM countries, particularly to Jamaica and the Organization of Eastern Caribbean States (OECS).

d. Overview of DR Negotiation Team in the EPA

i. Structuring of Work Under the EPA

The Dominican negotiating team was structured as follows:

- 1) Lead Negotiator
- 2) Market Access of Goods
- 3) Services and Investments
- 4) Trade Related Issues
- 5) Legal and Institutional Issues

Each group contained a lead negotiator and about three technicians to work on each specific area.

The lead negotiator of the Dominican Republic would report directly to the National Commission of Trade Negotiators (CNNC).

The National Commission of Trade Negotiators (CNNC) is an inter-institutional body responsible for negotiating trade agreements and formulating trade policies. The CNNC is led by the chancellor of the DR and acting vice-president of the CNNC is the State Secretariat of Industry and Commerce (SEIC).

The CNNC is formed by 15 GODR institutions and has a Coordination Office. A Civil Society Consultation Council (CCSC) form part of the CNNC to assure participation of the civil society in trade policies.

For EPA negotiations, the lead negotiator was the undersecretary of trade negotiations of the State Secretariat of Foreign Affairs. All team leaders of each negotiation area reported directly to the lead negotiator. The Chancellor of the Dominican Republic made all final decisions at ministerial level.

The DR team discusses with the CARICOM countries priorities issues and details (tariff lines, reduction, etc) during the TWG meeting to harmonise positions to be presented to the EU.

Preceding TWG the DR team made consultants with the private sector.

Internally the DR organisational structure for TWG negotiations partly mirrors that of EPA negotiations. There was a team leader for each negotiation areas in the EPA negotiation structure.

¹²⁵ Article XIV – pertaining to liberalising substantial all-trade among FTA partners

ii. Resources

Due to the structure of the CNNC, the resources allocated by the DR to the EPA negotiations were divided among the different ministries that participated in the process. This is understandable due to the fact that a specific topic in a trade negotiation could have the potential to affect a specific area of the government. Such is the case of trade liberalisation in goods, which impacts GODR fiscal resources and agriculture and manufacturing.

The following table presents the level of participation by each ministry, followed by monthly average salary:

Table 3 Distribution of the Main Trade Negotiators among DR institutions and skill levels- EPA negotiations

	Number of Negotiators		Level Of Skills
	Principal Ministry	Others Ministries	
EPA	State Secretary of Foreign Affairs (SEREX)		
Lead Negotiator			
Minister	1		Masters Degree
Under Secretary- Team Leader	1		Masters Degree
Advisors	1		Masters Degree
Market Access			
Team Leader		1	Masters Degree
Technicians	1	3	Masters Degree
Agriculture			
Team Leader		1	PHD
Technicians		2	Masters Degree
Services and Investments			
Team Leader		1	Masters Degree
Technicians		2	Masters Degree
Trade Related Issues			
Team Leader		1	PHD
Technicians		4	Masters Degree
Legal and Institutional Issues			
Team Leader		1	Masters Degree
Technicians	1	4	Masters Degree

Source: Author's own elaboration

Table 4 Average Monthly Salaries

<u>EPA NEGOTIATIONS</u>	Average Staff Number	Salary Range US\$(monthly)	Level of Skills
Minister	2	5000-8000	Masters Degree
Team Leaders	7	4000-5000	Masters Degree
Technicians	17	2000-3500	Masters Degree

Source: Author's own elaboration

iii. Comparative analysis with other Trade Negotiating Process in the Dominican Republic

Although the DR-CAFTA and the EPA followed very different processes they share the same bases regarding the demand in resources and coordination of efforts by the GODR and civil society.

Under the DR-CAFTA the DR had limited involvement in crafting the agreement, as it became involved in the negotiations after the agreement was closed between the US and the five Central American countries. Therefore the DR accepted the CAFTA template and concentrated the negotiations in the annexes of the agreement. This includes key areas such as trade liberalisation, rules of origin, services, investment, intellectual property and government procurement. This represented the “docking” mechanism previously agreed by the two countries.

In contrast with the EPA, neither EU nor CARIFORUM had a preconceived template on the agreement, having rather a foundation on the Cotonou and a mutual vision to incorporate development dimension in trade liberalisation. The translation of this vision into an actual text and with its trade commitments was a big challenge. In this process the CRNM took an important role, the participation of CARIFORUM member states, and the positive engagement of the EC negotiators.

As for the Dominican Republic, having concluded a comprehensive trade negotiation with its major trading partner, gave it a more flexible stand on different negotiating issues in the EPA process.

As for the resources utilised, there is an interesting contrast between the DR-CAFTA and the EPA. During the DR-CAFTA time was the primary factor, therefore for a period of a year all negotiating resources were allocated to this process. The crafting of the DR annexes to the CAFTA was a tiresome and demanding task which demanded a lot of interaction with the civil society. As a result, between each of the three negotiating rounds of the DR-CAFTA much time and effort was allocated in the public and the private sector. After the third and final round, a process of six months followed that demanded equal amount of time and resources in order to harmonise the agreed commitments between the DR and the Central American Countries, and to conduct the legal scrub of the agreement.

In contrast the negotiation of the EPA was less intense, with a period three times as long as the DR-CAFTA, and with a learning curve well climbed by DR negotiators. However the real challenge for the DR was coordinating a regional position among CARIFORUM countries. In retrospect, 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 larger in the EPA than in the DR-CAFTA. However, the actual time invested to prepare for the negotiations was much more demanding under the DR-CAFTA than under the EPA. This is based on two aspects, firstly the DR-CAFTA was the first comprehensive FTA conducted by the DR with an industrialised economy and secondly EPA template as it was being developed, it was less embracing in its commitments as the DR-CAFTA.

4. Quantifications of cost incurred during EPA trade negotiations.

a. Parameters

In order to estimate the costs incurred during the last two years of the EPA negotiations the following parameters were used:

- A level of effort was determined, (numbers of days allocated by the negotiator in preparation of the meeting, the travelling time, and the actual meeting itself). For every negotiating meeting (TWG or TNG), we estimated five days of internal preparation in the DR.
- For simplicity, we differentiated two types of negotiators; type A, with a daily rate of US\$170, make up of vice minister and ministers, and type B, grouping senior official and officials, with a daily rate of US\$90.
- Per diem, for type A was estimated at US\$500 and for type B US\$350. This is the parameter followed by some of the ministries and it coincided with the per diem allocated by the UN, also used in other ministries.
- For travel expenses (airfare), between the DR and the Caribbean, the rate of US\$700 for type B was estimated and for travels between DR and Brussels, US\$1,100, for type B, in the Caribbean US\$1,000 and between DR-Brussels US\$1,400.
- Travel days are computed in the daily rates, they are assumed as one day for travel for every meeting.
- For per diem during the travel days are calculated at 50%
- These figures and derived from the interviews with public officials (see table of interviews at the annex)
- In order to reconstruct the numbers of meeting, the CRNM Calendar was used. (see annex).
- The number of official participants by the DR was calculated by using actual accreditation forms, as well as by estimates followed by the responses at the interviews.

b. Estimates of DR Participants

According to CRNM Calendar of events, between 2006 and 2007, there were at least 28 meetings at the TWG level, lasting a total of 59 working days. In these meetings it was that estimated a participation of 81 DR negotiators. This number includes repeats therefore does not represent unique individuals.

There were at least 19 meetings at the level of TNG's (at different dates, including different negotiating groups), accumulating at total of 65 working days. In these meeting, 118 DR negotiators participated.

In addition there were eight meetings at the principal negotiator level, six at the Intra-CARIFORUM ministerial level, four at the Ministerial with the EU, and two at the Head of State level.

Table 5 Negotiating Meetings and Regional Coordination 2006

		2006	2007	Total
Technical Working Group -TWG				
	No. of Meetings	12	16	28
	Total Working Days	28	31	59
	Negotiators	37	44	81
Technical Negotiating Group -TNG				
	No. of Meetings	8	11	19
	Total Working Days	28	37	65
	Negotiators	41	77	118
PRINCIPAL NEGOTIATORS		3	5	8
	Negotiator -Level B	12	15	27
	Principals - Level A	4	9	13
MINISTERIAL CARIFORUM-EU		2	2	4
	Negotiator -Level B	4	4	8
	Principals - Level A	2	3	5
MINISTERIAL CARIFORUM		2	4	6
	Negotiator -Level B	4	9	13
	Principals - Level A	2	6	8
HEAD OF STATES		0	2	2
	Negotiator -Level B	0	6	6
	Principals - Level A	0	4	4

Source: Author's own elaboration

It is fair to say that the Dominican delegation had on average a much larger delegation than any other CARIFORUM country, which by most part delegated its representation to one or two officials, mostly financed by the CRNM. The official public representation of the DR as well as its numerous private sector delegates, contrasted with the delegation of other CARIFORUM countries.

c. Estimated Cost of the EPA Negotiation

Under the above parameters, total cost of the negotiations, on a conservative side, for the DR, for years 2006 and 2007 totalled **US\$1.02** million. The break down for these estimates corresponds to:

- An estimated US\$443,600 for the level of effort (working days) allocated by Dominican trade officials only in the process for preparing and participating the different EPA negotiations meetings.
- An estimated US\$314,000 for Per-Diems allocated to DR trade officials in overseas trips.
- An estimated US\$214,000 in airfares
- An estimated US\$50,000 for organising one of the negotiating rounds in Santo Domingo during 2006.

The above figures represent estimates which followed a set of criteria, derived from official documentations, interviews, and personal appreciation.

Table 6 Costs Estimates For EPA Negotiations 2006-2007

Description	2006	2007	Total
Type B Negotiator			
Level of Effort			
A - Total Working Days in Field	282	403	685
B- Working Days in DR (3 for 1)	1410	2,015	3,425
C- Travel Days (person per one day)	98	155	253
Total Working Days for EPA (A+B+C)	1,790	2,573	4,363
Daily Rate (US\$)	90	90	90
Total Level of Effort	161,100	231,570	392,670
Per Diem Rate (US\$)	350	350	350
A- Total of Days in the Field	282	403	685
B- Travel Days (50%)	49	78	127
Total Per Diem Rate	115,850	168,175	284,025
Air Fair			
Caribbean (US\$700)	36,400	84,000	120,400
Europe (US\$1,100)	27,000	38,500	65,500
Total Air Fair	63,400	122,500	185,900
Total Type B	340,350	522,245	862,595
Type A			
Level of Effort			
A - Total Working Days in Field	13.00	32	45
B- Working Days in DR (3 for 1)	65	160	225
C- Travel Days (person per one day)	8	22	30
Total Working Days for EPA (A+B+C)	86	214	300
Daily Rate (US\$)	170.	170	170
Total Level of Effort	14,620		51,000

		36,380	
Per Diem Rate (US\$)	500	500	500
A- Total of Days in the Field	13.00	32	45
B- Travel Days (50%)	4	11	15
Total Per Diem Rate	8,500.00	21,500	30,000
Air Fair			
Caribbean (US\$1,000)	1,000	19,000	20,000
Europe (US\$1,400)	4,200	4,200	8,400
Total Air Fair	5,200	23,200	28,400
Sub-total type A	28,320	81,080	109,400
TOTAL (A+B)	368,670	603,325	971,995
Estimated Cost of Negotiating Round in Santo Domingo	50,000		50,000
Total Estimated Cost	418,670	603,325	1,021,995

Source: Author's own elaboration

d. Private Sector Participation

If we compute that the active participation of civil society (primarily Dominican organised business sector), participated in an active way and interacted at different levels, played an important role in the outcome to the EPA, it would be appropriate to compute that cost to the overall cost by the DR in this process.

If we take as an estimate that civil society (business sector) equalled to around 50% of the manpower allocated by DR officials, under the parameters, total cost by the private sector that actively participated in the negotiations rounds (as representative of organised business institutions), amounted to **US\$499,000**.

Table 7 Costs Estimates Private Sector Participation

	2006	2007	Total
Level of Effort (50% of Public Officials)			
A - Total Working Days in Field	147.50	217.50	365.0
B- Working Days in DR (3 for 1)	442.5	652.5	1,095
C- Travel Days (person per one day)	53	88.5	141.5
Total Working Days for EPA (A+B+C)	643.00	958.50	1,601.5
Daily Rate (US\$) at US\$150	150.00	150.00	150
Total Level of Effort	96,450.00	143,775.00	240,225.00
Per Diem Rate (US\$)	350	350	350
A- Total of Days in the Field	147.50	217.50	365.0
B- Travel Days (50%)	26.5	44.25	70.75
Total Per Diem Rate	60,900.00	91,612.50	152,512.50
Air Fair			
Caribbean (US\$700)	18,700.00	51,500.00	70,200.00
Europe (US\$1,100)	15,600.00	21,350.00	36,950.00
Total Air Fair	34,300.00	72,850.00	107,150.00
Total Private Sector	191,650.00	308,237.50	499,887.50

Source: Author's own elaboration

Overall, EPA estimated costs for years 2006 and 2007, are **US\$1.5 million**. It is important to point out that for mostly all meetings the CRNM financed the cost of one participant, including per diems and airfare. These funds were obtained through different international grants. However due to the fact that we used conservative numbers when establishing DR participants in the meeting, is very likely that the figures cancelled each other out.

In addition to that it might be appropriate to add the DR budgetary contribution to the CRNM, which account to US\$250,000 per year. After adding the two years, the estimated costs, it adds up to **US\$2 million**.

The resources to support EPA negotiation came from the DR internal budget. Each ministry was in charge of allocating its own resources to cover the expenses of the trade negotiators.

5. Perspectives of EPA negotiations

a. How resources constraints have impacted the Negotiations

From the DR side, it is difficult to conclude that constraints in resources impacted negatively in the outcome of the negotiations. From one side, there is overall satisfaction with the results of the EPA negotiations. There was also an important presence of DR delegates in the different TWG's and TNG's from public officials and civil society (economic operators). In addition, resources allocated through the CRNM allowed the financing of one official delegate to practically all coordinating meetings from each of the CAIFORUM countries, including the DR.

The EPA negotiating process coincided with a time of economic growth in the DR, therefore allowing for a greater flexibility in allocating resources, particularly in the participation in meetings for both coordination and negotiation.

It is fair to say, that prior and during the beginning of the negotiations, there were limited resources allocated in conducting impact studies in order to maximise the results in the negotiations.

b. The EPA, compared with other negotiation processes

The EPA was a unique experience for the DR. It was the first time that it had to coordinate regional positions, with a group of countries that speak four different languages and with different points of view towards the negotiation. In addition it was also the first time, and likely the last, that delegated the right to negotiate a Free Trade Agreement to a third party, in this case the Colleague of Negotiators (CN). This handicap was compensated by the transparency of the process, which gave it legitimacy. In addition, the professionalism of the CRNM earned the trust of the DR.

The development dimension and the flexibilities built into the agreement, allowed for DR sensitive sectors to be tolerant of both the process and the results. In addition the market access gained to the EU, gave hope to other sectors to increase its exports.

On a regional note, the EPA demanded a lot of interaction with the CARIFORUM countries, giving a broader understanding on the sensitivities of different sectors in the different countries.

The EPA therefore, in some instances, was more of a diplomatic process than an actual trade negotiating process. Although it included a trade dimension, it encompassed relations within CARIFORUM and the future allocation of resources by the EU in order to maximise the implementation of the agreement.

In addition, due to the previous experience in negotiating free trade agreements the DR had an institutional structure in place that coordinated with the different ministries involved and with the different stakeholders, primarily from the business sector.

Finally, because of the changes that had to be made after negotiating the DR-CAFTA, both institutionally (creating and polishing different offices involved in international trade), as well as budgetary, there was little change required in order to implement the EPA agreement. Moreover, due to the three year moratorium in trade liberalisation, there

was been little impact on revenue resources because of the EPA implementation. This contrasts with the important fiscal reform and institutional changes required after negotiation the DR-CAFTA in 2005.

c. Interview results

Interviews were conducted in three levels: public official, private business leaders, and independent consultants. Overall there is a very positive perception regarding the outcome of the negotiations.

The specific results of some of the responses are presented in different sections of this case study. The sections focus primarily on the administrative arrangements and resources allocated during the negotiations, as well as the challenges of the process that required negotiating on a regional level, through a regional body.

On the annex of this report is the list of persons interviewed, with the name of the institutions that they represent.

6. Analysis of cost and benefits from EPAs

a. Primary Results

From a defensive point of view, the EPA with the commitments to exclude key sensitive production from trade liberalisation, and achieving a long phase off schedules, ranging from 15 to 25 years, represented an important asset for the DR. The EPA represented a new presence in a trade agreement. This assisted in socialising the results with civil society, primarily to the business sector, both in agricultural and industrial sub-sectors.

From an offensive perspective, DR exporters obtained duty free quota free access to the EU market on immediate bases, with some exceptions for rice and sugar. Furthermore, it improved market access in apparel, due to the flexibilities in the rules of origin. For the DR, apparel exports have been historically important. Also, they gained access for exporting sugar, this was important as the DR was excluded from the former Sugar Protocol since becoming a member in the Lome Convention.

With regards to goods, the DR achieved a very satisfying balance, obtaining access to the EU market, while protecting domestic sensitivities. In services it also obtained additional market access.

As a complement, the EPA with its “regional preference” clause has the potential of strengthening regional integration among CARIFORUM countries in areas of goods and services.

After signature of the EPA in October 2008, ratification by the Dominican Congress was done at record pace. Both chambers ratified the agreement in less than a week, promulgated by the President days after. The whole process took two weeks. The different chambers of businesses, including the CONEP requested to congressional leaders the prompt ratification of the EPA agreement.¹²⁶ This broad support at the

¹²⁶ <http://www.elnuevodiario.com.do/app/article.aspx?id=125387>

business and political levels represents is the best example of the wide ranging support of the results of the negotiations.

b. The Cost of a NO-EPA Scenario

Although the DR was aware of the potential benefits of achieving an EPA agreement, it also understood the costs of a non-agreement.

On one side there was a lack of sensitivities towards market opening due to the changes that took place after the negotiation of the DR-CAFTA. On the other side there was the pressure to reach an agreement so as to impact the exporting sector of the country.

Although prior the starting the negotiations only about 10% of Dominican exports were directed to the EU, it represented significant levels for specific subsectors. For some sectors, such as the banana and rum producers, the EU market was the primary market of exports.

During 2005, DR exports to EU totalled 472 million Euros, basically all received preferential treatment (0 rated duty) under Cotonou. However, 42% these exports enjoyed preferential access due to Cotonou, and were not covered under the GSP scheme. Because of this there was an important contingency for DR exporters, particularly to banana, cigars, rum, textiles, footwear, cocoa and vegetables producers, if an agreement was not reached before 31 December 2007, when the WTO waiver concluded. This contingency affected 198 million Euros of exports. This was also a big incentive in achieving a desirable agreement by the end of 2007.

As the below table shows, the percentage of CARIFORUM not covered by GSP varied significantly from country to country, which presented different levels of local pressures to close a deal before the end of 2007. At the end of the negotiations solidarity among CARICOM members played an important part in reaching a comprehensive agreement. The progress made during these two years regarding other areas of the agreement (services, investment, trade related issues and legal and institutional framework), alongside the political will from key CARICOM members pushed the region to achieve a full EPA.

Table 8 GSPP Option - Implications to the Export Sector of the Countries

Country	% trade not free by GSP	not free by GSP in 1000 euro	total trade in 1000 euro	
Antigua, Barbados	3%	3,062	121,246	anchovies
Bahamas	4%	40,598	1,026,609	crawfish
Barbados	29%	25,431	87,679	sugar, rum
Belize	69%	78,715	113,939	bananas, sugar, shrimps, oranges, juices
Dominica	45%	9,560	21,177	bananas, cocoa butter, vegetables
Dominican Republic.	42%	198,480	472,028	bananas, cigars, rum, textiles, footwear, cocoa butter, vegetables
Grenada	11%	1,210	11,363	fish
Guyana	73%	123,035	169,526	sugar, rice, rum, palm hearts, shrimps, plywood
Jamaica	52%	387,374	751,461	aluminium oxide, sugar, rum, bananas
St Lucia	33%	19,245	57,993	bananas, vegetables
St Vincent	4%	10,850	262,820	bananas
St.Ch.&Nevis	75%	5,875	7,840	sugar, footwear, textiles
Surinam	46%	89,003	192,469	aluminium oxide, bananas, shrimps, rice, fish
Trinidad,Tob	17%	80,686	474,434	methanol, ammonia, sugar, urea
	28%	1,073,125	3,770,584	

Source: Eurostat 2005

c. Public Perception of the EPA negotiations

Despite having the scope of political and business support for the EPA the DR did not enjoy the same level of publicity and awareness as other agreements, for example the FTA with Central America and the DR-CAFTA with the United States.

The EPA, overall, did not experience much criticism. One critic has come from the dairy industry, which has publicly stated that it was expecting a 20-year phase out for milk, and it got 15 years instead. So far, the two biggest winners have been the banana and rum exporters which have seen their exports increase significantly. There is the

expectation of increases in exports for tropical agricultural products (vegetables and fruits), apparel and footwear.

7. Lessons learned

The EPA negotiations were atypical in many respects when compared to previous FTA negotiations conducted by the DR. Its regional scope and requirements to coordinate among 15 different CARIFORUM countries was a major hurdle to overcome, logistically as well as culturally. However the DR tolerance to making the commitment in market openings, in areas such as goods, services, investments, government procurement and intellectual property tended to be higher than the CARIFORUM regional position. This allowed for less friction at the time of incorporating a regional position for a country that did not have a tradition of engaging FTA's in a regional level.

From this stance, the institutional changes made by the DR in previous years, due to its market opening commitments in other FTA's allowed for more flexible positions when coordinating a regional CARIFORUM position.

This contrasted with other CARIFORUM countries which had reservations in many sensitive areas, such as revenue erosion (through import taxes), government procurement commitments, as well as opening its services sector.

With the EPA the creation of a single market access offer in goods was the major challenge. In this area the DR had the most concerns due to its diverse production in agricultural goods as well as manufacturing. At the end, in most cases, the sensitivities of the productive sectors were accommodated due to the initial parameters and modalities agreed at the beginning of the negotiations.¹²⁷

The negotiations of the EPA also targeted the area of regional integration. In many aspects this allowed the DR to better understand the CARIFORUM countries, its institutions and key players, increasing the capacity to better engage the region in future.

The EPA also assisted in the logistic process and operative organisation of the private sector and its engagement with public officials at the local level. The participation in the actual rounds helped increase the interaction with the official negotiator and to better understand the commitments in the agreement, inclusive prior the formal signature.

In addition, the EPA process assisted in increasing the interaction among the DR and other CARICOM private sector officials. As a successful example of this arrangement of the agreement to the region, the principal chamber of industry of the DR – *Asociación de Industrias de la República Dominicana* – was awarded EU funds through PROINVEST, to strengthen the institutional aspects of the association and regional integration. These funds were awarded in conjunction with CAIC – the Caribbean Association of Industry. This is the first joint project among these two important business associations of CARIFORUM.

¹²⁷ Long phase out periods, and the possibility to exclude sensitive products, as long as it this flexibility was compatible with article XXIV of GATT.

The EPA required joint efforts from the public sector officials to prepare and define the DR objectives for market opening under the EPA. The results of the treaty acknowledged the DR position regarding asymmetric commitments.

During the process of negotiations, it was evident that there was a necessity to increase the commercial capacity of the country in order to successfully apply its market opening commitments. Because the EPA was set to include a “development dimension”, which in most cases represent economic support for adequate implementation; this allowed the DR before they signed any agreement to recognise its need for effective utilisation of the EPA as a tool for economic growth. The attention for the allocation of resources has been focused in two areas: competitiveness and market penetration, regionally and in the EU.

The MFN clause included in the EPA for developed countries and countries with more than 1% of world exports, has placed CARIFORUM's EPA commitments as the most likely ceiling for future market opening agreements. This, particularly for the DR, has motivated an evaluation period regarding what should be the template to follow in future free trade agreements.

Finally, the institutional architecture of the EPA requires a lot of coordination within CARIFORUM in the process of implementation of the agreement. As a result of increased relations with CARICOM, during and after the signature of the EPA, the DR reiterated after the signature, its formal application to become a member of CARICOM. This new focus of the DR in regional issues of CARIFORUM will require more attention and allocation of resources by DR public official and local institutions.

The EPA, in general, is seen as a success story by the DR public opinion and has organised business and the public sector. As any agreement, the challenges remain in how to maximise the utilisation of the preferences to gain access into the EU market, minimising the negative impact on domestic market opening.

8. Annexes

ANNEX I

Interviews

Name		Institution
Mr. Juan Guillian	Under secretary of Trade Negotiations	Secretary of Foreign Relations
Ms. Sachenka Encarnación	Former DR-EPA Coordinator	
Mr. Rafael Núñez	Former EPA Negotiator	
Mr. Ivan Ogando	Director – BID Foreign Trade Program Former Coordinador of CRNM for EPA negotiations	
Mr. Luis Ramon Rodriguez	Former CARIFORUM Alternate Negotiator for Agriculture	Consultant
Ms. Ruth De los Santos	Current Sub-director of Secretary of the Treasury Former DR-EPA Negotiator for Market Access	Secretary of Treasury
Mr. Frank Castillo	Executive VP	CONEP – National Council of Private Enterprises

CRNM CALENDAR EVENTS - 2006
For EPA Items

RNM CALENDAR 2006

JANUARY

- 23-24: TWG on EPA Market Access (Goods and Agriculture), Port-of-Spain
- 25: Second Special Session of the Working Group on Services Negotiations, Port-of-Spain
- 25-27: TWG on EPA Service Negotiations, Port-of-Spain

FEBRUARY

- 01-03: TWG on Trade Related Issues in EPA Negotiations, Port-of-Spain
- 13am: RNM EPA planning session,
- 13pm: CARIFORUM coordination meeting, Brussels
- 14-17: CARIFORUM-EU Technical Negotiating Group meetings, Brussels
- 17: CARIFORUM-EU RPTF Meeting, Brussels

MARCH

- 09: Meeting of EPA-related group by the National Commission for Trade Negotiations, Santo Domingo
- 13-17: RNM Country Mission (market access preparations), Dominican Republic
- 21-24: EPA Technical Negotiating Sessions, Barbados
- 11am: CARIFORUM RPTF Core Group Meeting, Barbados
- 23pm: Joint CARIFORUM-EU RPTF Meeting, Barbados
- am: Special meeting of the Joint RPTF with international donors, Barbados
- 25: 2nd Meeting of EPA College of Negotiators, Barbados
- 27-28: CARIFORUM-EU Fifth EPA Principal Negotiators' Meeting, Barbados
- 29: DOM-OCT-ACP (CARIFORUM-EC Task Force on Trade and Investment), Barbados

APRIL

- 03-04: EPA TWG on Market Access, Barbados

- 05-06: WTO TWG on NAMA, Barbados
- 07-08: WTO TWG on Agriculture, Barbados

- 05: Special Meeting of Ministers and National Authorising Officers of the Caribbean Forum of ACP States, Santo Domingo
- 06: Meeting of Ministers and National Authorising Officers of CARIFORUM and the European Commission, Santo Domingo
- 07-08: Bi-lateral Meetings between CARIFORUM Member States and the European Commission

MAY

- 04-05: TWG on EPA Services and Investment, Trinidad
- 16-19: CARIFORUM-EU EPA Third Technical Negotiating Sessions, Brussels

JUNE

- 05-06: Third Technical Working Group Meeting on EPA Trade Related Issues (TRI), Jamaica
- 06-07: CARIFORUM Regional Technical Workshop on Programming, Port-of-Spain

JULY

- 13-14: Technical Working Group Meeting on Legal and Institutional Issues, Kingston
- 21-22: Technical Working Group Meeting on EPA Market Access, Kingston
- 25-28: CARIFORUM-EU Fourth Technical Negotiating Sessions, Kingston

SEPTEMBER

- 05-06: RNM Brainstorming session on Trade Related Issues (Sustainable Development), Barbados
- 06-07: TWG on Legal and Institutional Issues, Barbados
- 08: Meeting of Officials preparatory to Special COTED, Barbados
- 09: 17th Special Meeting of COTED on External Trade Negotiations, Barbados
- 14-16: 5th TWG on EPA Market Access, Santo Domingo
- 18: CARIFORUM Caucus on EPA Negotiations, Santo Domingo

- 19-22: Fifth Round of CARIFORUM-EU Technical Negotiating Groups, Santo Domingo
- 23: Third Meeting of EPA College of Negotiators, Santo Domingo
- 25-26: Sixth Meeting of CARIFORUM-EC Principal Negotiators, Santo Domingo

OCTOBER

- 30-31: PMU-organised Meeting of ACP Ministers, Chief Negotiators and Ambassadors responsible for EPA negotiations, Berlin
- 31(pm): Meeting of ACP Ministers and German Minister of Development Co-operation, Berlin
- 01-03 November: Technical Working Group on Services and Investment in EPA Negotiations, Trinidad

NOVEMBER

- 06-07: 6th TWG on Market Access in EPA negotiations, Barbados
- 20pm: CARIFORUM caucus, Brussels
- 21-24: Sixth Round of CARIFORUM-EC Technical Negotiating Group, Brussels
- 24: Meeting of the RPTF, Brussels
- 27-28: VII Meeting of CARIFORUM-EU EPA Principal Negotiators, Brussels
- 28pm: CARIFORUM Ministerial Caucus, Brussels
- 29pm-30: III Meeting of CARIFORUM-EC Ministers on EPA Negotiations, Brussels

CRNM CALENDAR EVENTS - 2007 For EPA Items

RNM CALENDAR 2007

JANUARY

FEBRUARY

- 02-03: 20th Special Meeting of the COTED (Strategic Issues in External Trade Negotiations), Montego Bay, Jamaica
- 03pm: Meeting of CARIFORUM Senior Officials, Montego Bay

- 05-06: Joint Meeting of the Prime Ministerial Sub-Committees on External Trade Negotiations and CSME, Montego Bay, Jamaica
- 14-16: TWG on Legal and Institutional Issues, Barbados
- 23: Meeting of CARIFORUM Trade Ministers, Belize
- 26-27am: Meeting of Senior Officials in charge of EPA negotiations, Brussels
- 27pm-28: Meeting of ACP Ministers to charge of EPA negotiations, Brussels
- 01 March am: ACP Ministerial Trade Committee (MTC) (open to all Ministers), Brussels
- 01 March pm: Joint ACP-EU Ministerial Trade Committee (JMTC) (open to all ACP Ministers), Brussels

MARCH

- 21-23: 7th TWG on Market Access in EPA Negotiations, Barbados
- 21-22: TWG on Services and Investment in EPA Negotiations, Barbados
- 26pm: CARIFORUM Caucus, Brussels
- 27-30: 7th CARIFORUM-EC Technical Negotiating Group, Brussels

APRIL

- 12: Preparatory Meeting of CARIFORUM Senior Officials, Kingston
- 13pm: Meeting between WTO DG Lamy and CARIFORUM Trade Ministers, Kingston
- 13pm-14pm: Second Meeting of CARIFORUM Council of Ministers – External Trade Negotiations

MAY

- 09-11: TWG on Trade-related Issues in EPA Negotiations, Barbados

JUNE

- 11: CARIFORUM Coordination Meeting, Port-of-Spain
- 12-15: CARIFORUM-EC Technical Negotiating Group, Port-of-Spain

JULY

- 16-17: TWG on EPA Services and Investment, Grenada
- 16-19: TWG on EPA Market Access Issues, Grenada
- 17: TWG on EPA Legal and Institutional Issues, Grenada
- 17-18: TWG on EPA Trade-related Issues, Grenada
- 18: RNM Workshop on Labour Movement Issues in the OECS, Grenada
- 24-27: 9th Round of CARIFORUM-EC Technical Negotiating Groups, Brussels

SEPTEMBER

- 10: CARIFORUM Preparatory Meeting, Brussels
- 11-14: Tenth Meeting of CARIFORUM-EC Technical Negotiating Group on Market Access (Rules of Origin; Trade Defence Measures, Agriculture, Trade Facilitation and Administrative Cooperation), Brussels
- 17-18: EPA College of Negotiators, Port-of-Spain
- 19-20: Meeting of CARIFORUM Senior Officials on EPA negotiations, Port-of-Spain
- 21: Meeting of CARIFORUM Ministers on EPA negotiations, Port-of-Spain
- 24: CARIFORUM Preparatory Meeting, Barbados
- 25-28: 11th Meeting of CARIFORUM-EC Technical Negotiating Groups, Barbados
- 29: Meeting of Principal Negotiators, Barbados

OCTOBER

- 03: Caucus of CARICOM Heads of Government, Montego Bay, Jamaica
- 04-05: Special Meeting of CARIFORUM Heads of State/Government, Montego Bay, Jamaica
- 04-05: Meetings of CARIFORUM Heads of State/Government with EU Commissioners Mandelson and Louis Michel, Montego Bay, Jamaica
- 08: 6th TWG on Trade-related Issues, Barbados
- 08-09: TWG on Market Access Issues, Barbados
- 08-09: TWG on Services, Barbados
- 09: TWG on Legal and Institutional Issues, Barbados

- 10-13: 12th Meeting of CARIFORUM-EC Technical Negotiating Groups, Barbados
- 12am: 9th Meeting of the CARIFORUM-EC Regional Preparatory Task Force, Barbados
- 12pm: Joint RPTF/Donor Meeting, Barbados
- 29-30: TWG on Market Access, Kingston
- 30: TWG on Services, Kingston
- 31: TWG on Legal and Institutional Issues, Kingston
- 01-03 & 05, TNG on Market Access Issues, Kingston
- 01-03: TNG on Services, Kingston
- 05: TNG on Legal and Institutional Issues, Kingston
- 06 Nov: Meeting of Principal Negotiators, Kingston

NOVEMBER

- 13 am: Meeting of COTED Officials, Georgetown
- 13 pm: Meeting of CARIFORUM Officials, Georgetown
- 15 am: Twenty-fourth Meeting of the COTED, Georgetown
- 15 pm: Special Meeting of CARIFORUM Council of Ministers – External Trade Negotiations, Georgetown
- 21-22: Commonwealth Foreign Ministers Meeting, Kampala
- 23-25: Commonwealth Heads of Government Meeting, Kampala, Uganda

- 22-23: TNG on Services, Barbados
- 26-27: 11th TWG on Market Access, Barbados
- 28-30: 13th TNG Market Access, Barbados

DECEMBER

- 01: Meeting of Principal Negotiators
- 03-04: TNG Services, Brussels
- 07: Twelfth Meeting of the Conference of Heads of Government of the Caribbean Community, CARICOM Secretariat, Georgetown
- 13: Caucus of CARIFORUM Senior Officials
- 14-15: Tenth Meeting of Principal Negotiators, Barbados
- 14 or 15: IV CARIFORUM-EC Ministerial on EPA Negotiations, Barbados

ANNEX III

Examples of the Dominican Delegation in the EPA negotiations

Kingston, Jamaica 1-5 November 2007

Nombre (Name)	Status	Institución (Institution)	Grupo de Negociación (Negotiation Group)
Sachenka Encarnación	Delegada	Secretaría de Estado de Relaciones Exteriores (SEREX)	Acceso a mercados
Rafael Espinal	Delegado		Inversión/Aspectos legales e Institucionales
Rafael Núñez	Delegado		
José Rivas	Delegado	Dirección General de Aduanas	Acceso a mercados
Ruth De los Santos	Delegada	Secretaría de Estado de Hacienda	Acceso a mercados
Celengy Arias	Delegada		
Pablo Amaury Espinal	Delegado	Secretaría de Estado de Industria y Comercio	Acceso a mercados
Miguelina Estévez	Delegada		
Nora Gómez	Delegada	Secretaría de Estado de Agricultura	Acceso a mercados (Agricultura)
Kadir González	Delegado	Banco Central de la RD	Servicios e Inversión
Ileana Tejada	Delegada	Centro de Exportación e Inversión de la RD (CEI-RD)	
Daniel Liranzo	Delegado	Consejo Nacional de Zonas Francas de Exportación (CNZFE)	Acceso a mercados
REPRESENTANTES SECTOR PRIVADO DOMINICANO-AREAS DE INTERES (Represents Dominican private sector – Areas of Interest)			
Frank Castillo	Delegado	Consejo Nacional de la Empresa Privada	Acceso a mercados
Luis Castaños	Delegado	Asociación Dominicana de Productores de Ron	
Ana Ysabel Acosta	Delegada	Asociación Dominicana de Fabricantes de Cerveza	
Dircia Paulino	Delegada	Asociación de Empresas e Industrias de Haina	
Enrique Fernández	Delegado	Asociación de Concesionarios de Fabricantes de Vehículos (ACOFAVE)	
Claudia Mejía	Delegada	Asociación Dominicana de Hacendados y Agricultores	
Milagros Puello	Delegada	Cámara de Comercio y Producción de Santo Domingo	Servicios e Inversión

Trinidad & Tobago, 11-15 mayo 2007

Nombre	Status	Institución (Institution)	Grupo de Negociación (Negotiation Group)
Héctor Guilianni Cury	Jefe de Delegación (Boss of delegation)	Secretaría de Estado de Relaciones Exteriores (SEREX)	Acceso a mercados
Rafael Núñez	Delegado		Aspectos legales e Institucionales
José Rivas	Delegado		Dirección General de Aduanas
Ruth De los Santos	Delegada	Secretaría de Estado de Hacienda	Acceso a mercados/Aspectos relativos al comercio (Compras Gubernamentales)
Dora Luisa Sánchez	Delegada	Secretaría de Estado de Agricultura	Acceso a mercados (Agricultura)
Kadir González	Delegado	Banco Central de la RD	Servicios e Inversión
Ileana Tejada	Delegada	Centro de Exportación e Inversión de la RD (CEI-RD)	
Rosa Amelia Abreu	Delegada	Consejo Nacional de Zonas Francas de Exportación (CNZFE)	Acceso a mercados
Daniel Liranzo	Delegado		
Gianna Franjul	Delegada	Oficina Nacional de Propiedad Industrial (ONAPI)	Aspectos relativos al comercio (Propiedad Intelectual)
REPRESENTANTES DEL SECTOR PRIVADO DOMINICANO-AREAS DE INTERES			
Frank Castillo	Delegado	Consejo Nacional de la Empresa Privada	Acceso a mercados
Luis Castaños	Delegado	Asociación Dominicana de Productores de Ron	
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Part Three: EPAs as Instruments for Development

Reviewing services negotiations in EU-ACP EPAs

1. Introduction

The Economic Partnership Agreements (EPAs) between the European Union (EU) and African, Caribbean and Pacific (ACP) countries have become one of the most ambitious trade negotiations exercises in recent years. Arising from the urgency imposed by the 2000 WTO waiver for the Cotonou Agreement which expired in January 2008, the EPAs aimed at replacing unilateral preferences with reciprocal WTO compatible Free Trade Agreements (FTAs). These new FTAs had additional objectives to EU-ACP trade integration, such as strengthening existing South-South Regional Trade Agreements (RTAs), including specific development objectives, and incorporating trade in services and other trade-related issues. After a decade of intense negotiations between all the parties involved, the results have been mixed. Only CARIFORUM countries have signed a fully fledged agreement with the EU. In Africa, 18 countries have signed an interim agreement and two countries have signed in the Pacific. 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. The exception is South Africa, which exports under the existing FTA with the EU, the Trade and Development Cooperation Agreement (TDCA) (Bilal et al, 2008).

As a result, the African and Pacific regions are currently split between countries that have not yet concluded any agreement with the EU, those that have concluded an interim EPA (but still have to sign it more than a year-and-a-half after initialisation), and those that have finally signed it. These differences not only reflect superficial tensions, but are also symptomatic of more deeply rooted differences of approaches or concerns about the EPAs and regional integration processes, which in turn has had a bearing on the outcome of the negotiations so far.

Given that the interim agreements are the result of the time pressure to meet the 2008 deadline, little emphasis has been directed towards assessing the resource constraints of negotiating agreements, and more importantly, whether other types of agreements could have achieved similar objectives using fewer resources. Negotiations are not just costly financially, but also in terms of human capacity diverted from working towards other domestic or external policy goals. This trade off is more evident in the context of the EPAs, where in some cases negotiations have been financed directly from the EU and other donor agencies' technical assistance development funds.

This narrative looks at the treatment of services in the interim agreements entered into between the EU and the ACP countries as well as in the CARIFORUM-EU EPA, which may be a possible benchmark for the African and Pacific countries to follow. Wherever applicable, we also discuss the treatment of services in EU-ACP agreements against their treatment in agreements that the EU and some East Asian economies have entered into with their developing countries partners as well as the GATS. In all cases, we evaluate the EPAs services negotiating process from the perspective of:

1. The outcome: Completeness and detail of coverage of services in the EPAs
2. Relevance (especially with respect to the development dimension i.e. was the choice of linking the negotiating process to development objectives appropriate compared to other methods of delivering these objectives as well as these countries' capacity to do so?)
3. Feasibility (e.g. the choice of negotiating with regions as opposed to countries as a negotiating strategy and whether coverage has been a problem with different regions?)

In line with the negotiating process itself, this analysis is undertaken for each ACP region individually to begin with, before coming up with suggestions on how to improve services negotiations for the countries as a whole.

2. Taking stock of services negotiations in the interim EPAs

It is useful to state at the outset that apropos to services negotiations, ACP countries have been interested in improving access into the EU market especially with respect to Mode 4 or the movement of natural persons, to develop an effective implementation of GATS Article 4 and to improve access to distribution channels and information networks. The EU, on the other hand, has not been willing to negotiate substantially on Mode 4. Tables 1 and 2 compare the treatment of services and specific provisions across the EPAs.

Table 1 Comparing treatment of services in the EPAs

EPA Region	Provisions related to services	Comment on process
Ghana, Cote d'Ivoire	Formulate and implement regional policies and build regional capacity.	Agreement on services but no explicit commitments
Central Africa	Reaffirm respective commitments under GATS. Liberalisation of "current payments" and "movements of capital relating to investments."	No explicit commitments in services
ESA	Cooperation to support trade in services including financial services, tourism, infrastructure, energy, ICT, water resources and environment. Rendez-vous clause.	Problem with including investment in services negotiations.
SADC	Cooperation in removing supply side constraints and developing and enhancing services trade; second stage of negotiations – Botswana, Lesotho, Mozambique, Swaziland; liberalisation schedule for one service sector; standstill <i>a la</i> GATS V (1) (b) (ii) for all services; progressive liberalization within three years of full EPA; EC capacity building to support SADC regulatory framework.	Services generated friction in the negotiating process. ¹²⁸
EAC		Slow pace of services negotiations
Pacific	No provisions	Nothing on services
CARIFORUM	Comprehensive coverage of services	Significantly advanced

¹²⁸ South Africa was reluctant to negotiate broadly.

Table 2 Main differences in services provisions between EPAs

EPA Region	Scope	MFN Clause	Standstill clause
Cariforum	Some provisions. Commitment to re-enter negotiations in 5 years	Yes. Not applicable if both parties agree	No
CEMAC	No provisions yet	No provisions yet	No provisions yet
Ghana	No provisions yet	No provisions yet	No provisions yet
Cote d'Ivoire	No provisions yet	No provisions yet	No provisions yet
EACP	No provisions yet	No provisions yet	No provisions yet
ESA	No provisions yet	No provisions yet	No provisions yet
EAC	No provisions yet	No provisions yet	No provisions yet
SADC minus	No provisions yet	No provisions yet	No provisions yet

As we can see from these tables, with the exception of the CARIFORUM-EU EPA, the treatment of services ranges from a reaffirmation of GATS commitments (as in Central Africa) to cooperation (ESA, SADC) and as such falls short on our three criteria of outcome, relevance and feasibility. Even when four SADC countries entered into the second stage of negotiations, the provision pertaining to a liberalisation schedule for one service sector in each of these economies is extremely vague. Similarly the rendez-vous clause in the ESA-EU agreement discusses full implementation of the EPA but does not prescribe any outcome (the actual provisions could range from best endeavour clauses to comprehensive rules). On the issue of having a development dimension, only the EU-SADC interim agreement mentions EU capacity building to support the regulatory framework in these economies.

Thus the outcome of EPA services negotiations both in terms of coverage and actual provisions has been very limited. What does this tell us about the negotiating process and the use of resources? Why is the coverage of services better for some regions than for others? Could the negotiations have been undertaken bilaterally?

Given the nature of services negotiations in general, it may be said that negotiating with EPA regions as opposed to bilaterally represents a more economical use of resources. By and large, the EPA regions comprise economies that have an element of commonality in their level and stage of economic development. Moreover, most countries in each EPA region have aimed at cooperation and economic integration within the region in any case, which again makes it prudent to negotiate with them as a region.

Having said that, each economy has a dynamic of its own within each EPA region. This has had a bearing on the process and outcome of services negotiations across EPA regions. It is therefore only natural that the coverage of services would vary from one region to the next and the process itself would be a problem for some regions and not for others.

As Bilal (2009) points out:

“Most ACP countries initially engaged in EPA negotiations with reluctance. The prime objective was to maintain their preferential market access to the EU while making minimal commitments in terms of opening markets or regulatory reforms. EPAs were generally perceived not as an opportunity, but as destiny - ‘the price which must be paid to continue to export to Europe’ - the main trading partner for many ACP countries. By concluding interim EPAs, those countries that really needed to conclude a new trade agreement with the EU to preserve preferential access to the European market have done so. Once the interim EPAs were signed, their market access was secured. Other countries that chose not to conclude an interim EPA and have relied instead on the EU GSP (standard or EBA) since 2008, do not seem to have been negatively affected. The main driving force for pursuing regional EPA

negotiations is thus the need to maintain a regionally coherent preferential regime with the EU."

For instance in West Africa, the region's agenda to form a customs union is incompatible with Ghana and Côte d'Ivoire having concluded interim EPAs with the EU. As Bilal (2009) notes: "The EU also seems to have implicitly lowered its ambitions, having accepted to conclude a goods-only agreement (and development cooperation at the instance of ECOWAS), the first such agreement since the end of 2007." In fact, at this stage it is not also certain that negotiations, if successfully concluded, will quickly move towards a "second phase" to include trade in services. Bilal also explains "For the EU too, preserving regional coherence seems to be the paramount objective."

In Central Africa, one country – Cameroon – has concluded an interim EPA. However, the state of the region's integration, the political dynamics and the institutional capacity constraints have meant that EPA negotiations have gone into a sleeping mode, with no progress in sight.

In Southern Africa, the region is divided between Botswana, Lesotho and Swaziland, joined by Mozambique on the one side, and Namibia and South Africa, joined by Angola, on the other side. This has split SACU and SADC, thereby threatening the existence of the current regional arrangements unless a compromise is found soon. Internal regional politics have played a crucial role in the respective positions, notably between Botswana and South Africa. The EPA negotiations have further exacerbated existing tensions with services being a sour point for South Africa. These diverging positions will have to be mended to conclude a regional EPA.

In East and Southern Africa, countries have negotiated jointly but concluded individual interim agreements. Thus, regional coherence is not yet at stake, though the ambitions to form a COMESA-EAC-SADC free trade area and customs union may not be sustainable with heterogeneous market access commitments towards the EU. Bilal (2009) continues to explain that "Most countries that have opted out from interim EPAs are likely to maintain their position. Those with an interim EPA are pursuing further negotiations with the EU, which are likely to lead to agreements with variable geometry, some countries accepting commitments on trade in services, for instance, while others are not willing to commit at this stage."

As for the Pacific, negotiations are also *de facto* frozen. Most of the attention is focused on new trade negotiations with Australia and New Zealand and it may be some time before a regional EPA can emerge.

It is important to understand that the development of the services sector is crucial to ACP economies for both its direct and indirect benefits – tourism, supply and distribution networks and so on – and services reform are vital for the development of the economy. In the absence of unilateral reforms or other direct ways of ensuring the development of this sector, EPAs, with their development dimension, can therefore be a significant vehicle for making this possible. Looking at the coverage of services in the interim EPAs however, this objective has not been achieved.

It must also be remembered that ACP economies do not have sufficient resources to either negotiate or endure the reform process, which makes development financing from the EU and aid for trade crucial to ensuring the success of these EPAs. This again is an area where the interim EPAs have failed to deliver.

Given that the CARIFORUM-EU EPA has the most comprehensive coverage of services, we next look at this agreement in some detail and discuss whether it can be a benchmark for services negotiations for the African and Pacific countries.

3. Services coverage in the CARIFORUM-EU EPA¹²⁹

Sauve and Ward (2009) explain that ‘the CARIFORUM-EU EPA represents an important, precedent-setting, evolution in preferential trade agreements (PTAs), where the Parties have worked within the construct of a PTA to bring about a development dimension to their international trading arrangements.’ The GATS+ character of liberalisation is evident in CARIFORUM commitments on a wide range of service and investment activities, particularly in key infrastructural sectors. GATS+ advances are also illustrated by improvements in access to the EU market for commercial presence, in regard to the temporary entry of natural persons and the treatment of cultural industries through a protocol on cultural cooperation, even as the latter does not *per se* involve the granting of new market access commitments.

A novel feature of the services component of the EPA is the creation of sector specific frameworks, including for regulatory cooperation. The EPA contains specific provisions on computer services, courier services, telecommunications services, financial services, international maritime transport services and tourism services. Many of the sectoral disciplines found in the EPA are similar to those found in the GATS. However, while the WTO gives its members the option to voluntarily sign on to some or all of these texts (e.g. the understanding on commitments in financial services, the reference paper on pro-competitive regulatory principles in basic telecommunications), these form an integral and binding part of the CARIFORUM-EU EPA.

In the case of maritime transport services, for instance, the EPA has succeeded in establishing rules for governing trade in the sector whereas multilateral discussions have to date failed to produce any tangible results. In the area of telecom services, the EPA has several legally-binding provisions which go beyond the voluntary provisions in the GATS reference paper. For instance, the EPA establishes a framework governing how and when authorisation to provide telecommunications services is to be granted, which is a GATS+ concept. It sets out rules on interconnection far more clearly and spells out more elaborate rules on the issue of universal service obligations than done in the GATS. Unlike the GATS Reference paper, it also tackles the issue of confidentiality of telecommunications and related traffic data. Similarly, given the crucial importance of the telecommunications sector to Caribbean economies, the text on tourism services features distinct development cooperation provisions in contrast to other sectors where this is addressed more generally.¹³⁰ In the case of e-commerce, the EPA parties agree to maintain dialogue on regulatory issues such as the recognition of certificates of electronic signatures and the facilitation of cross-border certification services, the liability of service providers with respect to the transmission or storage of information, the treatment of unsolicited electronic commercial communications and the protection of consumers in the ambit of electronic commerce. In all these respects, the EPA marks precedent-setting advances over the GATS. On financial services, the EPA features provisions not found in the Annex on financial services including those on transparency, new financial services and data processing.

¹²⁹ Annex 1 provides a synopsis of the main provisions on services and investment in the CARIFORUM-EU EPA.

¹³⁰ The EPA has an explicit commitment on the part of the EC to help in the advancement of the tourism sector in the CARIFORUM states. It also sets out a non-exhaustive list of specific areas in which the Parties agree to co-operate that include capacity building for environmental management, the development of internet-based marketing strategies for small and medium sized tourism enterprises, and the upgrading of national accounts systems to facilitate the introduction of tourism satellite accounts at the regional and local level.

Services negotiations in the remaining ACP countries would also benefit from such a sector-specific focus.

However, while the level of liberalisation achieved is a significant improvement on the current GATS commitments of both parties,¹³¹ the EPA progress is significantly more limited when it comes to the depth of commitments scheduled in areas where the parties had already made GATS commitments. For instance, MFN does not appear in rules governing Mode 4. The EPA also departs from GATS in terms of the level of binding of national treatment and market access commitments. When it comes to regulatory disciplines, the EPA procedures fall short of those in the GATS.¹³² The EPA also does not feature any specific discipline on the issue of mutual recognition, even as it contains a negotiating agenda and a process and timeline.¹³³ Similarly, while the EPA features provisions on cooperation and financing for development, the text does not feature explicit language on the level of development financing made available overall or on the specific issues and sectors subject to the agreement's coverage.

4. Lessons for future negotiations

Negotiators need to appreciate that given the marked differences in the economic profiles of African groupings and the CARIFORUM, the services and investment chapters of EPAs concluded with African partners cannot be as extensive as those found in the CARIFORUM-EU EPA. It would also be prudent to further adjust the various formulas of variable geometry¹³⁴ that the CARFORUM EPA has seen emerge to relax the reciprocal nature of the EPA's rules and market access commitments without compromising the requirements of GATS Article V. For instance, *a la* the India-Singapore CECA, provisions could be included for new services or services currently infeasible for incorporation to be considered for possible incorporation in the future. Similarly, negotiating focus should be on services sectors such as tourism, air transport (passenger as well as cargo), distribution channels for market access and telecommunication, the opening up of which markets would be more crucial for the economic development of African partners.

¹³¹ According to the Caribbean Regional Negotiating Machinery (CRNM), the EC has made commitments on more than 90% of sectors found in the WTO's W/120 list of service sectors (CRNM, *Highlights: Services and Investment in the CARIFORUM-EU Economic Partnership Agreement*, database online; available from http://www.crn.org/index.php?option=com_docman&task=doc_view&gid=10&tmpl=component&form=raw&Itemid=95). In the case of the CARIFORUM states, the respective levels of market access by lesser (LDCs) and more developed members (MDCs) reached 65% and 75% respectively (expressed in terms of the share of W/120 sectors subject to scheduled commitments).

¹³² For instance, the EPA bears little trace of attempts by either party to achieve a GATS+ outcome or even to embed some of the progress made in the GATS Working Group on Domestic Regulation (e.g. the accountancy disciplines of 1996 or recent advances on non-discriminatory regulatory measures). The EPA even shies away from customary language found in the GATS (Article VI:1) to the effect that measures of general application be administered in a reasonable, objective and impartial manner. Neither is there any reference to the customary notions that: (i) regulatory requirements be based on objective and transparent criteria; (ii) not be more burdensome than necessary to ensure the quality of a service; and (iii) do not in themselves constitute restrictions on the supply of a service.

¹³³ However, the EPA does accord priority attention to recognition efforts in accountancy, architecture, engineering and tourism. It also features a separate provision that mandates parties to encourage relevant professional bodies in their respective territories to start negotiations three years after the EPA's entry into force in order to jointly develop and provide recommendations on mutual recognition. This recommendation is to be reviewed by the committee to determine its consistency with the Agreement.

¹³⁴ An illustration of this is allowing the combination of binding and non-binding provisions in rule making as for instance in the case of tourism services in the CARIFORUM-EU EPA.

In this exercise, it is important to ensure that the services and investment chapters provide for development co-operation benefits that adequately support the implementation of any commitments made. It is also essential that African and Pacific EPA partners get the timing and sequencing of their liberalisation right. Given the limited negotiation and implementation capacity of these countries, another priority area should be the negotiation of regulatory frameworks (either on a sectoral or general basis) and the provision of required development co-operation assistance to ensure the fulfilment of commitments in this regard. African countries have consistently identified weak regulatory capacity as a hindrance to any progress in services. "A comprehensive EPA may thus represent a useful opportunity to push ahead in this specific area as the combination of binding commitments on the part of the African countries coupled with the provision of development assistance and financing from the EC hold the potential to stimulate economic diversification into services" as Sauve and Ward, 2009 note. A useful guide here could be the Agreement on Trade, Development and Cooperation between the EU and South Africa, which has detailed provisions on development cooperation.

Given that some countries may be better prepared to undertake commitments on services liberalisation than others, variable geometry should be applied within a region as well to address the specificities of individual countries and sub-regions. It is also important that any commitments undertaken by individual countries in the context of an EPA remain coherent with their regional agenda and ambitions, to prevent regulatory fragmentation and disintegration.

Besides regional considerations, two other key factors are likely to determine the occurrence and shape of final EPAs. The first is the availability of additional aid related to an EPA, "or at least the packaging of existing development cooperation commitments to give the impression that fresh Aid for Trade is forthcoming" (Bilal, 2009). Many African countries have expressed their support for an EPA subject to the delivery of appropriate development assistance. New Aid for Trade programmes providing the opportunity for better needs assessments, a more strategic orientation of the support provided and greater coherence among donors may result in pro-development outcomes.

The second factor is political. Trade negotiations anywhere are driven by politics as much as economics and this is no less true of the EPA process. Decisions are not always made on the technical merits of the provisions negotiated, but on broader political and geostrategic considerations. This is unlikely to drastically change in the near future and would have a huge bearing on the final shape and outcome of the negotiations and national decisions to conclude an EPA or not.

5. Conclusions

Services are crucial for the development of ACP economies and the EPAs provide an excellent opportunity for catalyzing 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 falls way short on the triple criteria of coverage, relevance and feasibility in all other cases. One of the huge problems saddling services negotiations has been the inherent diversity of these regional groupings and of countries within each group, which has translated into differences in negotiating objectives and in approaches or 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.

An ideal agreement between the EU and ACP countries should build on existing provisions on services in the CARIFORUM-EC agreement through a focus on specific services sectors in these economies such as tourism, air transport (passenger as well as cargo), distribution

channels for market access and telecommunication and the use of variable geometry both within and across regions to ensure a pro-development outcome. Such an agreement should also include explicit disciplines on regulatory frameworks, mutual recognition and cooperation and financing for development. From a policy perspective however, negotiators need to appreciate that marked differences in the economic profiles of African and CARIFORUM countries mean that services and investment chapters in EU-African EPAs cannot be as extensive as those in the CARIFORUM-EU EPA. Moreover, political dynamics and the availability of appropriate development assistance would continue to have a bearing on the final shape and outcome of these negotiations.

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List of Agreements mentioned:

Agreement on Trade, Development and Cooperation between the EC and its Member States & the Republic of South Africa

Comprehensive Economic Cooperation Agreement between the Republic of India and the Republic of Singapore

Interim Agreement with a view to an EPA between the EC and its Member States and the Central African Party

Interim Agreement establishing a framework for an EPA between the Eastern and Southern African States SA & EC and its Member States

Interim Partnership Agreement between the Pacific States and the EC

Interim Agreement with a view to an EPA between the EC and its Member States & SADC EPA States

Agreement establishing an Interim EPA between Cote d'Ivoire & EC and its Member States

Agreement establishing a stepping stone EPA between Ghana & EC and its Member States

Economic Partnership Agreement between the CARIFORUM States & EC and its Member States

Provisions of the agreement between Cariforum and the EU with respect to investment, trade in services and e-commerce

- General provisions: No obligations with respect to government procurement (GP); not applicable (n.a.) to subsidies; Parties retain regulatory sovereignty
- Negotiations for further liberalization in 5 years
- N.A. to Bahamas and Haiti
- Mode 2 exclusions for manufacturing in nuclear material; arms and ammunition; audio-visual services; and national maritime cabotage.
- NOTE: In sectors where market access (m.a.) commitments have been made, there shall be no limitations on:
 - Number of operators or commercial presence
 - Total value of transactions or assets
 - Extent of foreign investment (no cap on investment)
 - Form of commercial presence (legal entity)

MFN: In the event of an RTA with a third party, same status to be accorded to the EC/Cariforum as the third party. However, if the RTA leads to the creation of an “internal market,” then the above does not hold. However, if Cariforum were to grant more privileges to a third party vis-a-vis the EC, then there would be consultations to decide if this could continue.

MFN provisions would not apply to prudential measures for financial services (FS); taxation; MFN exemptions in accordance with Article II.2 of the GATS

Mode 3 to comply with social, environmental, health, security and labour laws.

Review of progress after three years.

Generally similar provisions on Mode 1 as well.

Mode 4: Key personnel and graduate trainees (GT) to be allowed in conjunction with Mode 3 in sectors where such commitments have been made. Contractual service providers (CSS) allowed by the EC in 29 services categories, subject to (s.t.) conditions. Independent professionals (IP) allowed in 11 services categories, s.t. conditions. Conditions also stipulated for ST visitors for business purposes.

Regulatory framework: Co-operation, mutual recognition (MR), review progress every two years. Transparency wrt laws, regulations and procedures.

Understanding on computer services (CRS): Broader definition of CRS than the CPC allows for. Distinction made between the enabling service and the content or the core service being delivered electronically; the latter is not covered by CPC 84.

Courier: Universal service obligations (USO); licensing; prevention of anti-competitive practices (ACP)

Telecoms: Independent regulator; licensing; prevention of ACP; provisions for inter-connection; usage of scarce resources (like frequency spectrum); USO

Financial services (FS): Prudential carve-out; effective and transparent regulation; “new FS”

International maritime transport: MA + NT; no cargo-sharing allowed with third parties in future RTA

Tourism: Prevent ACP; facilitate transfer of technology (ToT); facilitate SME participation; encourage MR; promote sustainable development (SD); environmental protection; technical assistance (TA)

E-commerce: Regulation

Detailed schedules

Typical restrictions on Mode 3: legal form of establishment; nationality/residency requirements. For professional services, these relate to membership of professional organisations like for Law, Chartered Accountancy, etc.

In general restricted access by EC to agriculture; forestry; fishing; EG&WS; business svcs; publicly-funded R&D; rental/leasing; construction and related engineering; education; health and social; travel and tourism; recreational; energy; within OBS (executive search; placement svcs; office support; security; investigation; M&R of rail and motor vehicles; printing and publishing); retails; FS; transport (except rails, which are unbound)

No restrictions wrt CRS; real estate; postal and courier; telecoms (except satellite broadcast transmission); environmental; CAS, franchising & wholesale trade; within OBS (advertising; market research; mgmt consulting; technical & advisory; maintenance and repair (M&R) of vessels, aircraft; building; cleaning; photographic; packaging; convention; interior design; duplication; telecoms consulting; telephone answering)

NOTE: Modes 1 and 2 are generally UNBOUND across sectors, esp. In Cariforum's commitments

NOTE: In the absence of Member-specific restrictions, EC broad or horizontal reservations would apply.

Mode 4 – ENT: Main criteria is the assessment of the relevant market situation in the Member State or region where the service is to be provided, including wrt the number of, and impact on, existing service suppliers.

Tariff and Non-tariff barriers in EPAS

1. Analysis of the schedules of liberalisation in light of the WTO compatibility

One of the most controversial issues in the EPA negotiations was the compatibility of those agreements with the WTO rules, specifically, the article XXIV of the 1947 and 1994 GATT agreements. The text of the article is substantially vague which allows for different interpretations. Particularly, point B of paragraph 8 of that Article states:

*“A free-trade area shall be understood to mean a group of two or more customs territories in which the duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV and XX) are eliminated on **substantially all the trade** between the constituent territories in products originating in such territories”*

The question to discuss is what should be the interpretation of this article in the context of the EPA negotiations and particularly in the context of negotiations between developed and developing and least developed countries (LDCs). Despite efforts to update and clarify that article during the last WTO negotiations round, very little has been achieved and there is still a significant grey area to clarify. In fact, the negotiations on EPAs were difficult given that the general provisions, to which these agreements would adjust, were still under negotiation at the WTO level. Therefore, the EPA negotiation lacked an appropriate legal framework.

Particularly, it is considered necessary to add a Special and Differential Treatment (SDT) dimension to the article XXIV. Currently, there is no *de jure* provision for SDT in Article XXIV, in contrast to its services sister, the GATS, that includes these kind of provisions. However, given that the SDT is a key and important element of the multilateral trade system, it is possible to consider that *de facto* the SDT provisions could be applied to Article XXIV. This opens the possibility of non-full reciprocity in an FTA.

Unfortunately, the Doha Round did not finish before the EPA negotiation deadline and agreements did not have the adequate legal framework. Therefore, it was necessary to make a *sui generis* interpretation of the agreement considering the development differences of the countries involved.

Article XXIV is not clear on what should be the measure for trade to assert if an FTA is liberalising “substantially” trade between partners. There are basically two approaches: on one side, it is possible to consider the quantity of tariff lines at six digits liberalised. This approach tends to ensure a comprehensive coverage of all major sectors. On the other side, it is possible to use the value of imports between members of the FTA or the trade volume approach. However, it is possible to have a combination of these two criteria.

With respect to the latter, it is necessary to clarify if trade should be measured individually for each partner or collectively. If the trade between two partners is balanced and we consider that a substantial liberalisation of trade should cover 90% of total trade (measured as the bilateral imports of both partners); than liberalisation could be achieved with an exclusion of 20% on one partner and zero on the other. This was the approach followed during the EPAs negotiation where the ACP partners could exclude up to 20% of their trade given that the EU was excluding only a small share of their imports.

Even if the latter could be compatible with the article XXIV, it is necessary to analyse and determine what would be a compatible share of exclusions or, alternatively, the share of coverage of the agreements. During the Doha negotiations, there were different approaches.

Cernat et al (2007) discuss these proposals and provide some quantitative effects of their effects using general equilibrium techniques. However, the discussion is still open given that negotiations at WTO have been halted or have suffered a significant delay. Therefore the issue of the coverage of the liberalisation schedule is still unresolved.

It would be interesting to compare similar trade agreements and analyse what their interpretation from a similar perspective. While, in general, the agreements signed by the US with countries such as Chile, Jordan, Panama and CAFTA has full coverage; the Japan-Chile has a list of excluded goods.¹³⁵ Therefore, we see that the interpretation of this article has been wide. Moreover, if one considers that in the modalities for the general negotiations at the Doha Round, countries have asked for exclusions under sensitive or special products, particularly in the agriculture negotiations, the 100% coverage interpretation is excessive. Moreover, there exist provisions for SDT on a quantity of excluded products in the general agreement.

In sub-paragraph C of paragraph 5 of Article XXIV, it can be read:

*“...any interim agreement referred to in subparagraphs (a) and (b) shall include a plan and schedule for the formation of such a customs union or of such a free-trade area within a **reasonable length of time.**”*

This is another source of wide and vague interpretation. It basically implies that the implementation period of an FTA should have reasonable length of time. Nevertheless, a general interpretation suggests that this period should only exceed ten years under exceptional circumstances.¹³⁶ However, a short review of some RTAs signed after the conclusion of the Uruguay Round, suggest that the ten years interpretation is the exception rather than the rule. Therefore, it is still very unclear what should be a reasonable length of time but also if it is possible to have different implementation periods according to SDT.

However, one could argue that given that in the market access negotiations at the general level there were and are different implementation periods under SDT,¹³⁷ this provision could be also applied on Article XXIV. Similar conclusions can be drawn from the analysis of the coverage of the agreements. In the market access negotiations there are different levels of commitments for developed and developing countries.

One possibility to explore with regards to the timing issue is analysing what the provisions are in other FTAs. It is hard to find other FTAs of similar magnitude (in terms of countries involved) of EPAs; however, it is possible to single out some FTAs between developed and developing countries which would make the issue clearer.

For example, during the US-Jordan, US-Chile FTA, US-CAFTA¹³⁸ and Japan-Chile agreements it was agreed a common implementation period of 10, 12, 20 and 16 years respectively. In the US-Panama FTA agreement, it was agreed a common 17 years implementation period; but Panama has some flexibility and their schedule for some

¹³⁵ Notas Generales y Anexos del Acuerdo entre la República de Chile y Japón para una Asociación Económica Estratégica. Available at www.direcon.cl/documentos/japon/TLC/TLC_CHILE_JAPON_TEXTO_PRINCIPAL.pdf

¹³⁶ WTO 'Understanding on the interpretation of article XXIV on the General Agreement on Tariffs and Trade 1994'

¹³⁷ In the Uruguay Round, developed countries had five years to adjust their bound tariffs while developing countries had eight years. Similar provisions were present in the different modalities during the Doha Round.

¹³⁸ Agreements available at www.ustr.gov/sites/default/files/uploads/agreements

products could be extended until year 20.¹³⁹ Therefore, according to previous agreements, there is scope for SDT in terms of implementation periods.

Taking the above into consideration, this paper will continue to analyse the schedules of reductions of the interim EPAs agreed so far. Given that no changes or agreement have been reached at the WTO to clarify or modify Article XXIV or, the Enabling Clause to date; this part will present different alternatives of the countries schedules that could come up against the wide and vague provisions of the WTO legislation. This contrasts with the approach taken by Onguglo and Ito (2003). In their report, the approach taken was what should be the modifications in the Article XXIV and the Enabling Clause that would have made the EPAs WTO compatible. Table 6 presents a summary of the liberalisation schedule of the different interim EPAs.

Table 6 Summary of liberalisation schedules in the interim EPAs agreements

	Agreement starts	% of excluded trade (based on imports)	% of excluded trade (based on tariff lines)	Final year of liberalisation	% of trade liberalised in the first basket (based on imports)	% of trade liberalised in the first basket (based on tariff lines)	Year of implementation first basket	% down payment	% duty free lines
Cameroon	2010	21	24	2023	24.5	31.2	2013	N/A	N/A
Cote d'Ivoire	2009	20	11.3	2023	28.4	36.56	2013	16.7	5.7
Ghana	2008	25	19.1	2022	8.7	15.12	2013	8.7	13.9
EAC	2009	17.4	25.7	2033	65.4	35.9	2010	65.4	65.4
Comoros	2009	19.3	1.7	2022	21.5	27.9	2013	N/A	N/A
Madagascar	2009	19.3	10.5	2022	37	23.8	2013	N/A	N/A
Mauritius	2008	4.4	3.4	2022	24.5	25.9	2008	24.5	25.9
Seychelles	2009	2.5	2.3	2022	62.1	26.5	2013	N/A	N/A
Zambia	2010	20.4	6.9	2023	20.8	14.38	2014		48.9
BNLS	2009	5.8	2.6	2018	13.1	19.9	2012	74.2	74.2
Mozambique	2009	18.5	60.2	2023	70.5	39.2	2009	N/A	N/A
CARIFORUM	2008	13.1	9.3	2033	61.1	N/A	2018	N/A	N/A
Papua New Guinea	2009	12	18	2024	N/A	N/A	N/A	N/A	N/A
Fiji	2009	18.5	20	2024	13	13	2014	24	N/A

Note: BNLS will partially liberalised an additional 4.6% of their imports at the end of the implementation period. BNLS has been applying the TDCA liberalisation schedule. Source: Bilal and Stevens (2009) and ECPDM Trade Negotiation Insights.

For example, looking at Cote d'Ivoire in Table 6, it is clear that its interim EPA has started in 2009 and that 21% of the value of their imports from the EU will be excluded (first column); 11.3% of the tariff lines will be excluded (second column); that the agreement should be fully implemented by 2023 (third column); 28.4% (fourth column) of the value of the imports from the EU will be liberalised by 2013 (fifth column). Furthermore, Cote d'Ivoire will immediately liberalise 16.7% and that 5.7% of their tariff lines are duty free before the agreement.

¹³⁹ United States and Panama Promotion Agreement. Available at www.ustr.gov/sites/default/files/uploads/agreements/fta/panama/asset_upload_file146_12959.pdf

In terms of coverage, there are a wide range of exclusions. Since one of the partners (the EU) made an almost complete liberalisation of their imports and given the size of its trade, a “substantial” liberalisation of the bilateral trade could be achieved with a lower coverage from its partners. It is clear that this is the approach followed for these agreements. If the share of imports excluded in each agreement is taken into consideration, except the Ghana interim EPA, they all fall below the 20% threshold. On the other extreme, Seychelles has a little share of exclusions in terms of volume of trade.

If we consider the quantity of lines excluded, Mozambique has excluded 60.2% of their tariff lines that represents 18.5% of their trade. This implies a heavy protection in a substantial number of sectors. On the other hand, Comoros, has only excluded 1.7% of their tariff lines that represent 19.3% of their trade.

Another interesting feature to analyse is the schedule *per se*. Even if an agreement could have a long period of implementation, the existence of down payments (immediate liberalisation) plus trade that is liberalised in the first stages of the implementation indicates an important effort from the conceding part. For example, Cote d'Ivoire will have by 2013, three years after the start of the implementation, more than 50% of their imports liberalised, where only 5.7% of it was liberalised before the start of the agreement. As a consequence, Cote d'Ivoire could have received a longer implementation period given the importance liberalisation that will make in the first years of the schedule.

However, the schedule for EAC reveals the opposite. EAC has more years to make complete the implementation of the agreement but their initial effort is practically zero, given that 65.4% of their trade is liberalised already. This implies that, a part of the exclusions, EAC will have around 20 years to liberalise less than 15% of their trade.

More balanced schedules seem to be those within to CARIFORUM and Fiji. A combination of down payments of 24% in Fiji and a 61% of the trade liberalised in the first ten years in CARIFORUM, generates a smoother transition to liberalisation.

Therefore, it could have been possible to adopt a flexible interpretation of the Article XXIV by allowing longer implementation periods to those countries that were willing to make a more important liberalisation effort at the beginning. Alternatively, countries willing to accept a shorter implementation period with important liberalisation commitments at the beginning, could have presented a wider list of exclusions.

The development dimension must not be lost and despite the fact that a quicker and extensive liberalisation is desirable, it is clear that ACP countries need an SDT in terms of the length and coverage of the implementation period of the agreement. Not only in terms of protection of their infant industries but also in terms of the fiscal effects. Therefore, a double approach of coverage based on the quantity of tariff lines and the share of imports from the EU could have been devised.

On the other hand, countries that had already initiated an unilateral liberalisation process or in which a significant part of their trade was already liberalised before the start of the implementation of the agreement, could have received an special treatment with a longer implementation period for the rest of their sectors with little liberalisation at the beginning.

2. The Most Favourable Nation Clause in the context of EPAs

In principle the Most Favourable Nation (MFN) Clause means that after the signing of an agreement, if any part of the agreement negotiates another agreement with a third party, any concession made to that third party that has been not made in the first agreement, must be

extended to the original partner. For example, if country A has excluded good X on their liberalisation schedule in an agreement with country B; and if country A signs an agreement with country C where good X is not excluded; country A has to extend that benefit to country B. While the MFN clause has very little implications in agreements that the EU could sign with other countries, given that the EU offer is almost complete in terms of coverage; it has important implications for the ACP countries in agreements that they are already part of and in future agreements.

It is important to remark that the MFN clause also applies to any other point of the agreement, not just tariffs. Therefore, if some of the ACP countries in a potential agreement grant better treatment to other countries in, for example, non tariff barriers; that treatment should be extended to the EU as well. The only exception to this rule is in Services Mode 4, where the MFN clause does not apply. This is explained by the reluctance of the EU to negotiate on this point. If the MFN clause applied in this case, an FTA signed by the EU that included provisions for Mode 4, would make the concession automatically available to any ACP country. This would have created difficulties for the EU as there would have been serious problems on the EU enlargement process.

The implications of the MFN clause for the ACP are very important. Given the relatively important list of exclusions in their liberalisation schedule, the existence of the MFN clause limits substantially the scope of future agreements between ACP and other countries. This also raises some questions on the WTO compatibility of those agreements, as the EPAs have raised, if they are signed under Article XXIV, since ACP countries will need to maintain the same exclusions lists if they do not want to trigger the clause. The implications of the MFN clause go beyond the coverage of the agreement. This has been also a major constraint in the Pacific group since they are negotiating an agreement with Australia and New Zealand (PACER).

Nevertheless, if an ACP country is already in an agreement with another third country in which that clause exists; if the ACP country is granting a better access to the EU in some products, it should extend that treatment to that third country. This case does not seem to be very important for ACP countries. A case to mention is the US-Dominican Republic FTA, since the coverage in this agreement is complete and the implications are zero. Still, there could be implications in other topics. Though, it is not clear what would be the treatment for Haiti, announced to join the CARIFORUM EPA in the near future, but officially not part of it. It could be the case that the Canada-CARIFORUM (including Haiti) is signed before Haiti enters officially in the EPA. If the Canada-CARIFORUM FTA includes the MFN clause, it would imply that Haiti will need to grant Canada the same level of access that it will grant to the EU under the EPA. However, it is important to remark, that the MFN clause in this case is not the result of EPAs but the outcome of a previous agreement.

In fact, the existence of the MFN clause has delayed some of the EPAs. In particular, the Pacific EPA has been halted for several reasons; mainly the fact that Pacific is negotiating an FTA with Australia and New Zealand, and their preference would be to complete this agreement before the EPA. The PACP agreement with Australia and New Zealand is much more relevant to Pacific countries than EPAs. In fact, the agreement appears to include temporary movement of labour as well as more beneficial rules of origin. Therefore, the Pacific region might be more willing to give extra concessions (larger coverage) to these partners which they would not want to extend to the EU.

It is clear that the EU does not want to be discriminated if one of the ACP countries signed an agreement with other developed countries, but also with other 'major trading' countries (Lui and Bilal, 2009). The term 'major trading partner' is defined as countries or groups that has a share of more than 1.5% of the world trade. This includes countries such as Brazil, India and China, but also regional blocks such as MERCOSUR. Agreements with the

objective of regional integration in order to harmonise policies are exempt. However, it is not clear if FTAs signed between ACP regions are covered by the clause or agreements signed with other non ACP LDC's. Lui and Bilal suggest that, if these agreements are notified under the enabling clause, the MFN clause might not apply. However, it is unclear why this will be the case, since there are not clear provisions even at the WTO level.

It has to be considered however, that the implementation or trigger of the MFN clause should be clarified in the agreements and have some flexibility and clarification. It is not clear if the MFN clause will apply in the general level of exclusions on a product by product basis. For example, a FTA that liberalises less than the liberalisation on EPA, could be still affected by the MFN clause if some products are liberalised in this FTA but not on the EPAs. If this second interpretation prevails, the distortions that the exclusions could have placed on EPAs will be maintained and enhanced if future FTAs are signed, since these products will be permanently excluded.

Because the interim EPAs are not very clear in terms on when and how the MFN clause will apply and these provisions have entered, in some cases, in the rendez-vous clause, there is some possibility of introducing some exceptions. For example, if an ACP region signs an agreement with another developing or LDC, under the enabling clause, these agreements should be exempt of the MFN clause. This will help to boost the South-South integration. From another perspective, it should be clear that any FTA between ACP regions that signed EPA should be exempt of the MFN clause.

Moreover, if an ACP country signs a broader agreement with another developed country that includes provisions not present in the current EPAs, the ACP country should receive some flexibility in the application of the MFN clause. For example, if a developed country agreed to include provisions for temporary movement of labour (not present in the current EPA) that the ACP country finds beneficial to them, the MFN clause should not be applied or some flexibility should be granted (10% less of exclusions in the FTA with the developed country could be allowed in this case).

Finally, if the ACP region signs an FTA with a non-developed major trading partner, a two-stage MFN clause could be considered. In this case, the MFN clause will not be automatic but a process of consultations could be opened between the EU and the ACP region. In the consultation, the EU should analyse and justify effectively if it is being discriminated based on their level of exports and the importance of the third country as supplier of that product (competition between the EU and that third country).

All these potential flexibilities could make a substantial difference in terms of the prospects of South-South integration of ACP countries, and could boost world trade and could have the key for the potential lock that the MFN clause is imposing on future integration prospects. However, it should be noted that the MFN clause could eventually be beneficial for ACP countries. If the development effects of trade liberalisation are important, the MFN clause could make ACP countries more efficient by eliminating the restrictions and exclusions, currently in place in the EPAs when they sign an FTA with third countries. Nevertheless, the MFN clause could impede the signing of FTA and possibly harm the integration and development perspectives.

3. Export taxes

Despite the fact that export taxes are less common than import duties, they exist in some ACP countries and they seem to have been a concern for those countries during negotiations. The reasons why countries apply export taxes (or export restrictions as well) can be varied. They can be used as an efficient and simple way of raising government revenues, increase value added on exports (if the rate applied on the raw material is higher

than the rate applied on the processed product); they can be used to increase the domestic supply of products under scarcity in the domestic market under shortages and reduce prices in the domestic market or even they could be used for adjustment of the balance of payments. Export taxes are not subject to prohibitions by the WTO; however, they are subject to some conditions.

The EU claims that export taxes restrict the supply of raw material to its industries and they would like to reduce them by the signature of FTAs and pressuring at the WTO to discipline them (if not eliminating completely) (Lui and Bilal, 2009). The EU has asked for the elimination of export taxes in order to meet the “substantial all trade” of Article XXIV, which they consider to cover both exports and import measures. Although, if the objective of EPAs is development through trade, ACP countries should try to increase their exports rather than restrict them and that export taxes should be treated as any other restrictive measure, like import duties.

However, the EU has recognised that ACP countries could need some flexibility in this issue. It has allowed some concessions as well as transitional periods for phasing out these taxes. Despite the standstill clause would prevent the introduction of new taxes, they have stated that they could discuss the introduction of new taxes if justified, subject to the approval by the EU and joint monitoring. In fact, some provisions exist in PACP for the solvency of the state and for the EAC for currency stability or in most texts for the development of infant industry and the protection of the environment. The general rule however, is to prohibit these taxes and these are seen as exceptions.

ACP countries considered that they should be able to use export taxes given the fact that they do not have the resources to subsidise their industries (the EU is making an extensive use of distortionary domestic support and export subsidies to sustain its agricultural sector, not subject to any kind of discipline in the context of EPAs). Therefore, export taxes could be seen as the only tool available to promote industrialisation and diversification. As a consequence, export taxes could be seen as ‘second-best’ tool for development.

The current provisions on export taxes at the WTO are vague. The only important provision is that export taxes should not discriminate between destination countries. This could be a potential problem for ACP countries in the context of EPAs. The restrictions placed in EPAs on export taxes should be extended to any WTO member. Therefore, it would be impossible for ACP countries to exempt exports to the EU of export taxes without exempting the rest of the WTO members;¹⁴⁰ implying the complete elimination of the availability of this tool for ACP countries and the jeopardising of their development objectives. The WTO would be the best place to discuss this issue; particularly when other developing countries are making an extensive use of export taxes. For example, if ACP countries are prevented of using export tariffs, countries such as Argentina, who makes an extensive and shameful use of them, would be in an advantageous position given the availability of artificially lower priced raw materials there.

¹⁴⁰ In this instance, the EU will secure an even cheaper source of raw materials, given the re-orientation effect of exports to a destination are not taxed.

Table 7 Export taxes provisions in different agreements

Agreement	Provisions
SADC	Existing export taxes allowed but not increased. New temporary export taxes on limited amount of products allowed, justifying their needs in terms of revenue needs, protection of the infant industry and protection of the environment. The EC must agree.
CARIFORUM	Elimination in three years.
Cameroon	Existing export taxes allowed but not increased. New temporary export taxes on limited amount of products allowed, justifying their needs in terms of revenue and protection of the environment.
Pacific	New temporary export taxes on limited amount of products allowed, justifying their needs in terms of revenue needs, protection of the infant industry and protection of the environment. The EC must agreed on infant industry protection
Ghana/ Cote d'Ivoire	Existing export taxes allowed but not increased. New temporary export taxes on limited amount of products allowed, justifying their needs in terms of revenue needs, protection of the infant industry and protection of the environment. Existing export taxes could be increased on these grounds. Consultation with the EC.
EAC	Not allowed. Exceptions on limited products to foster development of domestic industry and for management of the balance of payments. Taxes should be periodically reviewed.
ESA	Allowed. List of excluded products.

Source: Lui and Bilal (2009)

Despite the fact that the EU has considered some flexibility in the treatment of export taxes, these provisions do not seem to be enough and the rules considered in the EPAs should have further flexibility. As long as ACP countries do not have the resources to subsidise their key sectors (as the EU does), do not have tools to for the adjustment of balance of payments, the finances of the Government could be severely affected or could face unfair competition from other partners; ACP countries should be allowed to continuing using, with some limitations, export taxes; and pursue their discussion at the WTO.

If development will be pursued through trade liberalisation, the existence of export taxes is incompatible with free trade and, in the long term, with development. Therefore, the existence of them should not be encouraged if sustainable development is the objective. However, as we have mentioned, ACP countries will need to continue making use of them.

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RoO and the EPAs

1. Introduction

Rules of Origin (RoO) serve the purpose of averting trade deflection¹⁴¹ by conferring originating status to products within a free trade area (FTA) so as to enable the application of duty free treatment. In a world that is increasingly being dominated by regional trade agreements, the origin of a product needs to be clearly delimited in a bid to avoid unlawful transshipment of goods into FTAs via the country with the lowest tariff. Hence originating status is generally granted to a product if it is either 'wholly obtained' in a preferential country or if it satisfies one or a series of processing or working conditions. Whilst some conditions specify a change in tariff classification (generally at the HS 4 or 6 digit level) as enough to attribute originating status to a domestically processed product others do so under specific processing (SP) requirements which are detailed in a long annex. However the most common and EU preferred rule, for attributing origin to products containing non-originating components, is the value added requirement.¹⁴² Under this rule, non-originating products are to undergo domestic transformation above a value added threshold. In essence the rule sets out minimum or maximum originating or non-originating content for a given product. Irrespective of the conditions that apply for a given good, the burden of proof, and hence the cost of compliance, tends to fall on the exporter side. This entails that RoO, if not properly delimited or if particularly onerous, may unnecessarily restrict trade.¹⁴³

2. Cumulation

In the advent of increasing international fragmentation of production structures where value added is being performed in many different locations, RoO can act on firm incentives when choosing the origin of intermediate goods. Cumulation allows countries to collectively satisfy originating status rules. As an example, and in the case of a value added rule, countries may share the value added (VA) threshold between them to gain originating status. In this respect, RoO have an effect not dissimilar to the trade creation and trade diversion effects in the preferential trade literature. Promoting cumulation between non-natural trading partners is likely to yield trade diversion whereas promoting cumulation between natural trading partners will promote trade creation. This will depend on the type of cumulation rules that apply. Bilateral cumulation only allows cumulation to occur between two countries whereas diagonal cumulation allows for other countries sharing a common preferential trade agreement (PTA) to cumulate with each other. On the other hand, full cumulation (or extended cumulation) extends the principle to countries party to a similar agreement but not necessarily engaged in the same PTA. The RoO governing the Cotonou agreement is an example of full cumulation where countries party to this agreement could cumulate with each other. Hence Botswana could cumulate with Cote d'Ivoire to obtain originating status and receive preferential treatment in the EU even if these two countries do not share a trade agreement between them. It can be thus argued that diagonal or full cumulation can serve a development purpose as it promotes the use of intermediate goods from regional partners. The counter argument is that this could cause trade diversion as countries will switch sources to cumulating partners, not for efficiency reasons, but rather to obtain originating status and gain preferences into a market. The question is then; who should developing countries be allowed to cumulate with? It is not obvious that cumulating with other

¹⁴¹ Trade deflection occurs when non-originating products evade tariffs by transshipping goods into an FTA via the country with the lowest tariff.

¹⁴² According to EC (2005) "Justification of the choice of a value added method for the determination of the origin of processed products."

¹⁴³ This is where the cost of compliance can be assumed to be increasing in the complexity of the rules.

developing countries would promote fragmentation of production structures or regional integration.

3. Scope for fragmentation?

One can loosely research the issue of fragmentation by looking at relevant trade indicators in a region of choice. For this analysis we look at the EAC region and consider the degree of similarity of trade structures as proxy for production structures. We conjecture that the more similar two countries trading structures are, and by extension production structures, the more they can engage in bilateral fragmentation of production. This measure is then a proxy of the potential for fragmentation. In table 1 we look at similarity by way of the Finger-Kreinin indicator for both total trade and non-agricultural trade.¹⁴⁴ The indicator is 1 when countries are identical and zero when their trade structures are completely divergent. Hence the entry for Burundi and Uganda in the first panel tells us that there is an overlap of structures in 33% of these countries exports to the world. We then see that for non-agricultural exports (all trade less sectors 01-24 of the HS) this figure falls to 4.7%. Given that the RoO governing agricultural goods tend to be more stringent and require that products be wholly 'obtained' in the originating country, then the potential for fragmentation is better approximated in the second panel. The general conclusion that can be drawn from table 1 is that the country pairs Tanzania-Burundi and Kenya-Uganda have the highest potential for engaging in bilateral fragmentation. However, it is not clear that any of these countries would benefit greatly from cumulating with any other ACP partner as the overlap of trading structures is very low. Similarly it is also not clear what the benefits would be of extending cumulation to non ACP partners.

¹⁴⁴ The F-K index of export similarity between country m and n can be defined, in general, as:

$$FK_{mn} = \sum_i \min(\delta_{im}, \delta_{in}).$$

Where δ_{im} and δ_{in} are the share of exports from country m in product i

and the share of exports from country n in product i , respectively. We make the distinction between total and non-agri trade as RoO governing agricultural exports tend to require the product to be 'wholly obtained' in the country of origin, hence there is little scope for vertical specialisation in these sectors.

Table 1 Similarity of EAC countries with selected partners (2008)

		All goods (1)					Non-Agricultural (2)				
		TZA*	BDI	KEN	RWA	UGA	TZA	BDI	KEN	RWA	UGA
EAC	TZA	0.31					1				
	BDI	5	1				0.353	1			
	KEN	0.16	0.1				0.107	0.047	1		
	RWA	0.09	0.2	0.2			0.022	0.090	0.056	1	
	UGA	0.26	0.3	0.2	0.2		0.097	0.047	0.277	0.050	1
		1	33	31	34	1					
EPA	EAS	0.11	0.0	0.1	0.0	0.1	0.047	0.022	0.055	0.017	0.048
	ECOW	7	60	02	50	01					
	AS	0.07	0.0	0.0	0.0	0.0	0.060	0.035	0.043	0.009	0.044
	SADCn	4	32	38	11	51					
	oSA	0.11	0.0	0.1	0.0	0.1	0.064	0.042	0.135	0.020	0.211
		7	46	12	37	56					
	SSA	0.11	0.0	0.1	0.0	0.1	0.075	0.059	0.108	0.027	0.085
	CARIF	3	70	21	36	06					
RoW	ORUM	0.04	0.0	0.0	0.0	0.0	0.031	0.028	0.041	0.009	0.030
		5	39	46	14	34					
							0	0	0	0	0
							0	0	1	0	0
	ASEAN	0.05	0.0	0.1	0.0	0.0	5	6	4	3	8
	3	2	56	08	17	56	1	3	6	0	5
		0.05	0.0	0.1	0.0	0.0					
	EU25	2	64	39	25	73	0.052	0.068	0.192	0.034	0.101
	EURO	0.08	0.0	0.1	0.0	0.0					
	MED12	3	66	30	24	73	0.092	0.073	0.191	0.029	0.118
		0.04	0.0	0.0	0.0	0.0					
	GCC	5	44	26	04	20	0.044	0.045	0.025	0.004	0.025
		0.07	0.0	0.1	0.0	0.0					
	NAFTA	2	77	15	24	63	0.070	0.085	0.156	0.030	0.090
		0.09	0.0	0.1	0.0	0.0					
	SAARC	2	40	21	29	73	0.074	0.033	0.145	0.023	0.076

Source: own calculations, 6-digits, Comtrade

*Values for Tanzania are 2007.

To complement the above analysis, we can also look at the degree of Intra-Industry Trade (IIT) as a metric of *current* fragmentation of production structures between countries.¹⁴⁵ The indicator measures the actual overlap of trade flows, across 6-digit categories, between two countries. A value of 1 implies that exports and imports to and from a partner are equal, whilst a value of zero implies that there are no simultaneous exports and imports between two partners. In table 2 we consider the degree of IIT for Burundi and Kenya both with respect to regional partners, non-regional ACP partners, the EU and other interesting

¹⁴⁵ IIT can be used as a proxy for fragmentation, but it does not capture the essence of fragmentation. The bilateral exchange of parts and components across similar tariff lines points to fragmentation but it is also possible that IIT captures exchange in final goods of different or same quality.

groupings. Initially, we note that the degree of IIT for Burundi and Kenya is very low. Evidence points to higher levels of IIT within the region when compared to any other regions (besides the world) but suggests that there is very little fragmentation taking place.

Table 2 Burundi and Kenya's (weighted) Intra-Industry Trade with selected partners (2008)

	Burundi	Kenya
ASEAN	0.005	0.002
CEMAC	0.007	0.011
EAC	0.046	0.046
EAS	0.026	0.061
ECOWAS	0.000	0.026
EU25	0.004	0.069
NAFTA	0.001	0.043
SAARC	0.000	0.006
WLD	0.070	0.127

Source: own calculations at 6-digits, Comtrade

Overall, the analysis suggests that there is little evidence of fragmentation of production structures taking place. It further suggests that the potential for engaging in such activities is limited, except for some regional partners.

4. Compatibility and Complexity

Going beyond cumulation, it is also important to consider the degree of compatibility of the different RoO regimes in place. Many ACP countries are party to three or more regional arrangements and hence incompatible RoO regimes across the different arrangements can unnecessarily restrict trade. Incompatibility may arise by way of differing requirements in, for example, the value added thresholds. Varying thresholds across the EU regimes (GSP, EPA etc) and ACP regional regimes may undermine South-South regional integration. In addition, varying thresholds across other non-EU preferential arrangements, such as AGOA RoO, can also have a similar trade deterrent effect.¹⁴⁶

In TAXUD's (2007:2) conclusions of the impact assessment study on RoO it is noted that "*preferential origin should be simplified and, where appropriate, made less stringent, so that products originating in beneficiary countries can actually benefit from the preferences granted*". This line of argument follows the reasoning that simpler and more transparent RoO will be more development friendly as they will provide less uncertainty in the application of origin. EC (2005) argue that "*simplification should improve clarity, aid comprehension of the rules and support their application and enforcement and boost development impact within and between regional trade blocs*". However, whilst simplicity is a necessary condition to avoid needlessly restricting trade, it is not a sufficient one. Using a VA criterion, which is relatively simple, does not imply that trade will not be unnecessarily restricted. It is possible that the threshold is set too high. Hence it is possible that countries will not engage in niche specialisation processes as doing so may undermine the VA test and preferences will be lost. This could create incentives for developing countries to specialise in processes that are sub-optimal.¹⁴⁷ The ODI (2006) study suggests that a simple VA system is not necessarily the answer and that both the threshold and the compatibility between products and countries matter enormously. In their investigation they look at mean VA across ISIC sectors and find

¹⁴⁶ See Flatters (2005) for an in depth coverage of SADC RoO and for some examples on compatibility.

¹⁴⁷ This is argued in ODI (2006)

that value added in ACP countries often falls well below the thresholds of the EU RoO regimes. Whilst the results may be driven by an aggregation bias given that the threshold is applied at the product and firm level and not at the industry level, the results remain striking and raise important development concerns.

Another often argued problem with the VA rule is that countries may suffer from exchange rate volatility effects. These may affect the VA calculation of foreign inputs and hence endanger the application of preferences. A country may meet the VA criteria in one year, but may not do so the following. To avoid such problems, the rules generally take into account average VA during a period of three years, but this does not completely eliminate the problem. This example underlines the need to go further in the application of RoO if development concerns are to be tackled. From this perspective, it is not obvious what an ideal RoO would look like. This is explicitly recognised in TAXUD (2007:2) where they conclude that the impact assessment carried out does *“not demonstrate that a single method is indispensable to simplification or development-friendliness”*. Harris (2008) argues that both lax and strict RoO have similar effects on development. If the goal is to increase productive capacity in developing countries, then too lax a rule is likely to make preferential countries transshipment hubs where little industrial production occurs. Alternatively, if the rule is very strict, then the developing country is not likely to be able to benefit from the preferences granted. It is therefore clear that, in the case of a VA rule, a low value added will serve as little as a high value added threshold. It follows that the threshold should be within a range. However, even if we assume that it is possible to find the appropriate range for a given country it may be farfetched to assume that this threshold level would serve other countries party to the same RoO regime. In addition, critics of the VA rule argue that it requires firms to engage in accounting procedures that may be costly.

5. Differences Across EU RoO regimes

Leaving aside the intrinsic difficulties of finding a fully development-friendly rule governing the attribution of origin, and given that an econometric assessment is well beyond the scope of this study, some implications for development are drawn by looking at the changes in time and across RoO regimes. For ACP countries there are three major regimes that apply. These are the GSP, the Cotonou and the EPA regimes. Whilst the GSP RoO regime has been around the longest (since 1993), the Cotonou (2000) and the EPA (2008) regimes remain, in essence, very similar (Naumann, 2008). Since 2000, ACP countries have benefited from Cotonou RoO which had provisions for full cumulation across all ACP countries. However, since 2008, ACP countries are subject to either the GSP or the EPA regimes. According to Naumann (2008), the EPA regime brings minimal changes in the general RoO legislation. The main changes occur in the annexes and are to do with simplifications and concession for agricultural products and textiles and clothing. ‘Wholly obtained’ definitions are redefined, and lists of insufficient processing operations are expanded. RoO on fisheries are also significantly revised with important simplifications of conditions relating to vessels. Where cumulation is concerned, countries that have signed or initialised the EPAs/IEPAs can cumulate with each other but not with countries that have not signed. Hence to a certain degree, the change in conditions is a worsening of the terms that applied with Cotonou. It is not directly clear what the implications are for countries which have not initialised the EPA/IEPAs but they are likely to fall under the GSP RoO. However, the EC has, during the last five years, been reviewing its RoO practice in view of simplifying it and using it as a tool for development. In this respect, the similarity of rules across the Cotonou and EPA regimes marks the little progress that has been made in finding an appropriate regime that allows countries to utilise the preferences granted. This is why the EPA/IEPA agreements include a clause that foresees a review of the RoO in a pre-

established amount of time (art 13, 3 of the Central African-Cameroon - IEPA – see below):¹⁴⁸

Not later than three years after the date of this Agreement's entry into force, the parties shall review the provisions in force governing the rules of origin, with a view to simplifying the concepts and methods used for the purpose of determining origin in the light of {[the country's] development goals. As part of this review, the Parties shall take into account technological development, production processes and all other factors including reforms under way in relation to rules of origin which could require amendments to the negotiated reciprocal regime. Any amendment or replacement shall be effected by decision of the EPA Committee.

In essence, this article is a clause that enables the EPA agreements to take into account the new RoO regime that is currently under development and that should be published by the end of 2009. This new regime is to overhaul all others and create simplified and more development friendly regime (as expressed in TAXUD (2009)). Whilst the implications of the changes cannot be easily foreseen, the costs of negotiating RoO for the EPAs in view of these being changed in the short term possibly suggests a misallocation of resources.

The new GSP regime is a result of the EU's consultation process and aims to introduce the concept of development explicitly in the agreement. The general aims are simplification and where appropriate, less stringency (TAXUD, 2009:2), where problems with the VA methodology are noted and the need for flexibility is explicitly recognised. The main aims are then to encourage industrial development; to simplify the stringent cumulation rules; to set up systems of administrative cooperation; and to create an electronic record of registered exporters by 2013.

6. Conclusion

Striking the balance between avoiding trade deflection and unnecessarily restricting trade flows is the key to the effectiveness of a RoO regime. In this respect, the EU (EC, 2005 and TAXUD, 2007 and 2009) has opted for the value added method arguing that, although it is not the answer, simplicity and predictability should reduce uncertainty which would feed through to the intended development goals. However, ODI (2006) and Harris (2008) suggest that there is not enough known about the appropriate VA thresholds to apply to specific countries. Too high, or too low a threshold is likely to be damaging (Harris 2008) and evidence does not support 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. Reaching an optimal development friendly RoO is unlikely, however 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 in attaining originating status which would then hinder 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 cumulating mass 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.

¹⁴⁸ Similar wording is used in other IEPAs, but the CARIFORUM EPA considers five years rather than three.

The EU has yet to deliver a simple and compatible RoO regime for ACP countries, and whilst it is wise to not enter into the guesswork of what the new GSP regime might look like, it is possible to 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. For 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. This would serve the purpose of simplifying procedures which tend to be unnecessarily restrictive. It follows that cumulation should be extended to all countries that face the same tariff in the EU regardless of the form 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.¹⁴⁹ Furthermore, extending cumulation will significantly reduce the negative trade diversion effects as there would be no preferential status induced advantage in sourcing products from a given location. The flip-side to this argument is that extending cumulation will not promote fragmentation of production structures across ACP countries, hence damaging the development goals of the regime. It can, however, be argued that promoting fragmentation this way would be short-sighted and could lead to sub-optimal degrees of specialisation resulting from distorted preferences. Promoting regional integration through trade diversion may be a flawed long term development strategy. Another possible recommendation would entail approximating the applied RoO to the different regimes faced by ACP countries. This would entail spreading the fixed informational costs across larger destination markets and deriving important learning economies of scale. This would however require some form of multilateral approximation which may be difficult.

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¹⁴⁹ 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.

EPAs and Regional Integration

1. Introduction

Regional integration has long been seen in Africa as a means of achieving industrialisation and modernisation through encouraging trade and securing economies of scale and market access. For the past three decades or more, Africa has tried various regional trade arrangements/agreements (RTAs) to promote African regional integration which is in contrast with the experience of regional integration in Asia in particular East Asia. The latter's regional integration is much more market-driven while the former more policies/institutions-driven. In East Asia, opening up and integration with the world economy provide a strong impetus to expansion of intra-regional trade via vertical specialisation and being part of global manufacturing and supply chain. Formal regional preferential arrangements are established afterwards. However, despite very little intra-Africa trade initially, all kind of RTAs have sprung up all over the Africa continent and some have been in place in many years; for example, SADC 1992, COMESA 1982 and ECOWAS 1975. The African RTAs do not appear very successful in generating trade expansion for the region and have done little to halt Africa marginalisation in world trade. The decline in Africa's share of world trade has happened at the same time as an increase in the overall share of developing countries.

Most of African regional integration initiatives have sought to promote intra-regional trade by emphasising common trade policies particularly common external tariffs to harmonise trade regimes across member states. However, differences among member states in their economic conditions, trade interests and policies, political willingness to liberalise intra-African trade have often led to paper agreements on common trade policies that were not effectively implemented as reflected in a number of existing policy and institution obstacles to intra-African trade. Regional integration efforts have been marked by a lack of political commitment, policy reversals, multiple conflicting objectives of overlapping regional arrangements and very limited administrative resources to take on the implementation tasks. The dependence on trade taxes as source of government revenue also constitutes a major hurdle for tariff liberalisation in many African countries.

An important reason for the failure of a common trade policy approach is that there are great disparities in terms of restrictiveness of trade regimes across the region. Harmonising tariff structure and establishing a low and uniform common external tariffs would require significant adjustments for many African countries involved. In many African countries, given many rounds of multilateral trade liberalisation, with some who have undertaken trade liberalisation unilaterally, Most Favoured Nation (MFN) tariff rates are still very high. Many imports of products that compete directly with domestically produced ones are subject to the countries' maximum MFN tariff rates. Imposing high tariff rates on imports competing directly with domestically produced goods result in high protection levels and rents for the firms that benefit from these. The loss of such rents is strongly opposed by the vested interests concerned. It is politically difficult to effectively implement free trade in products bearing high MFN tariffs. In addition, preferential tariff-free import from regional producers of a product otherwise subject to a high MFN tariff would give the regional producers a substantial price advantage over external ones and can cause a significant revenue loss for the governments as well as diversion of trade.

Consequently, governments' commitment and willingness to implementing free intra-regional African trade in high tariff products is often weak if any. In reality, most high-tariff products that compete directly with domestic production are usually explicitly excluded from arrangements for free intra-regional African trade and when, not excluded from the

arrangements, are constrained by protectionist rules of origin and other Non-Trade-Barriers (NTBs) such as quantitative restrictions, discriminatory domestic taxes and import licensing. Cumbersome and costly transit arrangements, inefficiency and corruption of customs administration, both official and unauthorised road blocks and tolls on key transit routes can be found in many African countries who are belonging to the same RTA. Other barriers include lack of common product standards, systems of certification and most of all, lack of mechanisms for ensuring compliance with regional trade agreements and for resolving dispute.

The common external tariffs in many African RTAs have three or four bands of tariff structure – raw materials, capital goods, intermediates and finished goods. An escalating tariff structure with highest rates for finished goods, the lowest for capital and raw materials, is used. The classification of goods and the accordingly the tariffs structure is not without complication – an input for one country may be a finished product for another. Therefore, there is a great deal of temptation and time spent (wasted) on negotiating a suitable classification of goods in order to protect domestic industries. Interestingly, for example, many countries in Common Market for Eastern and Southern Africa (COMESA) exceed their tariff bindings of the WTO if they implement suggested CET (Khandelwal, 2004). Although all the custom unions in Africa have established CET, actual implementation of these CETs varies among member countries, apart from SACU, there is no pooling of customs revenues and revenue sharing arrangement; member countries maintain customs barriers at the custom unions' internal borders (Hinkle, 2009).

Many African countries have been involved in more than one RTA. For example, all 15 SADC members except Mozambique are engaged in more than one regional integration scheme. SADC include all members of SACU (Botswana, Lesotho, Namibia, Swaziland and South Africa, which is itself a customs union) and it overlaps with COMESA (eight members of SADC belong to COMESA, a FTA aiming to establish a custom union). Tanzania, a member of SADC, withdrew its membership from COMESA in 1999 and joined Eastern Africa Community (EAC) - a customs union.¹⁵⁰ The differences in terms of CET and rules of origin (RoO) in different Africa RTAs make the overlapping memberships even more complicated. For example, the differences in EAC and COMESA in terms of CETs and rules of origin are less than those between EAC and SADC. For Tanzania, it might make sense to withdraw from SADC, but rejoining the COMESA, therefore all EAC members can be actively involved in COMESA custom union (Khandelwal, 2004). Madagascar, Mauritius and Seychelles together with Comoros are members of Indian Ocean Commission (IOC), an inter-governmental organisation. Mauritius belongs to both COMESA and SADC. The list is extensive. While CETs vary across RTAs, (or if their final levels are the same but have different schedules of transition), countries with overlapping memberships would face the impossible task of implementing multi-tariff commitments. The overlapping memberships have profound implications and consequences for African regional integration and its integration with the rest of the world - to a certain extent, it has hindered the progress of African regional integration. Multiple memberships reflect countries' desire to pick and choose various options offered by competing RTAs and lack of serious commitment toward the regional integration. The myriad numbers of disparate regional groupings have served little to help regional integration process, but to distract the member states. Overlapping members between various organisations are not without costs - multiple membership fees to be paid and maintained; negotiation resources and capacity have been stretched thin across the region; administrative costs related to complicated RoO. Most of all, conflicting objectives

¹⁵⁰ Tanzania is eligible for duty-free imports originating from SADC states under the SADC-FTA. It holds a CET with its EAC-CU partners, this poses contradiction for Tanzania in dealing with its imports from the SADC states. As a compromise to this conflict, the EAC partners agreed to temporarily exempt the tariff preferences that have been granted to third countries prior to announcing the EAC-CU protocol from their CET.

among rival RTAs have contributed to a lack of any meaningful progress in many areas. As some of these arrangements are in various stages of forming customs unions, it has become clear that there is urgent need that Africa must resolve and work towards the eventual rationalisation and conflicts of overlapping memberships.

Apart from policy and institution barriers to intra-African trade, it is the small size of their economies (apart from South Africa), low production and trade complementarities, high transaction costs due to inadequate infrastructures in transport, information and communications that all contribute to low intra-Africa trade. The very low complementary production profiles in many African economies provide limited scope for intra-regional trade, artificially stimulating trade through regional tariff preferences would seem pointless, and even if effective, very costly. For example, intra-regional imports within the COMESA accounted for only 3.6% of the total imports of the region in 1996-2000, 4.1% in 2001-2003, while for SADC, they are 9.7% and 10.4% respectively.¹⁵¹ Product complementarities between countries are an important indicator of the potential for expansion of intra-regional trade. Various studies such as Yeats (1998) find that African countries tend to have exports concentrated in a few products, reducing the possibilities of intra-regional trade; Chauvin and Gaulier (2002) conclude that SADC countries have similar disadvantages in manufactured goods (except South Africa), while having similar advantages in primary goods and the potential to expand trade within SADC is small. Khandelwal (2004) draws similar conclusions as the other two - more developed economies like Kenya and South Africa are in a better position to market their exports in COMESA/SADC and less developed economies are unable to find significant markets in COMESA/SADC.

2. The Rationale of EPA Negotiation Configurations in Africa

One of the objectives of EPAs is to promote ACP countries regional integration, which has been an important political and economic aspiration and objective for many African countries for several decades. The EU has placed strong emphasis on South-South integration through reinforcing the existing regional integration initiatives, harmonising the rules of governing trade and creation of customs union. Given the existing conditions in African regional integration, weak productive capacity, lack of production and trade complementarities, geographical asymmetries, divergences in trade interests and trade policy regimes, and maintaining disparate tariff and non-tariff barriers, the simultaneous membership of different regional trade arrangements that have conflicting objectives, there is no simple solution nor the best configuration of regional grouping in EPA negotiations. However, the EPAs may create an opportunity to correct and rationalise the overlapping memberships in various African RTAs by acting as a mechanism of locking-in trade and other structure and institution reform and enhancing credibility of reforms. The EU's original plan was to push for the formation of various customs unions in Africa, conducting negotiations with each of the customs unions before reaching EAP agreements. Geographic configurations are originally identified to organise the negotiations with six ACP groups – Caribbean, Pacific, West Africa, Central Africa, Eastern and Southern African and Southern Africa.

Despite much of the rhetoric about the importance of regional integration in the EPA context, substantive discussions about it made little progress in Africa. The original four large and diverse regional groups in Africa turned out to have little coherence and hardly anything in common in their trade policies and interests and could not agree on common external tariffs which EU intended to have before reaching agreement on EPA. There are many differences and disputes including the geographic configuration of EPA-groups in eastern and southern Africa, conflicting trade interests between LDCs and non-LDCs and between oil-exporting

¹⁵¹ Given the size of South Africa, it is not surprising that the share of intra-SADC trade is higher than the one of intra-COMESA trade.

and non-oil exporting countries with regards to the opening up EU imports on reciprocal basis; different views over including trade in services and other related issues. While the Caribbean is a different story compared with the Africa region in many aspects. The Caribbean economies as a whole are more developed and have higher income than African economies; intra-regional trade among Caribbean countries are much higher than intra-Africa trade; the region has much stronger and effective regional mechanisms to deal with external negotiations than Africa; and regional integration in the region is much more advanced and deeper than Africa. The Pacific is unique as far as EPA is concerned. They are small islands scattered around the Pacific, given the vast distance and similarities of their economies, there is very little trade among Pacific island countries. The whole Pacific EPA countries have much more trade with Australia, than with the EU. Therefore, they have little interests in negotiating trade arrangements with the EU.

By 2008, the West Africa EPA group has six countries including seven members of ECOWAS, eight members of UEMOA and Mauritania. Among these 16 countries, 12 of them are least developed countries (LDCs) that have EBA market access to the EU; the other four countries are Cape Verde, Code d'Ivoire, Ghana and Nigeria. Nigeria is the largest oil exporter in Africa. The Central Africa EPA group has eight countries including six members of Economic and Monetary Community of Central Africa (CEMAC), which is a customs union, as well as Sao Tome Principe and the Democratic Republic of Congo. Among these eight countries, five of them are LDCs with EBA market access to the EU. The Eastern and Southern Africa (ESA) EPA group has 16 countries initially including 11 members of COMESA and five members of EAC. Among 16 of them, 12 are LDCs with EBA market access to the EU. Southern Africa EPA group has seven countries including two members of SADC and five members of SACU a customs union. Angola, Lesotho and Mozambique are the three LDCs in the group with EBA market access to the EU. South Africa, a member of SACU already has its trade relation with the EU governed by South Africa-EU Trade and Development Cooperation Agreement (TDCA) and initially had only an observer status in the EPA negotiations. The membership in each of four original geographic regional EPA-groups was self-determined. However, some natural trading partners in Africa with relatively large trade among themselves belong to different regional EPA groups. For example, Nigeria belongs to ECOWAS, whereas Cameroon, Democratic Republic of Congo belongs to the CEMAC EPA-group, and Burundi and Rwanda belong to EAC. The cross border trade between these countries may not benefit from potential measures liberalising intra-regional trade within ECOWAS, CEMAC and EAC under the EPA.

The original configuration of ESA and Southern Africa EPA groups posed many challenges and options for both SADC and COMESA states as they negotiated the EPA with the EU. Both organisations intended to establish custom unions – this imposed fundamental challenges and conflicts for the eight countries who were involved in both institutions. To resolve this conflict, two EPA-related configuration groups were established in 2004. SADC EPA group and other seven members of SADC participate in the negotiations as part of ESA EPA group, (see Table 1). During the course of the negotiation, EAC left ESA/COMESA leaving COMESA largely confined to LDCs, which have EBA market access to the EU and but have minimal incentive to negotiate market access issues. The SADC states have aligned themselves with four different configurations – ESA/COMESA, EAC, SACU and the rest of SADC. Some LDC members of SADC are negotiating outside the SADC umbrella. By the time the interim agreements were signed, SADC only contained SDCU (BLNS) and Mozambique. This outcome may have brought unintended implications for regional integration given the different tariff schedules, and more importantly, eliminating tariff albeit gradually with the EU but maintaining the tariffs with the neighbour countries.

South Africa is another case to consider in the EPA process and impacts on regional integration. South Africa is a member of SADC (scheduled to establish CET and the customs union in 2010) and the member of SACU. It has TDCA governing its trade relation with the

EU, which was not designed with its neighbours' needs in mind. To make the scheduled customs union workable, either the CET or other relevant provisions have to be tailor-made to fit TDCA or the TDCA might need to be alternated in order to fit the scheduled custom union. To make the matter more complicated, SADC includes all member states of SACU. Apart from other complications, the SADC, right from the beginning was concerned about the implications that the TDCA would have on the SADC-EU EPA. The EU believed that individual countries could only be a member of a Single Trading Arrangement with the EU. It was considered that the reciprocal tariff elimination of TDCA would constitute the basis for any SADC-EU EPA and South Africa would participate in the SADC-EU EPA negotiations as an observer. However, in February 2006, SADC asked all the members of SACU to be involved in both the EPA negotiations and TDCA review. A change of mandate was required in order to include South Africa as a negotiator. Also it is reported that SADC members except South Africa were willing to negotiate trade in services given the role this sector could play in their economic development. This certainly generated tension between the SADC members and South Africa who was reluctant to negotiate in this area.

All the members of SACU except South Africa have signed interim EPA. Perhaps as a result of this it is not difficult to believe that regional integration possibilities have been made more complicated. There are more trade regimes governing trade relations between the EU and SADC EPA countries than when the EPA negotiations started; there are interim EPAs governing trade relation between the EU and SACU members of Botswana, Lesotho, Namibia and Swaziland (BLNS); TDCA governing trade between the EU and SACU member of South Africa; interim EPA between Mozambique and the EU. Furthermore, Angola has not signed an interim EPA but has EBA market access to the EU. Even the interim EPA between EU-SACU BLNS, each country has its own trade liberalisation schedule with the EU which undermines the basic principle of customs union.

One of the biggest problems is that many African countries right from the start of EPA had little political interest in liberalising imports or in using EPA to accelerate implementation of trade-related reforms. The incentives in term of market access provided by EPAs for the 33 LDCs and three oil-exporting countries to undertake the reforms required were inadequate unless countries themselves had their own motivations for doing so. Another important point is that during the negotiations process, it turned out that the EU and African countries had very different concepts, understanding and interpretations of the development component of the EPAs. While in certain corners of the EU, EPAs were viewed primarily as trade agreements and instruments for accelerating reforms, while in Africa, many hoped to use them obtain extra/additional development aid. In the end, all these elements – lack of political interest, inadequate incentives, the incoherence of the regional EPA-groups and disagreement over development aid, together with the deadline, changed the overall approach of the EPA negotiations in Africa. To a certain extent, the similar outcome happened in the Pacific region, although for difference reasons.

3. The EPA Negotiations Process and African Regional Integration

Any strategy/policy aiming to enhance Africa region integration has to address the fundamental problems mentioned above. To understand whether and how the EPA can influence the African regional integration, this paper analyses Africa EPA groups one by one in some detail. The Caribbean and Pacific are used as comparisons.

Eastern and Southern Africa (ESA)

Eastern and Southern Africa is the region with a large number of PTAs/RTAs, many of which have significant overlap in their membership. There are two issues, the extent of the overlap and associated problems; depth of PTAs/RTAs and whether they allow member countries to integrate into the world trading system beyond what could be expected from solo participation in multilateral negotiations or unilateral reductions in trade barriers. The

Common Market for Eastern and Southern Africa (COMESA) has 19 members, Angola, Burundi, Comoros, the Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Seychelles, Sudan, Rwanda, Swaziland, Uganda, Zambia and Zimbabwe. 11 out of 19 members (Burundi, Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Sudan, Zambia and Zimbabwe) participate in a free trade area and others trade on preferential terms. COMESA has achieved quasi free-trade status fairly quickly, but has had difficulties of carrying out further integration among very diverse members. Approximately it took five years to achieve a free trade area and some delegation of authority to the COMESA Secretariat. However, within the free trade area, trade flows were not so free because of cumbersome bureaucratic procedures, restrictive standards, and in some countries even replaced tariffs with discriminatory exercises (Khandelwal, 2004).¹⁵²

COMESA members had agreed further integration toward a custom union (which was signed in 2007 and supposed to come into effect in 2009), which so far, has been proved to be too ambitious. More than 1000 tariff lines have been exempted from the common external tariff. COMESA members have tried to engage in deep integration and have made some modest progress in establishing a fund for a revenue-loss compensation; custom harmonisation and transport facilitation (both measures to facilitate trade); and the establishment of a common investment area to help pave the way towards a common market. However, cross memberships between SADC and COMESA have meant that transaction costs related to border formalities and multiple RoO could not be eliminated.

For many years COMESA had been examining the possibilities of a common external tariff structure with four tariff bands at 0%, 5%, 15% and 30%. However, with the setting up of the custom union of EAC by Kenya, Tanzania and Uganda in 2003, two COMESA members Kenya and Uganda have agreed on CET structure of three bands at 0%, 10% and 25%, it certainly complicates COMESA discussions on CET. COMESA member states could not agree on the maximum tariff rate or the number of tariff bands. There was resistance to reduce the number of tariff bands. Also, as mentioned above, not all 19 members of COMESA are participating in a free trade area. Although the importance of low and uniform CET was recognised, there are several impediments including protectionism pressure that resist the changes of a number of the bands and maintaining maximum tariff rate, and the classification of goods. Many COMESA countries still rely on tariff as a revenue source and significant adjustment is required, this is also an impediment to a low and uniform CET. The dependence on tariff revenue has led to an agreement that revenue would be kept by the country of final consumption. This allows countries to keep their import revenues, but will require enormous effort and cooperation on the part of customs administration to track the country of final consumption. This is certainly overwhelming for the regional customs administration capacity and eroded efficient gains from a custom union. The custom administration capacity was burdened with overlapping memberships between COMESA, EAC and SADC and the associated need to track qualifying domestic/regional content to satisfy the rules of origins for each of the arrangements. Also, a strong political will and commitment was required (whether this could be delivered is another question) to ensure the list of exceptions to the CET does not get extensive. The list of exceptions to CET requires

¹⁵² Egypt is a member of COMESA, but not an ACP country, therefore not in EPA negotiation. It has its own trade arrangement with the EU under the Euromed agreement. Its membership of COMESA is likely to come under scrutiny. Tanzania is no longer a member of COMESA, but a member of EAC aims to set up a custom union in 2010. Swaziland, a member of COMESA, has had significant problems in joining in the customs union given its existing membership of SACU. As long as COMESA remains a free trade area, the contradictions arising from the different tariff reduction commitments signed by COMESA members under EPAs will remain manageable. However, once member states sign on to a customs union, which requires the establishment of a common external tariff, these contradictions will come to the fore.

the member states to maintain the border control within the custom union. COMESA has placed more emphasis on harmonisation of standards and customs procedures and trade facilitation. However, the lack of political commitment has impeded progress in implementing the vision.

Existing complex arrangements and uncertainties within the region make for slow if any progress in regional integration in Africa. In the East Africa Community (EAC) custom union, five countries are aiming to regularise their custom union by 2010. Unlike the other four members of EAC, Tanzania is not a member of COMESA, but belongs to SADC. However, Swaziland is a member of COMESA, has significant problems in joining in the customs union given its existing membership of SACU; while Kenya reported being frustrated by slow progress of EAC custom union, may decide to sign the COMESA customs union agreement unilaterally. As long as COMESA remains primarily a free trade area, the contradictions arising from the different tariff reduction commitments signed by COMESA members under the interim EPAs may remain manageable. However, once the members sign on a customs union, which requires the establishment of a common external tariff, then these contradictions will become more prevalent.

The split of ESA has complicated the completion of COMESA customs union, scheduled to finish in 2010. Seychelles, Zimbabwe, Mauritius, Comoros and Madagascar signed interim EPA with a country specific liberalisation schedule. The Democratic Republic of Congo left the ESA region and joined the CEMAC region. Tanzania originally was part of the SADC EPA, and then joined ESA. Some EAC members, Kenya, Burundi, Rwanda, and Uganda, left the ESA regional grouping by the end of 2007 and signed an interim EPA as a customs union. The EAC actually started exploring the possibility of negotiating a separate EPA in August 2007 fearing the possibility of trade disruption if the broad ESA group could not reach an agreement with the EU by the end of 2007. Tanzania joined the EAC in 2005, having previously negotiated the SADC EPA. Tanzania opposed the EAC members which had a deal in mind and would have potentially signed an agreement. The differences between Tanzania and the rest of EAC members play some role in the slow pace of ESA negotiations. In the end, all EAC members entered the interim EPA agreement with the EU as a custom union with a single list of schedules for all its members under the leadership of Kenya which was not an LDC with strong incentives to sign an EPA agreement, at least to preserve its market access. Burundi, Rwanda, Tanzania and Uganda, the other four members of EAC are all LDCs, but seemed to show commitments to the EAC customs union. The EAC EPA group is scheduled to eliminate tariffs on 80% of its imports from the EU within 15 years, but an additional 11 years to eliminate tariffs on another 2% of its imports from the EU.

The other five ESA – Comoros, Madagascar, Mauritius, Seychelles and Zimbabwe, initialled an interim EPA with the same text as each other at the end of 2007, and all of them established their liberalisation schedules in relation with the COMESA CET, but details of their liberalisation and exclusion baskets differ, hence there is a common regional set of rules but different liberalisation schedules. Zambia initialled the common interim EPA text of the other five ESA, but the Zambia liberalisation schedule is completely different with no reference to CET and has different start and end dates of trade liberalisation with the EU. The exclusion lists in the interim EPA for ESA may cause problems when implementing COMESA CET. If one COMESA states is removing tariff on one goods, but it is being retained fully by another member of COMESA, the two states cannot have CET on imports from the EU. Given the exclusion list is always under the assumption/impression of being sensitive (revenue raising or industry needs protection), it will remain for some time. Then the issue of implementation of obligation arises for the other members of COMESA. Also, many LDCs in COMESA, which enjoy EBA and had much less incentive to negotiate EPAs on market access issues, and have not signed interim agreements. Whether the COMESA will stay together and enter a comprehensive EPA as a meaningful customs union remains

to be seen. The Ethiopia case study conducted in this report draws conclusion that 'the ESA region has become much more disintegrated since the EPA process started. The divisive nature of the EPA process to date suggests that the prospects of integration process after the EPA may be difficult or worse. It is not easy to come to consensus when negotiating as a large group especially with vast and varying interests'.

Southern Africa EPA group:

Southern African EPA group consists of some members of SADC and all members of SACU. SADC, Southern African Development Community has 13 members including Angola, Botswana, the Democratic Republic of the Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. SADC has pursued different approach to regional integration relative to COMESA. It focused on relaxing the supply side constraints to trade through regional cooperation in various sectors, such as infrastructure, agriculture, transportation and human resources. In 2000, it launched a FTA and 11 members opted for participating in a free trade area (Angola and Democratic Republic of Congo not in FTA). Member countries agreed to liberalise 85% of intra-SADC trade by 2008 and liberalise sensitive products by 2012. SADC, a free trade area came into effect on January 2008.¹⁵³

There is concern that SADC tariff reductions have been back-loaded and slow. Another issue is that over time the rules of origin have become restrictive and more product specific under pressure from member states. The complicated and restrictive rules of origin are increasing costs of administration and make it difficult for exporter to take advantages of SADC preferences. Interestingly, there is an attempt to improve polarisation effects on LDC members of SADC through non-reciprocal market access in sugar and more relaxed rules of origin in textiles. The agreement also includes provisions for protection of infant industries and anti-dumping and safeguard measures and agreement calls for elimination of NTBs and services liberalisation, but on neither front has there been much progress. There is no institutional mechanism for reporting NTBs or resolution of disputes. Implementation of the protocol in terms of meeting liberalisation commitments on merchandise trade has been uneven with many countries like Tanzania, Zambia and Zimbabwe lagging behind. Active areas of cooperation where there has been progress include training and capacity building in central banks, development and harmonisation of payments, clearing and settlement systems. However, there is still concern that SADC is more of a political block than a true instrument for regional economic integration (Yang and Gupta, 2005).

In March 2004, SADC announced the plan of establishment of a SADC customs union and implementing a common external tariff by 2010; a common market by 2012, and establishment of a SADC central bank and preparation for a single SADC currency in 2016.¹⁵⁴ The structure of the SADC customs union mirrors that of SACU – South Africa Customs Union including Botswana, Lesotho, Namibia, South Africa and Swaziland. An important feature of SACU is revenue sharing arrangement. SACU tariff structure is complex, consisting of *ad valorem*, specific, mixed, compound, formula duties based on reference prices and other duties and charges. The *ad valorem* duties cover around three-fourths of tariff lines and compromise 39 bands ranging between 0% and 55% (Edwards and Lawrence, 2008). The specific, mixed, compound and formula duties and other charges cover an important set of agricultural and agro-industrial products and apparel. While SACU has harmonised applied tariffs, exercise duties, custom valuation, rules of origin and contingent trade remedies, not much else has been harmonised.

¹⁵³ SADC wanted to conclude the EPA before the establishment of CET, however, the EU preferred to have CET first.

¹⁵⁴ Like many other grand plans of regional integration in Africa, it remains to be seen whether this is going to implemented, functional and effective.

Despite an agreed joint roadmap at the launch of negotiation on 8 July 2004, the initial composition of SADC EPA configuration like the one in ESA was not without challenge and was unsustainable in terms of existing regional integration initiatives and unspecified role of South Africa. The complication of SADC EPA configuration lies in many aspects, including Angola, a post conflict situation; SDCU common external tariffs and tariff revenue sharing and the existing revenue sharing arrangement complicates the negotiation. This configuration itself undermines SACU.

In the end, SADC EPA group was left with Mozambique which signed an interim EPA with the EU, SACU members BLNS signed an interim EPA with the EU and Angola opted out for an interim EPA. It is interesting to note that the SADC EPA signatories have a shorter liberalisation period than the signatories in other EPA groups because its four SACU members needed to align their liberalisation schedules with the de facto one for SACU CET. South Africa, a fifth member of SACU, had previously established this liberalisation schedule when negotiating its TDCA. The BLNS each had its own list of imports schedules from the EU further increasing the tension around the SACU CET; which is already a great obstacle to regional trade integration (Bilal and Steven, 2009).

Central Africa EPA Group

Central African EPA group consist of eight countries, six of them, Cameroon, Central African Republic, Chad, Democratic Republic of Congo, Gabon and Equatorial Guinea, are members of Economic and Monetary Community of Central Africa (CEMAC) as well as Sao Tome Principe and Democratic Republic of Congo. Sao Tome and Principe and DRC joined the CEMAC for EPA negotiations, but were not involved in any membership of CEMAC. Five countries in this EPA configuration, three members of CEMAC and Sao Tome Principe and Democratic Republic of Congo are LDCs with EBA market access to the EU. CEMAC was created in 1994 as a customs union. Weak or non-implementation by the member countries of the agreed custom union regime highlights a need for renewed political commitments to regional integration. The CET in CEMAC ranges from 5% to 30%, with un-weighted average tariff rate of 19%. The CEMAC Secretariat overseeing compliance with the agreed trade regime lacks the means and authority for carrying out its role. Some key measures such as limiting tariff exemptions, phasing out remaining surcharges and tariff reduction with or without EPAs are needed to improve compliance with requirements for a custom union should be adopted at regional at national level.

The export performance in this region has been primarily dominated by the oil sector which is reflected in the increase in the volume and share of oil export in total exports. Since 1997, there has been decline of non-oil exports to GDP, though it began to pick up again in 2005 (table or graph here to show the region trade?). FDI inflows to oil and related sectors in CEMAC have been steadily increasing. There are substantial similarities in nature resources (natural comparative advantages); their production and trade patterns among CEMAC members, like the other regional RTA in Africa, results in limited scope for intra-CEMAC trade. Oil is the main export for many central African countries; other exports are related to wood products and cotton. There is little diversification especially in manufacturing, of six members of CEMAC, only Cameroon has some kind of industrial base. Given its natural resource, production and trade structure, the greatest boost to this region trade in the short to medium term may come from strengthening their domestic supply response and promoting trade with the rest of the world.

CEMAC started its EPA discussions with the EU in 2003, Sao Tome, Principe and Democratic Republic of Congo joined CEMAC in the preparation of an EPA, but was not involved in the membership of CEMAC. CEMAC EPA negotiations with the EU made little progress due to divergences in their trade structures, policies and interests. Also given the

fact that countries either export oil or have EBA market access, there was little incentive to negotiate a reciprocal trade agreement with the EU, which required opening up their markets to the EU exporters. Cameroon, which could lose significant trade preferences if it converts to GSP, is the only country in this EPA configuration has signed its own free-standing country-specific interim EPA with the EU in December 2007. Gabon, another non-LDC, reportedly was also looking to make a similar agreement. On the other hand, Congo and the other LDCs did not consider an interim agreement as an option. All these have made it hard to find a common regional position in the central African region and have impacted the entire regional integration process, which so far, has very limited impact on intra-regional trade.

By April 2008, Central Africa was trying to accelerate the process of regional integration by signing a new treaty to improve power of the community law courts, increasing the participation of civil society and transfer some national decision making power to regional level. It is expected but remains to be seen, whether this will have any impacts on accelerating the EPA negotiation process and regional integration.

West Africa EPA group

The West Africa EPA group consists of the members of ECOWAS, of which eight members also belong to West African Economic and Monetary Union (WAEMU) was created between 1996 and 2000 as part of the initiative to boost regional integration and policy effectiveness after the CFA franc was devalued in 1994. Among eight members of the WAEMU, Cote d'Ivoire is the only oil exporting member; Benin, Burkina Faso, Mali and Togo are mainly cotton exporters, have been very active in pursuing reform agenda in the WTO negotiations. Their cotton exports have suffered from developed countries subsidies for cotton production as well as increased competition from Brazil and China. Substantial differences in factor costs between WAEMU countries have led to the introduction of NTBs within the WAEMU. These NTBs arise from national trade regulations that are not consistent and in many cases conflict with WAEMU rules. Other sticky issues include landlocked versus coastal; transportation costs and differences in taxes on oil products. WAEMU countries apply the CET to imports from other ECOWAS countries which are not members of WAEMU, as a result these countries apply country-specific tariffs to imports from WAEMU.

Like in the Central Africa EPA configuration, the West Africa EPA has a large number of LDCs - 12 out of 16 and many oil-exporting countries, both have little to gain in the near future to enter trade agreements with the EU. Ghana and Cote d'Ivoire which are not LDCs, are the only two ECOWAS countries that have signed interim EPA with the EU. None of the 12 LDCs in the ECOWAS have signed an interim EPA, nor has Nigeria or Cape Verde. During the EPA negotiations between the ECOWAS and EU, it shows the internal divergence in terms of interest between LDCs and non-LDCs, oil and non-oil exporting countries, and the finalisation and completion of ECOWAS common external tariffs as the establishment of a custom union. There are several barriers with regards to the establishment of common external tariff within the ECOWAS. Currently there are four bands in the WAEMU, 0%, 5%, 10% and 20%. Nigeria, the biggest economy in the region demands the establishment of fifth band at 50% to protect its own pharmaceutical industry. By August 2009, little progress had been made with regards to the scope of ECOWAS common external tariffs.

The CARIFORUM EPA

The CARIFORUM adopted a different approach to regional trade integration to the African region. The incentives facing CARIFORUM countries when they negotiated their EPA were very different from African countries. Most participants of CARIFORUM are not LDCs, and are actually much more developed and with much higher incomes than African counterparts. They also have relatively strong incentives to enter into EPA to preserve preferential market

access to the EU. The Caribbean countries all agreed to eliminate tariffs on the same common list of imports from the EU and included a regional preference clause in their EPA extending the same tariff concessions to each other as to the EU (the Regional preference clause all applies to services and investment).

The initiative of CARICOM Single Market and Economy (CSME) was launched in January 2006 and fully implemented by the end of 2008. It calls for free movement of capital, goods, services, skills/labour and the establishment of the Caribbean Court of Justice. CSME has common external tariff and rules of origin. All goods entering the CARICOM which meet the CARICOM rules of origin are traded duty free throughout the region. However, there are still some specific non-tariff barriers in various member states. CSME has tried to establish its own regional harmonisation of standards – Caribbean Regional Organization on Standards and Quality which is responsible to set up regional standards that all member states must adhere to in the manufactures and trade of goods. It also establishes regional accreditation for education in medical and other health professions, free movement of skilled workers, free trade in services among member countries to facilitate trade and investment in the services sectors.

The CSME is designed to represent a single economic space where people, goods, services and capital can move freely. Many of required changes have been made by participating countries/territories on a gradual basis, in keeping with national programs for the removal of restrictions on the right of establishment, the provision of services and movement of capital. The strengthening of CARICOM's participation in the global trading arena has been done through a series of bilateral trade agreements with Venezuela, Colombia, Dominican Republic, Cuba and Costa Rica. Given each individual member state represent an insignificant share of the world trade, CSME is an important platform for the region's trade and economic linkages with the rest of the world. It gives small states the benefits of greater critical mass, pooled resources, achieving greater economies of scale. The establishment of harmonised rules and the creation of regional mechanisms and institutions as common base enable the region to simplify its approach to the negotiation of relevant issues with other regions and the rest of the world.

As mentioned previously, EPA countries in the Caribbean region have different economic characteristics compared to the Africa region. Regional integration was well under way and regional integration initiatives were better implemented. With or without the EPA, regional integration in the Caribbean will continue. With the EPA in particular, with extra help and technical assistance in the areas of standards, regulations, SPS, services, and enhances and accelerates regional integration.

Pacific Regional Economic Integration Programme

The unique feature of Pacific countries compared with other ACP countries in the EPA negotiations is that they are far away from Europe and have little trade with the EU. For example, Fiji total net import from the EU accounted for about 2% of its total imports. Given such small bilateral trade between the pacific countries and the EU, it is not surprising that there is little appetite for negotiating trade in goods with the EU apart from Fiji's export of sugar under the sugar protocol with the EU. With regards to canned tuna, which applies to Papua New Guinea as well, it is protected and has better market access to ACP countries compared with others by the TRQ in the EU. However, in both cases, the preferential margins (preferential prices) have been reduced. Granting preferential entry to goods from the EU would trigger demands for similar preferences from Australia, New Zealand under PACER and to the USA under the Compact Agreements.

Pacific countries are interested in exporting labour services especially requesting quotas for the temporary entry of workers in the hospitality, health and construction industry and

development assistance in the EPA. However, negotiating temporary movement of labour has been such a sensitive issue for the EU politically. It is not surprising there was little progress in the EPA negotiations.

With only two countries in the region, Fiji and Papua New Guinea have signed interim EPA with the EU, mainly due to the concerns of their tuna and canned tuna exports and Fiji sugar export to the EU. Given the nature of small islands countries with similar factors endowments, it would be better to use resources in other areas than in promoting regional integration.

4. Conclusion

The EPA process clearly exposed the weak regional cohesion in most EPA regions in which diverging national interests often prevailed over regional agenda, lack of political commitment to find the compromise over their differences. It is fair to say that many ACP countries engaged in EPA negotiations with reluctant and with prime objective of maintaining their preferential market access to the EU while making the least possible commitments in terms of opening up of their own markets. The study edited by Bilal and Stevens (2009) reports that interim agreements with Ghana, Cote d'Ivoire and Cameroon have been agreed on the basis of draft texts proposed by the Commission at the last minute; and some interim agreements have not been seen nor checked by the ACP technical experts and were agreed on only at political level. However, many ACP countries should shoulder their share of responsibilities, the 2007 deadline was well known for years and during this period, leading up to it many African countries did not seem to prepare their market access offers.

In their current form, most interim EPAs will do little to advance regional trade integration in Africa with possibly one exception of the EAC. The EAC entered interim agreement as a custom union and agreed on a common schedule of imports liberalisation from the EU. This facilitated the liberalisation of intra-EAC trade in the same products. Bypassing the formal regional negotiation structures was potentially weakening the regional solidarity. The fragmentation of countries has led to tensions within the regions and put non-LDCs in a difficult situation, the choice seemed to be entering the bilateral interim agreement with the EU individually disrupting the regional integration, a political costly option; or aligning with the region and fall back to GSP, an economically costly option for the countries concerned. Inevitably, some countries have favoured national interests over those of the region, as they did not see the need to find regional compromise on their exclusion basket. Notably, this is the case of many ESA signatories which are not yet integrated. Therefore, it is safe to say that all others interim EPAs have not reinforced regional integration efforts in Africa. Conducting interim agreements bilaterally provides the opportunity to safeguard market access for the countries where the regional solutions were not possible in the short-pressed time. The bilateral approach adopted by the EU and some ACP counterparts seem at odds with the objective of EPA to enhance regional integration. To address the problem caused by bilateral interim agreements, the 2008 negotiations have been conducted at the regional level and all regions seemed to show good will to harmonise trade regimes toward the EU at the regional level. However, different starting positions and interests among members with regional groupings remain.

All in all, four points are apparent. First, 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. The question is whether the EPA adds more extras in terms of incentives, mechanisms to enhance regional integration. The EPA could help accelerate regional trade integration by supporting trade facilitation and capacity building for making and implementing open trade policies and by financing the development of regional infrastructure. However, the institutions and rules are not the only problems and may not be the immediate challenge to boosting African trade and intra-African trade. The European model, institution-led

regional integration may not be the best option for African regional integration given the lack of trade, lack of capacities in production as well as human resources and institutions etc.

Second, the liberalisation of intra-Africa trade has to be African driven as the incentives that the EU can offer in terms of market access are limited even under the comprehensive EPA with much more simple and liberal rules of origins. To advance regional integration is very much dependent upon the willingness of African governments to take actions on difficult longstanding policy and institution barriers. African countries need to adopt open global and regional trade policies rapidly and accelerate its integration with the rest of the world.

Third, the development impact of the EPA would depend partly on avoiding excessive discrimination favouring EU goods and services, and to the extent they support open and competitive markets. South-South trade has been expanding rapidly - substantial increase in demand for natural resources from rapidly growing developing countries; increasing demand for new markets particularly for exports of manufactured goods. Asia plays a dominant role in the directions of trade flows in South-South trade. Asia-Africa trade has been expanding rapidly as well. This should be encouraged not deterred by EU-Africa EPA.

Fourth, like the CARIFORUM EPA, **Regional preference clause** which guarantees tariff and concessions to other African regions/countries the same as granted to the EU in the EPA should be included in Africa EPAs. Such clause would encourage intra-Africa trade.

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Table 1 African EPA Country Groups in Relation to Existing Regional Trade Areas

West Africa: ECOWAS EPA-Group (16) ¹	Central Africa: CEMAC-EPA Group (8)	Eastern and Southern Africa: ESA EPA-Group (11)	Southern Africa: SADC EPA Group(7)
<p><u>ECOWAS FTA</u></p> <p><i>Signed EPAs</i> Ghana</p> <p><i>Not signing EPAs</i> Cape Verde Gambia (L)² Guinea (L) Liberia (L) Nigeria Sierra Leone (L)</p> <p><u>UEMOA</u></p> <p><i>Signed EPAs</i> Cote d'Ivoire</p> <p><i>Not signing EPAs</i> Benin (L) Burkina Faso (L) Guinea-Bissau (L) Mali (L) Niger (L) Senegal (L) Togo (L)</p> <p><u>Other West Africa</u></p> <p><i>Not signing EPAs</i> Mauritania (L)</p>	<p><u>CEMAC Customs Union</u></p> <p><i>Signed EPAs</i> Cameroon</p> <p><i>Not signing EPAs</i> Central African Republic (L) Chad (L) Republic of Congo Gabon Equatorial Guinea (L)</p> <p><u>Other Central Africa</u></p> <p><i>Not signing EPAs</i> Sao Tome and Principe (L) D.R. Congo (L)</p>	<p><u>ESA (COMESA)³</u></p> <p><i>Signed EPAs</i> Comoros (L) Madagascar (L) Mauritius Seychelles Zimbabwe</p> <p><i>Not signing EPAs⁴</i> Djibouti (L) Eritrea (L) Ethiopia (L) Malawi (L) Sudan (L) Zambia (L)</p>	<p><u>SADC⁵</u></p> <p><i>Signed EPAs</i> Mozambique (L)</p> <p><i>Not signing EPAs</i> Angola (L)</p> <p><u>SACU</u></p> <p><i>Signed EPAs</i> Botswana Lesotho (L) Namibia Swaziland</p> <p><i>Not signing EPAs</i> South Africa⁶</p>
		<p>Eastern and Southern Africa: EAC EPA-Group (5)</p>	
		<p><u>EAC</u></p> <p><i>Signed EPAs</i> Kenya Rwanda (L) Uganda (L) Burundi (L) Tanzania (L)</p>	

¹ Number of countries in EPA-Group. ² "(L)" denotes a Least Developed Country. ³ Other COMESA members not participating in the ESA EPA group: Angola (L), Egypt, Libya, Namibia, Swaziland, D.R. Congo (L). ⁴ Somalia (the 48th country in SSA) is not participating in EPA negotiations but, as an LDC, is eligible for the EU's EBA program. ⁵ Other SADC members not participating in the SADC EPA group: D.R. Congo (L), Madagascar (L), Malawi (L), Mauritius, Seychelles, Zambia (L), Zimbabwe. ⁶ South Africa has an existing free trade agreement with the EU – the Trade Development and Cooperation Agreement (TDCA). **NOTE:** These classifications reflect the situation as of January 2008.

SPS Issues in EPA Negotiations

1. Background

The ACP countries have variously benefitted from unilateral preferential access to EU markets under various trade agreements, including the Lomé Convention/Cotonou Agreement and the “Everything but Arms” initiative. There are concerns, however, that many of these countries have been unable to exploit fully the preferential access to EU markets that they enjoy, notably for agricultural and food products. In part, this is due to their limited ability to meet regulatory and/or market requirements with respect to food safety and quality, and also plant and animal health (Chemnitz and Gunther, 2006). Within the EU, food safety regulations have been reformed and enhanced, including the oversight of imports from Third Countries.¹⁵⁵ At the same time, private food safety standards have evolved, in part as a response to ongoing regulatory reform, adding a new layer to the requirements that agricultural and food imports must satisfy (Henson and Humphrey, 2009). In stark contrast, food safety and plant and animal health controls in many ACP countries are weak and fail to meet even minimum international norms. It is argued that such capacity weaknesses are a critical constraint to the efforts of these countries to enhance their exports to the EU, while recognising that some ACP countries have managed to establish appreciable positions in EU markets despite of (or even because of) the strict food safety and other requirements with which they must comply.

There is mounting evidence that the costs of compliance faced by developing countries in general can act to preclude market access and/or erode competitiveness. Indeed, some suggest that the sanitary and phytosanitary (SPS) measures faced by developing countries are now of greater concern than traditional barriers to trade such as tariffs (Doherty, 2003). This has stimulated significant flows of donor assistance to both the public and private sectors aimed at capacity enhancement, positing the trade performance of the ACP countries as essentially an issue of compliance (World Bank, 2005). It has also served to focus attention on the legitimacy of the food safety and plant and animal health controls implemented by the EU in the context of the WTO’s Agreement on Sanitary and Phytosanitary Measures (the so-called ‘SPS Agreement’). We also observe that bilateral trade agreements between the EU and a number of developing countries have made efforts to address the potential trade barriers associated with SPS measures, for example by establishing arrangements for addressing disputes over SPS measures outside of the WTO (Rudloff and Simons, 2006). It is thus, perhaps, not unsurprising that the negotiations surrounding the EPAs between the ACP states and EU have, to varying degrees, touched on SPS issues.

2. Evidence that SPS measures are a problem for ACP countries

There is a great deal of commentary (and indeed a considerable amount of rhetoric) that suggests the ACP countries are impeded in their ability to benefit from the preferential access they have to EU markets because of the SPS measures that are applied. While there are periodic accusations that these measures are unjustified, although not always in the context of the rights and obligations afforded by the SPS Agreement, the predominant focus of the debate is on overcoming the obstacles faced by developing countries. Thus, there are calls for ‘special and differential treatment’ as called for in the SPS Agreement, including additional time in which to achieve compliance, requests for technical assistance, etc. Much of the discourse on problems faced by ACP countries in complying with SPS measures on exporting to the EU revolves around country and/or sector-specific case

¹⁵⁵ For example, through the enactment of Regulation (EC) 882/2004.

studies; usually cases where exports have been banned (Henson and Mitullah, 2004)¹⁵⁶ or where new issues are emerging that are perceived to be a threat (Henson and Humphrey, 2009).¹⁵⁷ There is paucity, however, of more systematic evidence, making it difficult to discern where SPS measures are a problem and, in such cases, the magnitude of this problem.

Here we consider three more systematic indicators of problems encountered by ACP countries in exporting agricultural and food products to the EU due to SPS measures:

- EU detention data from the Rapid Alert System for Food and Feed (RASFF).
- Counter notifications of SPS measures through the WTO's SPS Committee.
- Response to the questionnaire of the SPS Committee on technical assistance needs for SPS-related capacity building.

It should be recognised that these indicators are far from perfect and, at best, they provide only a partial account of the degree to which SPS measures impede exports from ACP countries. Arguably, however, they are the best available.

Data are available on the individual detentions of consignments of food and feed products entering the EU from Third Countries under the RASFF. These data provide a broad indication of problems faced due to non-compliance with regulatory SPS requirements where trade happens; they tell us nothing about the degree to which trade is prevented from taking place due to real or perceived challenges with meeting SPS requirements. Table A1 details the number of detentions among ACP countries over the period 2002-2008. Of the 1,000 total detentions over this period, Ghana, Nigeria and South Africa account for over 50 percent. Most other countries have only sporadic detentions. These 'major offenders', however, are also significant exporters to the EU. A better measure of performance, which takes account of the value of trade, is the rate of detention per €million of exports (Table 2). Here, we see a quite different picture, with the Gambia, Eritrea and the Tonga standing out as having high rates of detention. The Gambia is a relatively small exporter that has faced ongoing challenges with border detentions, mainly for fish (Table 3). Eritrea and Tonga are also small exporters but which faced a one-off problem due to a specific SPS issue, namely importation of a banned herb or spice.

Tables 1 and 2 suggest that most ACP countries that export agricultural and food products to the EU face relatively low rates of border detentions. Indeed, the observed detention rates are not appreciably different to those observed for all Third Country imports to the EU. Perhaps more revealing are Tables A3 and A4 that detail the numbers of detentions by product and reasons for detention. Thus, we see that nuts, nut products and seeds, fish and fishery products, fats and oils and fruit and vegetables account for almost 76 percent of detentions over the period 2002-2008, although these products accounted for less than 40 percent of agricultural and food product exports to the EU over the period. Evidently, border detentions are concentrated among a relatively narrow sub-set of 'sensitive products'. The main reasons for detentions over the period 2002-2008 were contamination with mycotoxins (predominantly in nuts from Ghana, South Africa, Nigeria Sudan and Malawi), unauthorised food additives (predominantly Sudan in palm oil from Ghana and Nigeria) and microbiological contamination (predominantly in meat and meat products from Botswana and Namibia and fish and fishery products from various countries). This suggests quite specific problems complying with EU food safety requirements rather a more general pattern of detentions.

¹⁵⁶ As with, for example, exports of Nile perch to the EU.

¹⁵⁷ As with, for example, the adoption of GlobalGAP and other private food safety standards by major supermarket chains.

The SPS committee provides an opportunity for WTO Member States to raise 'specific trade concerns' over new or existing SPS measures of trade partners. Over the period 1995 to 2009, ACP countries raised seven specific trade concerns (Table 8).¹⁵⁸ All but one of these concerns related to food safety. Note that two of the seven issues raised related to mycotoxins, which accounted for 34 percent of border detentions of food and feed from ACP countries to the EU over the period 2002 to 2008 (Table A4). A further two concerns related to specific import prohibitions, those by Tanzania and Fiji, which were specific to the country/region concerned.

Table 8 Specific trade concerns raised by ACP countries, 1995-2009

Year	Issue	Country Raising the Concern	Broad SPS Area
1998	MRLs for aflatoxins in food	Gambia Senegal	Food safety
1998	Trade restriction in response to cholera (fruit, vegetables, fish)	Tanzania	Food safety
2001	MRLs for pesticides in fruit and vegetables	Côte d'Ivoire	Food safety
2003	Maximum tolerance levels for ochratoxins in coffee	Papua New Guinea	Food safety
2003	EU directive on foot and mouth disease (FMD)	South Africa	Animal health
2005	EurepGAP requirements for bananas	St Vincent and the Grenadines	Food safety
2005	Proposed regulation for piper methysticum (Kava-Kava) in UK	Fiji	Food safety

Since 2002, the SPS Committee has requested member States to identify their technical assistance needs through a standard questionnaire.¹⁵⁹ To date, ten ACP countries have responded to this request, namely Antigua and Barbuda, Dominican Republic, Barbados, South Africa, Mauritius, Senegal, Gambia, Kenya, Trinidad and Tobago and Uganda. Responses to the questionnaire provide a broad indication of weaknesses in SPS capacity in ACP countries (Chemnitz and Gunther, 2006):

- Establishment, revision and/or updating of national food control systems.
- Establishment and/or upgrading of national food legislation.
- Establishment, upgrading and/or accreditation of laboratories.
- Upgrading of human capital in pertinent skills, for example laboratory personnel, inspectors/auditors, policy officials, etc.
- Establishment of capacity to undertake risk analysis.
- Establishment or upgrading of plant and/or animal pest and disease management/quarantine systems.
- Establishment and maintenance of pest-free areas.
- Establishing or strengthening of emergency programmes for plant and/or animal pests and diseases.

¹⁵⁸ Documents G/SPS/GEN/204/Rev.8; G/SPS/GEN/204/Rev.8/Add.1; G/SPS/GEN/204/Rev.8/Add.2; G/SPS/GEN/204/Rev.8/Add.3.

¹⁵⁹ Documents G/SPS/W/113 and G/SPS/GEN/295.

- Establishment and maintenance of databases and information systems on international standards and SPS requirements of trading partners.
- Establishment of national notification authorities and/or enquiry points (see below).

The broad picture is of fundamental weaknesses in the food safety and plant and animal health management capacity of ACP countries, which is confirmed by other more *ad hoc* assessments of SPS capacity in these countries (for example: CTA, 2003; Integrated Framework, 2005 and 2006; Molins and Gitonga, 2006; Molins and Masaga, 2006; Molins and Bulega, 2006). This suggests that, while a number of countries have faced particular problems with food and feed exports to the EU, as indicated by the analysis of detention data and specific trade concerns detailed above, these represent the ‘tip of the iceberg’ in terms of the impact of EU SPS requirements on ACP countries. It is likely that weaknesses in core elements of SPS capacity undermine the ability of existing and potential exporters to comply and/or erodes their competitiveness more broadly. The crux of the issue, therefore, is capacity-building.

3. SPS measures in EU trade agreements

The EU has signed a number of free trade agreements with developing countries that include provisions relating to SPS measures (Rudloff and Simons, 2006):

- Mediterranean Association Agreements (MED) with Tunisia (1995), Morocco (1996), Jordan (1997), Palestinian Authority (1997), Algeria (2001) and Lebanon (2002).¹⁶⁰
- Trade, Development and Technical Cooperation Agreement (TDCA) with South Africa (1999).
- Economic Partnership, Coordination and Cooperation Agreement with Mexico (1997).
- EU-Chile Association Agreement (2002).

Given the rights and obligations laid down by the SPS Agreement, these agreements mainly focus on procedural issues in relations between the parties. Emphasis is put on facilitating the application of the SPS Agreement by fostering consistent application of SPS measures through common understanding of WTO provisions and harmonisation through consistency with international standards and/or mutual recognition provisions. These acts not only to formalise commitments to the SPS Agreement, but also affords flexibility in dealing with disagreements between the parties; disputes can be settled through the free trade agreement or through the WTO. Only very rarely do these agreements contain individual provisions that go beyond WTO commitments on SPS measures, and where this does occur (notably the EU-Chile Association Agreement as described below) this is through product-specific supplements that detail procedural provisions.

There are significant differences in the degree and manner in which these free trade agreements cover SPS measures, reflecting both the time at which these agreements were entered into and (more importantly) the level of economic development of the developing country partner. Both the TCDA and MED agreements contain very limited and ‘shallow’ provisions on SPS measures, mainly reaffirming existing commitments under the WTO, with an overall emphasis on the harmonisation of SPS measures as an overall target and cooperation. There is no explicit commitment in these agreements for the provision of technical assistance. The agreement with Mexico broadly has the same provisions, but crucially establishes a joint committee on SPS measures to facilitate information exchange, to provide a forum to identify and address problems arising from the application of SPS measures and to explore provisions for the application of regionalisation and the assessment

¹⁶⁰ A MED was also signed with Israel in 1995.

of equivalence. Clearly, the Economic Partnership, Coordination and Cooperation Agreement provides for a far greater and more structured level of cooperation between the EU and Mexico than in the context of the TSCD and MED agreements.

The EU-Chile Association Agreement contains some of the most comprehensive provisions in a free trade agreement to date on SPS measures. Specifically, this agreement (Rudloff and Simons, 2006):

- As with the Economic Partnership, Coordination and Cooperation Agreement with Mexico, a Joint Management Committee is responsible for the monitoring and control of the implementation of the agreement as it relates to SPS measures. Furthermore, provision is made for *ad hoc* groups consisting of experts from Chile and the EU to consider specific SPS-related issues.
- There are comprehensive provisions on equivalence, requiring strong cooperation between responsible institutions in Chile and the EU and laying down detailed procedures on consultation processes. Appendices lay down specific procedural details, for example for the approval of food processing establishments without prior inspection by the importing party.
- Specifies technical assistance for SPS-related matters within broader provisions covering support for the agricultural and rural sectors.
- The agreement details specific information requirements for the verification of procedures, import checks, etc. Transparency is ensured through strict time schedules and deadlines for the submission of information.
- A safeguard clause reiterates WTO rules on the implementation of transitional SPS measures where scientific evidence is insufficient to support risk analysis.

In the context of free trade agreements between the EU and developing countries, the EU-Chile Association Agreement can thus be considered the 'gold standard' with respect to its treatment of SPS measures.

It is important to recognise that the more substantive coverage of SPS matters in the EU-Chile Association Agreement substantively reflects a greater level of confidence on the part of the EC over the efficacy of food safety and plant and animal health controls in Chile than in the other developing countries where free trade agreements have been established. Thus, for example, the EC is only likely to enter into substantive agreements over the equivalency of SPS measures where there is evidence that these provide the same level of protection as EU requirements. What does this mean for the likely way in which the EPAs will deal with SPS measures? They are more likely to look somewhat like the TDCA or MED agreements, with quite general provisions on SPS measures that focus on reiterating WTO commitments and engendering cooperation, than the more substantive provisions of the EU-Chile Association Agreement.

4. SPS measures in the final and interim EPAs

The basis on which SPS measures are included in the EPAs is defined by the Cotonou Agreement, which reaffirms the commitment of the parties to the SPS Agreement. Thus, Article 48 Part 1 states:

'The Parties recognise the right of each Party to adopt or to enforce sanitary and phytosanitary measures necessary to protect human, animal or plant life or health, subject to the requirement that these measures do not constitute a means of arbitrary discrimination or a disguised restriction to trade, generally. To this end, they reaffirm their commitments under the Agreement on the Application of Sanitary and Phytosanitary Measures, annexed to the WTO

Agreement (SPS Agreement), taking account of their respective level of development.'

This implies that the starting point for the EPA negotiations is defined by WTO law. Thus, the rights and obligations of WTO members that relate to SPS and TBT measures are 'taken as given' and the EPA negotiations must be compatible with these. Interestingly, in the case of the Central Africa and Pacific interim agreements where a number of the countries are not WTO members, there is a commitment to comply with the provision of the SPS and TBT Agreements. For example, Article 41 Part 1 of the Central Africa EPA states:

'....confirm their commitment to comply with the obligations set out in the SPS and TBT Agreements with regard to all matters concerning relations between the Parties.'

This suggests that the EPA negotiations are restricted to a relatively narrow set of issues that predominantly focus on how the SPS Agreement is *implemented* in the context of trade between the negotiating parties. Notably:

- Interpretation of the rights and obligations defined by the SPS Agreement as they are implemented by the parties.
- Establishing administrative systems that reduce the transaction costs associated with bilateral and/or multilateral relations on SPS issues between the parties.
- Facilitating key elements of the SPS Agreement, notably related to harmonisation and equivalence.
- Facilitating processes of capacity-building in ACP countries with a view to compliance with SPS measures in international trade.

This rather narrow interpretation of the scope for EPAs to address SPS-related issues appears to be confirmed by the remaining two parts of Article 48 of the Cotonou Agreement that state:

'They further undertake to reinforce coordination, consultation and information as regards notification and application of proposed sanitary and phytosanitary measures, in accordance with the SPS Agreement whenever these measures might affect the interests of either Party. They also agree on prior consultation and coordination within the Codex Alimentarius, the International Office of Epizootics and the International Plant Protection Convention, with a view to furthering their common interests.'

The Parties agree to strengthen their cooperation with a view to reinforcing the capacity of the public and the private sector of the ACP countries in this field.'

It is also supported by the fact that each of the agreements starts out by the parties agreeing to adhere to the provisions of the SPS Agreement and of the international standards-setting bodies that are referenced in that Agreement, and agreeing to work together towards the furtherance of the rights and obligations these afford. For example, Article 52 of the CARIFORUM final agreement and Article 36 of the Ghana interim agreement states:

"The Parties reaffirm their commitment to the rights and obligations provided for in the WTO Agreement on Sanitary and Phytosanitary Measures (hereafter referred to as the WTO SPS Agreement). The Parties also reaffirm their rights and obligations under the International Plant Protection Convention (IPPC), the Codex Alimentarius and the World Organisation for Animal Health (OIE)."

In the case of Ghana, where there is a single chapter for SPS and TBT measures, the parties also reaffirm their commitment to abide by their rights and obligations under the TBT Agreement.

It is evident, however, that many of the ACP states had rather grander expectations of the EPA negotiations. Thus, while there was agreement that the EPAs should address SPS issues, the starting position of the ACP states included the following provisions (ACP Secretariat, 2003; Chemnitz and Gunther, 2006):

- A standstill on EU SPS measures as from September 2003, predominantly to enable the ACP countries to 'catch up' with existing regulatory requirements.
- Derogations of five to ten years for ACP countries to provide an extended period for compliance with EU SPS regulations.
- Conclusion of equivalence agreements with ACP states to facilitate trade in agricultural and food products.
- Negotiation of additional funds for development cooperation in the area of SPS measures, which exceed existing commitments under the European Development Fund (EDF).

The first of these points is clearly in violation of the rights of the EU under the SPS Agreement, and was always going to be a 'non-starter'. While the SPS Agreement allows for special and differential treatment in the case of developing countries, including additional time for compliance, it is hard to imagine that the European Commission would ever entertain derogations in compliance for the ACP countries of up to a decade.

The initial negotiations did start with some areas of agreement, notably that the EPAs should provide a mechanism for coordination and consultation on SPS measures and that the EU should assist the ACP countries in enhancing their SPS capacity (Chemnitz and Gunther, 2006). Further, the ACP states evidently became more realistic in their expectations with respect to what the negotiations could achieve, both in terms of what the EU would be willing to concede and also what they could offer in terms of their own capacity, and also recognised more fully their role in engendering regional integration rather than simply EU-ACP trade. For example, while the EU was open to the concept of establishing equivalency agreements, given that most of the ACP states lacked systems of conformity assessment that were internationally-accredited, the first stage was inevitably capacity-building. As highlighted above, the EU was willing to provide assistance to facilitate processes of capacity-building, although not to commit specific levels of funding, seeing this as a separate and wider issue within the framework of the EDF.

Scope of the agreements

Of the final or interim agreements agreed to date, they all include provisions for SPS measures with the exception of the EAC and EAS interim agreements. Both of these agreements include SPS measures in their *rendez-vous* clauses. While the final agreement between the EC and CARIFORUM and the interim agreement between the EC and SADC have a chapter devoted to SPS measures, all of the other interim agreements have a common chapter devoted to SPS and TBT measures. In these latter cases it is evident from the language, however, that SPS measures are at the forefront of the agenda and indeed a number of the provisions make specific reference to SPS measures.

All of the agreements, in defining SPS measures and outlining the scope of the provisions of the EPA reference the SPS Agreement and the definitions outlined by relevant international

standards-setting bodies. Thus, Article 38 of the interim agreement between the EC and Ghana and between the EC and Cote d'Ivoire states:

1. *'The provisions of this Chapter shall apply to technical regulations, standards and conformity assessment procedures as defined in the WTO TBT Agreement and to sanitary and phytosanitary measures (hereinafter referred to as "SPS measures") as defined in the WTO SPS Agreement, in so far as they affect trade between the Parties.*
2. *For the purposes of this Chapter, unless specified otherwise, the definitions used by the WTO TBT Agreement and WTO SPS Agreement, the Codex Alimentarius, the IPPC and the OIE shall apply, including where reference is made to "products" in this Chapter and in the Appendices to this Agreement.'*

This confirms the very close relationship between the coverage of SPS measures in the EPAs and the provisions of the SPS Agreement. It also restricts the scope of the EPAs in this area to measures that come under the rights and obligations of the SPS Agreement. Thus, Annex A of the SPS Agreement defines SPS measures as follows:

'Any measure applied:

- a) *to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;*
- b) *to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;*
- c) *to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or*
- d) *to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests.*

Sanitary or phytosanitary measures include all relevant laws, decrees, regulations, requirements and procedures including, inter alia, end product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labelling requirements directly related to food safety.'

Although the SPS Agreement is predominantly focused at the measures defined and implemented by central governments, Article 13 does require that WTO Members take 'reasonable measures' to ensure that non-government bodies comply with the provisions of the Agreement.

'Members are fully responsible under this Agreement for the observance of all obligations set forth herein. Members shall formulate and implement positive measures and mechanisms in support of the observance of the provisions of this Agreement by other than central government bodies. Members shall take such reasonable measures as may be available to them to ensure that non-governmental entities within their territories, as well as regional bodies in

which relevant entities within their territories are members, comply with the relevant provisions of this Agreement. In addition, Members shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such regional or non-governmental entities, or local governmental bodies, to act in a manner inconsistent with the provisions of this Agreement. Members shall ensure that they rely on the services of non-governmental entities for implementing sanitary or phytosanitary measures only if these entities comply with the provisions of this Agreement.'

The SPS measures of non-government bodies has been a major concern within the SPS Agreement over the last three or four years, sparked by concerns about the potential impact of private food safety standards on developing countries (Henson and Humphrey, 2009). There has been much debate over whether the standards developed and/or adopted by private firms, individually or collectively, fall under the purview of the SPS Agreement. Legal advice provided to DfID on this issue suggest that private standards of this type are not covered by the SPS Agreement,¹⁶¹ although a number of WTO Members evidently remain unconvinced on this point.¹⁶²

The relevance of the above points for the EPA negotiations is whether the attendant provisions on SPS measures are indeed restricted to those measures implemented by government. There are two relevant issues in this regard. First private standards are evidently of major concern to developing countries, including to a number of the ACP states engaged in EPA negotiations. Through a strict reading of the SPS Agreement, at least as it is currently interpreted, private standards fall outside of the purview of the EPA negotiations. Second, the provisions of the EPAs as they pertain to SPS measures must be seen as 'fluid'. Presumably, as legal interpretation of the SPS Agreement evolves and as the SPS Committee lays down guidelines and other documents that clarify and/or elaborate attendant procedures, the scope of the EPAs will also change.

While the EPA negotiation in broad terms appears to be restricted to the SPS measures of government, the final agreement between the EC and CARIFORUM does widen the scope of this particular EPA in the area of cooperation (see below). Thus, Point C of Article 59 states that the parties agree to cooperate in the area of:

'Development of the capacity of enterprises, in particular CARIFORUM enterprises, to meet regulatory and market requirements.'

This suggests a focus not only on government SPS measures but also private standards. This is perhaps a useful model for the other ongoing EPA negotiations? On the one hand, it does not open up a 'can of worms' by including private standards under the broader rights and obligations defined by the agreements. On the other hand, it does recognise and address the legitimate capacity-building needs of the ACP countries in the area of private standards compliance.

Objectives

All of the final and interim agreements have a broadly common statement outlining the objectives as facilitating trade between the parties through overcoming restrictions due to SPS measures while not compromising the ability to protect animal, plant and/or public health. For example, Article 37 of the interim agreements between the EC and Ghana and the EC and Cote d'Ivoire states:

"The objectives of this Chapter are to facilitate trade in goods between the Parties, to increase the capacity of the Parties to identify, prevent and

¹⁶¹ Document G/SPS/GEN/802.

¹⁶² Documents G/SPS/W/245 and G/SPS/W/246.

eliminate unnecessary obstacles to trade between the Parties as a result of technical regulations, standards and conformity assessment procedures applied by either Party while not affecting the capacity of the Parties to protect public, plant and animal health."

In a number of cases there is also a commitment to enhance the capacity of the ACP state to improve public health through capacity enhancement, suggesting a focus not just on trade but also on domestic capacity more broadly.

While there is a clear thrust in all of the agreements towards trade directed at the EU, in the case of the final agreement between the EC and CARIFORUM and the interim agreement between the EC and SADC emphasis is also placed on facilitating greater regional trade. For example, Article 57 of the interim EPA between the EC and SADC states:

1. *'The Parties agree to facilitate trade and investment within the SADC EPA States and between the Parties while ensuring that measures adopted shall apply only to the extent necessary to protect human, animal or plant health or life in accordance with the provisions of the SPS Agreement.'*
2. *The Parties undertake to cooperate in strengthening regional integration and specifically SADC EPA States' cooperation on matters concerning sanitary and phytosanitary measures (hereinafter referred to as "SPS measures") and to address problems arising from SPS measures on agreed priority sectors and products¹ whilst giving due consideration to regional integration.*
3. *As a result thereof, the Parties agree to promote bi-regional collaboration aiming at recognition of appropriate levels of protection in SPS measures.*
4. *The Parties agree to establish and enhance SADC EPA States' technical capacity to implement and monitor SPS measures, including promoting greater use of international standards and other matters concerning SPS.'*

The final agreement between the EC and CARIFORUM uses even more specific language with respect to regional integration, focusing on the establishment of regional standards and promoting regional equivalence. Thus, Point (c) of Article 53 states:

'Assist CARIFORUM States in establishing harmonised intraregional sanitary and phytosanitary (hereinafter SPS) measures also with a view to facilitating the recognition of equivalence of such measures with those existing in the EC Party.'

It is interesting to note that the agreement between the EC and the Pacific states makes reference to the capacity constraints faced by parties to the agreement that are not currently WTO members. Thus, Article 36, in outlining the rights and obligations of the parties, states that:

'The EC Party will take full account of the capacity constraints in the short-term of the non-WTO members to comply with the provisions of this agreement.'

There is no such provision, however, in the interim agreement between the EC and EAS, despite the fact that five of the countries in this regional grouping are not WTO members.

Specific provisions

While the final and interim agreements share a considerable amount of common language, they differ significantly in the range and scope of their specific provisions. Broadly, where specific provisions have been agreed, the language tends to be rather vague and non-committal, the final agreement between the EC and CARIFORUM is testament to this point (ECLAC, 2008). At the same time, there are some notable instances where specific provisions, for example related to equivalence or regional harmonisation are given more prominence and/or make firmer commitments.

Competent Authority

The EU's approach to the control of food safety in imports of food and feed from Third Countries has increasingly relied on the recognition of an approved component authority in the exporting country. Such a system has been in place for some time in the case of food of animal origin and for phytosanitary controls (European Commission, 2006). While, imports of many foods of non-animal origin are not subject to controls by an approved component authority, it is evident that Regulation (EC) 882/2004 puts greater emphasis on the ability of Third Countries to demonstrate that their food controls are equivalent to those in the EU and provides for the inspection of these systems by the European Commission. This suggests that component authorities in Third Countries will play an increasing role for exports to the EU of all food and feed products.

All of the final or interim agreements make reference to a designated competent authority for the implementation of SPS measures, that the parties are required to specify and communicate to each other. The component authority is charged with the implementation of the measures defined in the EPA, as they apply to SPS measures.

Regionalisation

Article 6 of the SPS Agreement specifies that WTO Members must adapt their SPS measures to reflect the area from which a product is originated and/or to which it is destined, whether a country in its entirety or only part of a country. Specifically, they must recognise the concepts of pest- or disease-free areas and areas of low pest- or disease-prevalence and adapt their SPS measures accordingly. This requirement is typically referred to as 'regionalisation'.

In assessing the characteristics of a particular region, WTO Members must take into account the level of prevalence of specific diseases or pests, the existence of eradication or control programmes and appropriate criteria or guidelines developed by relevant international organisations. In 2008, the SPS Committee adopted guidelines to facilitate the recognition of pest- or disease-free areas.¹⁶³ Critically, under the SPS Agreement the onus is on exporting countries to provide the necessary evidence in order to demonstrate objectively to importing countries that particular regions are free of pertinent pests or diseases and are likely to remain that way. Importing countries must be permitted reasonable access to undertake inspections, testing and the like to confirm conditions in the area.

A number of the interim agreements, namely between the EU and Ghana, Cote d' Ivoire, Central Africa and SADC, make reference to the concept of regionalisation, although referring to it as 'zoning'. For example, Article 60 Part 4 of the SADC interim agreement specifies:

¹⁶³ Document G/SPS/48.

'The Parties will apply the principle of zoning or compartmentalisation when defining import conditions, taking into account international standards. Zones or compartments of defined sanitary or phytosanitary status may also be identified and proposed jointly by the Parties, on a case by case basis, wherever possible, in order to avoid disruption to trade.'

This does not appear to go beyond the existing commitments of WTO Members, but rather simply recognises the potential role that regionalisation might play in facilitating trade and reiterates the commitments of the signatories. Note that there is no reference to regionalisation in the final CARIFORUM agreement or the interim agreement between the EU and the Pacific states; this concept is not relevant to small islands states.

The ability of most countries participating in the EPA negotiations to undertake pest risk assessments (PRAs), to define and/or maintain pest- or disease-free areas and to demonstrate the status of these area is extremely limited. For example, the Phytosanitary Capacity Evaluation (PCE) tool of the International Plant Protection Convention (IPPC) in more than 60 developing countries indicates widespread weaknesses in controls on plant pests and diseases (Day et al, 2006). This suggests that most of the signatory countries will struggle to take advantage of the regionalisation provision of the SPS Agreement, and of the related provisions in the EPA agreements.

Transparency and information exchange

All of the final and interim agreements put great emphasis on transparency between the parties in terms of current and proposed SPS measures. In a large part, the related provisions simply restate and reaffirm the transparency obligations and procedures of the SPS Agreement. Thus, Article 45 Part 2 of the interim agreement between the EC and Central Africa states:

'The parties reaffirm their obligations under the WTO SPS and TBT Agreements to inform each other of changes to the relevant standards or technical regulations through the mechanisms established by the agreement.'

The SPS Agreement requires that WTO Members establish a National Enquiry Point and National Notification Authority for the purposes of providing notifications of proposed new SPS measures and a channel through which further information about these proposed measures can be solicited from other WTO Members. It is evident from

Table 9 that a number of parties to the EPA negotiations that are WTO Members have not complied with this obligation. Further, as noted above, parties to the EPA negotiations that are not currently WTO Members commit themselves to these obligations. Thus, the first step for a number of ACP countries will be establishing the necessary WTO-compliant transparency mechanisms.

A number of the final and interim agreements, however, appear to envisage more direct and active channels of communications on SPS matters than those provided by the SPS Agreement. Thus, Article 57 of the final agreement between the EC and CARIFORUM states:

‘.....In addition, the Parties shall endeavour to inform each other at an early stage of proposals to modify or introduce SPS regulations or measures that are especially relevant to trade between the Parties.’

Table 9 Implementation of transparency obligations under the SPS Agreement

Region	Country	National Enquiry Point	National Notification Authority
ECOWAS	Benin	Yes	Yes
	Burkina Faso	Yes	Yes
	Cape Verde	Yes	No
	Cote d'Ivoire	Yes	No
	Gambia	Yes	Yes
	Ghana	Yes	No
	Guinea Bissau	No	No
	Liberia	No	No
	Mali	Yes	Yes
	Mauritania	Yes	Yes
	Niger	Yes	No
	Nigeria	Yes	Yes
	Senegal	Yes	Yes
	Sierra Leone	No	No
	Togo	No	No
	Cameroon	Yes	Yes
CEMAC	Chad	No	No
	Central African Republic	No	No
	Congo Brazzaville	No	No
	DRC	No	No
	Equatorial Guinea	No	No
	Gabon	Yes	Yes
	São Tomé and Príncipe	No	No
	Comoros	No	No
EAS	Djibouti	Yes	Yes
	Eritrea	No	No
	Ethiopia	No	No
	Madagascar	Yes	Yes
	Malawi	Yes	Yes
	Mauritius	Yes	Yes
	Seychelles	No	No
	Sudan	No	No
	Zambia	Yes	Yes
	Zimbabwe	Yes	Yes
SADC	Angola	Yes	Yes
	Botswana	Yes	Yes
	Lesotho	No	No
	Mozambique	Yes	Yes
	Namibia	Yes	No
	South Africa	Yes	Yes

EAC	Swaziland	Yes	Yes
	Burundi	Yes	Yes
	Kenya	Yes	Yes
	Rwanda	Yes	Yes
	Tanzania	Yes	Yes
	Uganda	Yes	Yes

Region	Country	National Enquiry Point	National Notification Authority
CARIFORUM	Antigua and Barbuda	Yes	Yes
	Bahamas	No	No
	Barbados	Yes	Yes
	Belize	Yes	Yes
	Dominica	Yes	Yes
	Dominican Republic	Yes	Yes
	Grenada	Yes	Yes
	Guyana	Yes	Yes
	Haiti	Yes	Yes
	Jamaica	Yes	Yes
	St. Kitts and Nevis	Yes	Yes
	St. Lucia	Yes	Yes
	St. Vincent/Grenadines	Yes	Yes
	Suriname	Yes	Yes
	Trinidad and Tobago	Yes	Yes
PACP	Cook Islands	No	No
	Fiji	Yes	Yes
	Kiribati	No	No
	Marshall Islands	No	No
	Micronesia	No	No
	Nauru	No	No
	Niue	No	No
	Palau	No	No
	Papua New Guinea	Yes	Yes
	Samoa	No	No
	Solomon Islands	Yes	Yes
	Tonga	Yes	No
	Tuvalu	No	No
	Vanuatu	No	No

This is even more explicit in the interim agreement between the EC and SADC where reference is made to the establishment of an 'early warning system' in Article 61 Part 1:

'The Parties agree to establish an early-warning system to ensure that the SADC EPA States are informed in advance of new EC SPS measures that may affect SADC EPA exports to the EU. This system shall be based on existing mechanisms where appropriate.'

Given the limited capacity of many of the parties to the EPA negotiations to comply with new SPS measures is limited, any mechanism that provides for a longer compliance period is to be welcomed. What is not clear from the language of the agreements to date, however, is the stage in the elaboration of new or revised SPS measures at which information will be

imparted to EPA signatories. In practice, the benefits in terms of the delivery of more detailed and/or timelier information could be quite limited.

In a number of the final or interim agreements, often rather weak language suggests more direct communications between the EU and the ACP signatories in the event of SPS-related trade problems. In some cases, however, a more affirmative commitment is stated. For example, Article 63 of the interim agreement between the EC and SADC states:

'If either Party or an SADC EPA State, as the case may be, considers that another Party has taken measures which are likely to affect, or have affected, access to its market, appropriate consultations will be held with a view to avoiding undue delays and finding an appropriate solution in conformity with the WTO SPS Agreement. In this regard, the Parties shall exchange names and addresses of contact points with sanitary and phytosanitary expertise in order to facilitate communication and the exchange of information.'

Likewise, Article 39 Part 2 of the interim agreement between the EC and the Pacific states indicates:

'The Parties shall inform and consult each other as early as possible with a view to finding a mutually agreed solution when an SPS or TBT-related measures results in a barrier to trade.'

In addition to reaffirmation and/or extension of the transparency mechanisms of the SPS Agreement, many of the final or draft agreements envisage information exchange across a broader range of SPS issues. Examples include collaboration on epidemiological surveillance on animal disease and exchange of information on the occurrence of plants pests that are an immediate danger.

Harmonisation

The SPS Agreement puts significant emphasis on the harmonisation of SPS measures, predominantly through WTO Members basing their measures on the international standards, guidelines or recommendations established by Codex Alimentarius, OIE and the IPPC. A number of the final or interim agreements make reference to the harmonisation of SPS measures predominantly *between* the ACP signatories at the regional level and with international standards. The strength of the associated language, however, differs widely. The final agreement between the EC and CARIFORUM in Article 56 Point 2 states:

'In this regard, the Parties agree on the importance of establishing harmonised SPS measures both in the EC Party and between CARIFORUM States and undertake to cooperate to this end. The Parties also agree to consult with the aim of achieving bilateral arrangements on recognition of the equivalence of specified SPS measures.'

At the other extreme, Article 46 Part 1 the interim agreement between the EC and Central Africa makes a firm and time-limited commitment towards the harmonisation of SPS measures:

"The Central Africa Party undertakes to harmonise the standards and other measures within the scope of this Chapter at regional level within four years of this Agreement's entry into force."

In the latter case, while the EPA is clearly seen to drive an agenda towards regional harmonisation, it is also linked to a specific commitment for the parties to cooperate in the

area of regional integration (although interestingly with no explicit reference to the harmonisation of SPS measures).

Equivalence

From the outset, the ACP states evidently saw the EPA negotiations as a way in which to achieve specific agreements on equivalency of SPS measures, broadly along the lines of those in the EU-Chile Association Agreement (see above). The capacity-building needs of many of these states, however, rendered talks of such agreements superfluous in the short and medium terms. In some cases, however, the notion of equivalency remained a long-term aspiration. Thus, the final agreement between the EC and CARIFORUM and the interim agreement between the EC and the Pacific states make reference to the equivalence of SPS measures, whether between the ACP signatories or between the ACP signatories and the EU. In the case of the CARIFORUM agreement, the language is rather weak (see Article 56 Part 2 above). Indeed, the agreement does not appear to add anything appreciable to existing obligations under Article 4.2 of the SPS Agreement; for WTO members to, upon request, enter into consultations with the aim of achieving bilateral and/or multilateral agreements on the recognition of the equivalence of particular SPS measures.

The interim agreement between the EC and the Pacific states, in contrast, makes a more explicit commitment to consider the equivalence of SPS measures, notably between the Pacific states and the EU. Thus, Article 37 states:

1. *'The Parties recognise the importance of making operational the provisions of Article 4 of the SPS Agreement and to enable the Pacific Parties to have the equivalence of their SPS measures recognised by developed importing countries.'*
2. *'The Parties reaffirm the Decision on the implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures of 23 July 2004 of the WTO Committee on Sanitary and Phytosanitary Measures. The EC Party agrees to give due consideration to reasonable requests from one or more of the Pacific States to examine the equivalence of their SPS measures in areas of particular export interest to the Pacific States.'*

It is easy to make too much of this Article. On the one hand, it could be seen as simply restating existing obligations under the SPS Agreement (see above). On the other, it is difficult to envisage widespread equivalence being established in view of the capacity constraints faced by the Pacific states. Such an explicit reference to the scope for equivalence between ACP states and the EU, even simply as an aspiration, however, is glaring in its absence from the other EPAs.

Regional integration

All of the final and draft agreements involving multiple countries put considerable emphasis on regional integration, notably through harmonisation and/or mutual recognition. However, there are appreciable differences in language across the agreements with respect to whether this is seen as an aspiration versus a firm commitment (see harmonisation section above). Predominantly, the focus of these provisions is on increasing regional trade between ACP countries. The interim agreement between the EC and Central Africa is a notable exception in committing the parties to mutual recognition in the case of EU imports to the region. Thus, Article 46 Point 2 states:

'With a view to facilitating trade between the Parties and in conformity with Article 40, the signatory Central African States agree on the need to harmonise import conditions applicable to products originating in the territory

of the EC Party when these products enter a signatory Central African State. Where national import conditions already exist at the time of this Agreement's entry into force, and pending the introduction of harmonised import conditions, the existing import conditions shall be implemented by the signatory Central African States on the basis that a product from the EC Party legally placed on the market of a signatory Central African State may also be legally placed on the market of all other signatory Central African States without any further restriction or administrative requirement.'

The final and draft agreements also vary in the degree to which SPS issues are dealt with at the regional level, and to which specific administrative structures are established for this purpose. The agreements between the EC and CARIFORUM and the EC and the Pacific states, for example, envisage a regional body managing the implementation of the agreement and handling exchange of information on SPS matters.

Cooperation

Most of the final and interim agreements contain substantive elements related to cooperation between the parties, including the identification of priority areas for capacity-building. Indeed, cooperation is recognised as critical to the successful implementation of these agreements. For example, Article 59 Part 1 of the agreement between the EC and CARIFORUM states:

'The Parties recognise the importance of cooperation as regards sanitary and phytosanitary measures in order to achieve the objectives of this Agreement.'

Importantly, however, none of the agreements include a firm commitment with respect to flows of assistance from the EU to the respective ACP states. As noted above, the European Commission has been steadfast in regarding the flow of assistance as falling under the umbrella of the EDF rather than being integral to the EPAs.

In the agreements, as part of their general provisions cooperation is seen as taking both financial and non-financial forms, the latter consisting of flows of information, expertise, etc. With respect to SPS matters specifically, there is generally little or no indication of the relative importance of these two forms of cooperation. The notable exceptions are the interim agreements between the EC and Ghana and the EC and Cote d'Ivoire, in which Article 43 Point 2 states:

'The Parties agree to cooperate, in accordance with the provisions of Article 4, with the aim of improving the quality and the competitiveness of priority products for Ghana and access to the EC market, including by facilitating support, notably financially, in the following areas:

- a) Set-up of an appropriate framework for the exchange of information and expertise among the Parties;*
- b) Adoption of technical standards and regulations, conformity assessment procedures, and harmonised sanitary and phytosanitary measures at regional level, based on relevant international standards;*
- c) Building the capacity of the public and private actors, including information and training, with the aim of helping exporters to conform to EC rules and standards, and of participating in international organisations;*
- d) Development of national capacities for the assessment of product compliance and access to the EC market.'*

This clearly puts the emphasis on financial assistance, although again no firm commitment is made with respect to the provision of finance.

Although the agreements differ in the identified priorities for cooperation, the above article from the Ghana and Cote d'Ivoire interim, agreements is quite typical. Thus, emphasis is put on the enhancement of SPS capacity nationally and/or regionally and across the public and private sectors, in turn directed at monitoring changes in EU SPS measures and achieving compliance, and regional harmonisation. In some agreements there is also reference to enhancing technological and research capacity. As discussed above, it is notable that the final agreement between the EC and CARICOM focuses on compliance with regulatory and market requirements, implying that private standards are included. Note that St Vincent and the Grenadines was the first country to raise the issue of private standards at the SPS Committee (see Table 1).

5. Conclusions

We can draw a number of broad conclusions from the review of final and interim EPAs presented above:

- All of the final and draft EPAs include provisions relating to SPS measures. In most cases these provisions are restricted to reaffirming existing commitments to the SPS Agreement and laying down broad administrative arrangements with respect to bilateral relations regarding SPS measures. Relative to previous free trade agreements, the EPAs lie towards the less ambitious end of the spectrum with respect to SPS measures, for example akin to the existing agreement with South Africa (TDCA).
- The agreements variously include aspirations to work towards the harmonisation of SPS measures, mutual recognition and equivalence. However, there are relatively few cases of firm commitments, for example on establishing equivalence agreements.
- Cooperation on SPS matters between the EU and ACP states is a prominent part of the agreements, reflecting the evident weaknesses in capacity that limit the ability of many ACP countries to comply with EU SPS requirements in a competitive manner. While limitations in SPS capacity are evidently the critical issue facing ACP states, there is a lack of firm commitment on the part of the EU with respect to future flows of technical assistance.
- The rather weak language on SPS measures contrasts markedly with the initial expectations of the ACP states. Evidently, the EPAs were seen as a way in which ACP states could achieve appreciable special and differential treatment. The final and draft agreements as they stand instead focus on information exchange and coordination, presumably to ensure that ACP states are aware of proposed new measures and have the maximum time available in which to comply, and capacity-building, facilitating the ability of the ACP states to comply with EU SPS requirements.

While the provisions of the final and interim EPAs contain rather general language on SPS measures, they do provide the ACP states with an additional mechanism through which SPS issues can be raised with the EU. Thus, use can be made of the existing channels provided by the WTO or the institutional framework of the respective EPA. It should be noted, however, that the joint report of the all-ACP-EC phase of the negotiations recommended that ACP countries should raise SPS issues through the WTO rather than through the EPAs (ACP Secretariat, 2003). Of course, this route is not available for ACP states that are not WTO Members. Thus, the EPAs were seen from the outset as predominantly laying down procedural and institutional arrangements that either reduce the transaction costs associated with bilateral relations on SPS matters, within the context of the WTO, or in establishing commitments that go beyond the rights and obligations specified in the SPS Agreement. There is little evidence that the latter of these aspirations has been achieved.

So what have the EPA negotiations achieved? Clearly, the ACP states had far more ambitious aspirations for the EPA negotiations with respect to SPS measures. Many of these aspirations were arguably unrealistic given the existing rights of the EU under the WTO Agreement, the political and economic realities in which the European Commission operates and the prevailing compliance capacities of most ACP states. Thus, the ACP states were never going to achieve a moratorium on new SPS measures, for example. In assessing what has been achieved through the EPA negotiations, it is important to focus on what could reasonably have been achieved.

Starting on a more positive note, the final and draft agreements do establish closer relations between the ACP states and the EU on SPS matters, and envisage the establishment of institutional arrangements that should reduce the transaction costs faced by the ACP states in keeping up with regulatory developments within the EU. The negotiations have also acknowledged the critical need for capacity enhancement, seeing this as the key constraint to compliance in many ACP states. Unfortunately, however, this has not been translated into concrete and specific commitments on the part of the EU with respect to technical assistance. It is notable that the final and interim agreements are far less specific on this issue than the EU-Chile Association Agreement. Thus, Article 24 Part 2 of the agreement states that cooperation will include:

'Specific projects aimed at supporting sanitary, phytosanitary, environmental and food quality measures, taking into account the legislation in force for both Parties, in compliance with WTO rules and other competent international organisations;'

This is one issue on which the ACP states should be negotiating hard, with a focus on firm commitments for flows of technical assistance directed at priority areas of capacity-building. Potentially, a route forward would be to secure agreement on the need to prepare prioritised and costed actions plans.

While the conclusion of equivalence agreements with the EU is evidently unrealistic for most of the ACP states given prevailing capacity weaknesses, the language pertaining to these could be strengthened. Thus, it is conceivable that commitments could be made to work towards the establishment of equivalency, with much of the cooperation between the EU and the ACP states directed at this objective alongside broader process of regional harmonisation and/or mutual recognition among the ACP states. This would serve to focus the provision of technical assistance by the EU and provide a concrete objective against which the impact of this assistance could be assessed. It would also signify a specific commitment on the part of the EU to work with the ACP countries to address the market access problems they face due to SPS measures.

It is important to recognise that, while the ACP states all evidently have concerns about the impact of SPS measures on their ability to exploit their preferential access to EU markets, they do not necessarily share common interests in this regard. Thus, among the negotiating parties are major agri-food exporters (for example Kenya and South Africa) whose competitive position is evidently built on the process of compliance (Jaffee, 2003). While some ACP states initially argued for a moratorium on new SPS measures and extra time in which to achieve compliance, this is not a position that appears to be in the interest of the more established exporters. In this context, it is perhaps not surprising that many of the final and draft agreements have rather general provisions on SPS measures.

Table A1 Total detentions of EU food and feed imports, 2002-08:

Region/Country		Year							Total
		2002	2003	2004	2005	2006	2007	2008	
West Africa	Benin	2	1	0	3	1	0	2	7
	Burkina Faso	1	0	0	1	0	0	1	3
	Cape Verde	0	0	0	0	0	1	0	1
	Ivory coast	7	4	12	2	12	13	7	54
	Gambia	2	1	5	4	2	5	2	24
	Ghana	1	11	80	65	46	34	1	262
	Guinea-Bissau	0	0	0	0	0	0	0	0
	Liberia	0	0	0	0	0	0	0	0
	Mali	2	0	1	0	0	0	2	3
	Mauritania	1	0	0	0	0	0	1	1
	Niger	0	0	0	0	0	0	0	0
	Nigeria	1	7	17	33	32	49	1	164
	Senegal	4	12	3	8	6	16	4	62
	Sierra Leone	0	0	1	1	2	2	0	6
	Togo	1	0	0	1	1	0	1	8
	Total	22	36	119	118	102	120	22	595
CEMAC	Cameroon	1	1	1	0	0	2	1	5
	Chad	0	0	0	0	0	0	0	0
	Central African Republic	0	0	0	0	0	0	0	0
	Congo	2	0	0	1	1	0	2	4
	DRC	0	0	0	0	0	0	0	1
	Equatorial Guinea	0	0	0	0	0	0	0	0
	Gabon	0	0	0	0	0	5	0	5
	São Tomé and Príncipe	0	0	0	0	0	0	0	0
	Total	3	1	1	1	1	7	3	15
EAS	Comoros	0	0	0	0	1	0	0	1
	Djibouti	0	0	0	0	0	0	0	0
	Eritrea	0	0	0	0	1	0	0	1
	Ethiopia	0	0	1	1	2	3	0	10
	Madagascar	0	3	1	1	1	0	0	6
	Malawi	0	0	0	5	3	2	0	11
	Mauritius	1	1	1	7	1	4	1	15
	Seychelles	2	5	0	0	0	4	2	11
	Sudan	0	0	13	4	10	2	0	29
	Zambia	0	0	0	0	1	0	0	1
	Zimbabwe	0	0	0	2	1	1	0	6
	Total	3	9	16	20	21	16	3	91
SADC	Angola	1	0	0	9	2	6	1	18
	Botswana	3	3	16	2	0	0	3	24
	Lesotho	0	0	0	0	0	0	0	0
	Mozambique	0	0	1	0	1	3	0	5
	Namibia	16	5	6	12	3	7	16	53
	South Africa	13	17	14	12	7	8	13	82
	Swaziland	0	0	2	0	0	0	0	2
	Total	33	25	39	35	13	24	33	184

Region/Country		Year							Total
		2002	2003	2004	2005	2006	2007	2008	
EAC	Burundi	0	0	0	0	0	0	0	0
	Kenya	0	3	0	4	6	3	8	24
	Rwanda	0	0	0	0	0	0	2	2
	Tanzania	2	2	2	2	2	8	1	19
	Uganda	3	2	4	3	1	2	1	16
	Total	5	7	6	9	9	13	12	61
CARIFORUM	Antigua and Barbuda	0	0	0	0	0	0	0	0
	Bahamas	0	0	0	0	0	0	0	0
	Barbados	0	0	0	0	0	0	0	0
	Belize	0	0	0	0	0	0	0	0
	Dominica	0	0	0	0	0	0	0	0
	Dominican Republic	0	3	0	2	6	4	4	19
	Grenada	0	0	0	0	2	0	0	2
	Guyana	0	0	0	1	0	0	0	1
	Haiti	0	0	1	0	0	1	0	2
	Jamaica	0	0	0	0	0	2	1	3
	St Kitts and Nevis	0	0	0	0	0	0	0	0
	St Lucia	0	0	0	0	0	0	0	0
	St Vincent and the Grenadines	0	0	0	0	0	0	0	0
	Suriname	1	1	2	1	1	8	1	15
	Trinidad and Tobago	0	0	0	0	0	0	0	0
	Total	1	4	3	4	9	15	6	42
PACP	Cook Islands	0	0	0	0	0	0	0	0
	Micronesia	0	0	0	0	0	0	0	0
	Fiji	1	0	1	0	4	2	1	9
	Kiribati	0	0	0	0	0	0	0	0
	Marshall Islands	0	0	0	0	0	0	0	0
	Niue	0	0	0	0	0	0	0	0
	Palau	0	0	0	0	0	0	0	0
	Papua New Guinea	0	0	0	1	0	0	1	2
	Samoa	0	0	0	0	0	0	0	0
	Solomon Islands	0	0	0	0	0	0	0	0
	Tonga	0	0	0	0	1	0	0	1
	Tuvalu	0	0	0	0	0	0	0	0
	Vanuatu	0	0	0	0	0	0	0	0
	Total	1	0	1	1	5	2	2	12
Total		68	82	185	188	160	197	120	1,000

Table A2 Rate of detention of EU food and feed imports, 2002-08 (detentions per €million imports):

Region/Country		Year							Average
		2002	2003	2004	2005	2006	2007	2008	
West Africa	Benin	0.124	0.064	0.000	0.219	0.054	0.000	0.000	0.066
	Burkina Faso	0.087	0.000	0.000	0.067	0.000	0.000	0.035	0.027
	Cape Verde	0.000	0.000	0.000	0.000	0.000	0.124	0.000	0.018
	Ivory coast	0.004	0.002	0.007	0.001	0.009	0.008	0.002	0.005
	Gambia	0.088	0.134	0.393	0.780	0.204	0.582	0.813	0.428
	Ghana	0.002	0.017	0.102	0.088	0.057	0.036	0.023	0.047
	Guinea-Bissau	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Liberia	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Mali	0.325	0.000	0.177	0.000	0.000	0.000	0.000	0.072
	Mauritania	0.008	0.000	0.000	0.000	0.000	0.000	0.000	0.001
	Niger	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Nigeria	0.003	0.015	0.050	0.082	0.098	0.131	0.061	0.063
	Senegal	0.012	0.041	0.012	0.034	0.025	0.055	0.060	0.034
	Sierra Leone	0.000	0.000	0.105	0.076	0.122	0.087	0.000	0.056
	Togo	0.021	0.000	0.000	0.010	0.009	0.000	0.029	0.010
	Total	0.006	0.010	0.036	0.038	0.033	0.034	0.020	0.025
CEMAC	Cameroon	0.003	0.002	0.003	0.000	0.000	0.004	0.000	0.002
	Chad	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Central African Republic	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Congo	0.091	0.000	0.000	0.065	0.075	0.000	0.000	0.033
	DRC	0.000	0.000	0.000	0.000	0.000	0.000	0.040	0.006
	Equatorial Guinea	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Gabon	0.000	0.000	0.000	0.000	0.000	0.456	0.000	0.065
	São Tomé and Príncipe	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Total	0.007	0.002	0.002	0.002	0.002	0.014	0.002	0.004
EAS	Comoros	0.000	0.000	0.000	0.000	0.310	0.000	0.000	0.044
	Djibouti	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Eritrea	0.000	0.000	0.000	0.000	5.255	0.000	0.000	0.751
	Ethiopia	0.000	0.000	0.007	0.005	0.009	0.012	0.009	0.006
	Madagascar	0.000	0.009	0.003	0.005	0.004	0.000	0.000	0.003
	Malawi	0.000	0.000	0.000	0.092	0.062	0.044	0.015	0.030
	Mauritius	0.002	0.003	0.003	0.017	0.002	0.010	0.000	0.005
	Seychelles	0.009	0.024	0.000	0.000	0.000	0.025	0.000	0.008
	Sudan	0.000	0.000	0.129	0.032	0.124	0.018	0.000	0.043
	Zambia	0.000	0.000	0.000	0.000	0.018	0.000	0.000	0.003
	Zimbabwe	0.000	0.000	0.000	0.016	0.010	0.012	0.024	0.009
	Total	0.002	0.006	0.012	0.014	0.015	0.012	0.004	0.009
SADC	Angola	0.025	0.000	0.000	0.506	0.095	0.461	0.000	0.155
	Botswana	0.076	0.090	0.441	0.064	0.000	0.000	0.000	0.096
	Lesotho	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Mozambique	0.000	0.000	0.016	0.000	0.012	0.026	0.000	0.008
	Namibia	0.053	0.016	0.020	0.041	0.011	0.024	0.013	0.025
	South Africa	0.007	0.009	0.008	0.006	0.004	0.004	0.005	0.006
	Swaziland	0.000	0.000	0.016	0.000	0.000	0.000	0.000	0.002
	Total	0.014	0.011	0.016	0.014	0.006	0.009	0.005	0.011

Region/Country		Year							Average
		2002	2003	2004	2005	2006	2007	2008	
EAC	Burundi	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Kenya	0.000	0.004	0.000	0.005	0.006	0.003	0.008	0.004
	Rwanda	0.000	0.000	0.000	0.000	0.000	0.000	0.063	0.009
	Tanzania	0.009	0.010	0.010	0.009	0.009	0.031	0.004	0.012
	Uganda	0.015	0.010	0.019	0.011	0.004	0.007	0.003	0.010
	Total	0.004	0.006	0.005	0.006	0.006	0.008	0.007	0.006
CARIFORUM	Antigua and Barbuda	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Bahamas	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Barbados	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Belize	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Dominica	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Dominican Republic	0.000	0.025	0.000	0.013	0.029	0.015	0.014	0.014
	Grenada	0.000	0.000	0.000	0.000	0.574	0.000	0.000	0.082
	Guyana	0.000	0.000	0.000	0.008	0.000	0.000	0.000	0.001
	Haiti	0.000	0.000	0.164	0.000	0.000	0.280	0.000	0.063
	Jamaica	0.000	0.000	0.000	0.000	0.000	0.015	0.010	0.004
	St Kitts and Nevis	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	St Lucia	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	St Vincent and the Grenadines	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Suriname	0.022	0.032	0.064	0.026	0.024	0.189	0.022	0.054
	Trinidad and Tobago	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Total	0.001	0.004	0.003	0.005	0.010	0.016	0.006	0.006
PACP	Cook Islands	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Micronesia	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Fiji	0.011	0.000	0.010	0.000	0.036	0.021	0.009	0.012
	Kiribati	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Marshall Islands	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Niue	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Palau	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Papua New Guinea	0.000	0.000	0.000	0.003	0.000	0.000	0.002	0.001
	Samoa	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Solomon Islands	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Tonga	0.000	0.000	0.000	0.000	45.249	0.000	0.000	6.464
	Tuvalu	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Vanuatu	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
	Total	0.003	0.000	0.003	0.002	0.013	0.004	0.003	0.004

Table A3. Number of detentions of EU food and feed imports by product, 2002-08:

Region/Country		Nuts, Nut Products and Seeds	Fish and Fishery Products	Fats and Oils	Fruit and Vegetable s	Herbs and Spices	Meat and Meat Products	Cocoa Preparatio ns, Coffee	Other
West Africa	Benin	0	7	0	0	0	0	0	0
	Burkina Faso	3	0	0	0	0	0	0	0
	Cape Verde	0	1	0	0	0	0	0	0
	Ivory coast	3	20	1	8	0	0	17	5
	Gambia	2	17	3	0	0	0	0	2
	Ghana	69	17	101	22	23	0	1	29
	Guinea-Bissau	0	0	0	0	0	0	0	0
	Liberia	0	0	0	0	0	0	0	0
	Mali	3	0	0	0	0	0	0	0
	Mauritania	0	1	0	0	0	0	0	0
	Niger	0	0	0	0	0	0	0	0
	Nigeria	78	13	16	22	8	0	0	27
	Senegal	4	48	5	3	0	0	0	2
	Sierra Leone	2	0	2	0	1	0	0	1
	Togo	4	1	3	0	0	0	0	0
	Total	168	125	131	55	32	0	18	66
CEMAC	Cameroon	0	0	0	1	1	0	2	1
	Chad	0	0	0	0	0	0	0	0
	Central African Republic	0	0	0	0	0	0	0	0
	Congo	0	2	0	2	0	0	0	0
	DRC	0	0	0	0	0	0	1	0
	Equatorial Guinea	0	0	0	0	0	0	0	0
	Gabon	0	5	0	0	0	0	0	0
	São Tomé and Príncipe	0	0	0	0	0	0	0	0
	Total	0	7	0	3	1	0	3	1
EAS	Comoros	0	0	0	0	1	0	0	0
	Djibouti	0	0	0	0	0	0	0	0
	Eritrea	0	0	0	0	1	0	0	0
	Ethiopia	3	0	0	0	7	0	0	0
	Madagascar	0	2	0	4	0	0	0	0
	Malawi	10	0	0	0	1	0	0	0
	Mauritius	0	8	0	0	6	0	0	1
	Seychelles	0	9	0	0	0	0	0	2
	Sudan	29	0	0	0	0	0	0	0
	Zambia	1	0	0	0	0	0	0	0
	Zimbabwe	4	0	0	2	0	0	0	0
	Total	47	19	0	6	16	0	0	3
SADC	Angola	0	18	0	0	0	0	0	0
	Botswana	0	0	0	0	0	24	0	0
	Lesotho	0	0	0	0	0	0	0	0
	Mozambique	3	2	0	0	0	0	0	0
	Namibia	0	28	0	0	0	24	0	1
	South Africa	46	8	0	8	5	0	0	15
	Swaziland	0	0	0	2	0	0	0	0
	Total	49	56	0	10	5	48	0	16

Region/Country		Nuts, Nut Products and Seeds	Fish and Fishery Products	Fats and Oils	Fruit and Vegetable s	Herbs and Spices	Meat and Meat Products	Cocoa Preparatio ns, Coffee	Other
EAC	Burundi	0	0	0	0	0	0	0	0
	Kenya	0	8	0	14	1	0	0	1
	Rwanda	1	0	0	0	0	0	0	1
	Tanzania	0	10	0	0	2	0	6	1
	Uganda	4	4	0	0	0	0	6	2
	Total	5	22	0	14	3	0	12	5
CARIFORUM	Antigua and Barbuda	0	0	0	0	0	0	0	0
	Bahamas	0	0	0	0	0	0	0	0
	Barbados	0	0	0	0	0	0	0	0
	Belize	0	0	0	0	0	0	0	0
	Dominica	0	0	0	0	0	0	0	0
	Dominican Republic	0	0	0	16	0	1	0	2
	Grenada	0	0	0	0	2	0	0	0
	Guyana	0	0	0	0	0	0	0	1
	Haiti	0	0	0	0	0	0	2	0
	Jamaica	0	1	0	1	1	0	0	0
	St Kitts and Nevis	0	0	0	0	0	0	0	0
	St Lucia	0	0	0	0	0	0	0	0
	St Vincent and the Grenadines	0	0	0	0	0	0	0	0
	Suriname	0	5	0	10	0	0	0	0
	Trinidad and Tobago	0	0	0	0	0	0	0	0
	Total	0	6	0	27	3	1	2	3
PACP	Cook Islands	0	0	0	0	0	0	0	0
	Micronesia	0	0	0	0	0	0	0	0
	Fiji	0	4	0	1	0	0	0	4
	Kiribati	0	0	0	0	0	0	0	0
	Marshall Islands	0	0	0	0	0	0	0	0
	Niue	0	0	0	0	0	0	0	0
	Palau	0	0	0	0	0	0	0	0
	Papua New Guinea	0	2	0	0	0	0	0	0
	Samoa	0	2	0	0	0	0	0	0
	Solomon Islands	0	0	0	0	0	0	0	0
	Tonga	0	0	0	0	1	0	0	0
	Tuvalu	0	0	0	0	0	0	0	0
	Vanuatu	0	0	0	0	0	0	0	0
	Total	0	6	0	1	1	0	0	4
Total		269	241	131	116	61	49	35	98

Table A4 Reason for detentions of EU food and feed imports, 2002-08:

Country/Region		Mycotoxins	Unauthorised Food Additives	Contaminants	Microbiological	Heavy Metals	Pesticide Residues	Industrial Contaminants	Bad Or Insufficient Controls	Foreign Bodies	Other	Total
West Africa	Benin	0	4	2	0	0	0	0	0	0	1	7
	Burkina Faso	1	0	2	0	0	0	0	0	0	0	3
	Cape Verde	0	0	0	1	0	0	0	0	0	0	1
	Ivory coast	22	1	7	3	1	1	11	1	2	6	54
	Gambia	4	2	1	0	0	0	4	8	4	1	24
	Ghana	91	112	13	5	0	0	8	6	5	22	262
	Guinea-Bissau	0	0	0	0	0	0	0	0	0	0	0
	Liberia	0	0	0	0	0	0	0	0	0	0	0
	Mali	3	0	0	0	0	0	0	0	0	0	3
	Mauritania	0	0	1	0	0	0	0	0	0	0	1
	Niger	0	0	0	0	0	0	0	0	0	0	0
	Nigeria	90	34	13	10	0	0	1	2	7	7	164
	Senegal	4	17	10	15	1	1	3	4	0	8	62
	Sierra Leone	3	2	0	1	0	0	0	0	0	0	6
	Togo	4	3	0	0	0	0	1	0	0	0	8
	Total	222	175	49	35	2	2	28	21	18	45	595
CEMAC	Cameroon	2	1	0	1	0	0	0	1	0	0	5
	Chad	0	0	0	0	0	0	0	0	0	0	0
	Central African Republic	0	0	0	0	0	0	0	0	0	0	0
	Congo	1	2	0	1	0	0	0	0	0	0	4
	DRC	1	0	0	0	0	0	0	0	0	0	1
	Equatorial Guinea	0	0	0	0	0	0	0	0	0	0	0
	Gabon	0	0	0	0	0	0	2	0	0	3	5
	São Tomé and Príncipe	0	0	0	0	0	0	0	0	0	0	0
	Total	4	3	0	2	0	0	2	1	0	3	15

Country/Region		Mycotoxins	Unauthorised Food Additives	Contaminants	Microbiological	Heavy Metals	Pesticide Residues	Industrial Contaminants	Bad Or Insufficient Controls	Foreign Bodies	Other	Total
EAS	Comoros	1	0	0	0	0	0	0	0	0	0	1
	Djibouti	0	0	0	0	0	0	0	0	0	0	0
	Eritrea	1	0	0	0	0	0	0	0	0	0	1
	Ethiopia	6	1	3	0	0	0	0	0	0	0	10
	Madagascar	0	2	0	0	0	2	0	0	0	2	6
	Malawi	10	1	0	0	0	0	0	0	0	0	11
	Mauritius	0	7	0	5	0	0	0	0	0	3	15
	Seychelles	0	1	0	4	0	0	0	0	0	6	11
	Sudan	29	0	0	0	0	0	0	0	0	0	29
	Zambia	1	0	0	0	0	0	0	0	0	0	1
	Zimbabwe	4	0	0	0	0	0	0	0	2	0	6
	Total	52	12	3	9	2	0	0	0	2	11	91
SADC	Angola	0	17	0	0	0	0	0	0	0	1	18
	Botswana	0	0	22	0	0	0	0	1	1	0	24
	Lesotho	0	0	0	0	0	0	0	0	0	0	0
	Mozambique	3	1	0	0	0	0	0	1	0	0	5
	Namibia	0	1	30	19	0	0	0	3	0	0	53
	South Africa	48	11	4	3	5	1	4	4	0	6	82
	Swaziland	0	1	0	0	0	0	0	0	0	1	2
	Total	51	31	56	22	5	1	9	1	1	8	184
EAC	Burundi	0	0	0	0	0	0	0	0	0	0	0
	Kenya	1	0	8	6	9	0	0	0	0	0	24
	Rwanda	2	0	0	0	0	0	0	0	0	0	2
	Tanzania	0	2	10	1	0	0	0	1	3	1	19
	Uganda	6	0	8	0	0	0	1	0	0	1	16
	Total	9	3	26	7	9	1	1	1	3	2	61

Country/Region		Mycotoxins	Unauthorised Food Additives	Contaminants	Microbiological	Heavy Metals	Pesticide Residues	Industrial Contaminants	Bad Or Insufficient Controls	Foreign Bodies	Other	Total
CARIFORUM	Antigua and Barbuda	0	0	0	0	0	0	0	0	0	0	
	Bahamas	0	0	0	0	0	0	0	0	0	0	
	Barbados	0	0	0	0	0	0	0	0	0	0	
	Belize	0	0	0	0	0	0	0	0	0	0	
	Dominica	0	0	0	0	0	0	0	0	0	0	
	Dominican Republic	3	0	0	0	0	15	0	0	0	1	19
	Grenada	0	2	0	0	0	0	0	0	0	0	2
	Guyana	0	0	0	0	0	1	0	0	0	0	1
	Haiti	0	2	0	0	0	0	0	0	0	0	2
	Jamaica	0	0	0	0	1	0	0	0	0	2	3
	St Kitts and Nevis	0	0	0	0	0	0	0	0	0	0	
	St Lucia	0	0	0	0	0	0	0	0	0	0	
	St Vincent and the Grenadines	0	0	0	0	0	0	0	0	0	0	
	Suriname	0	0	1	0	0	10	4	0	0	0	15
	Trinidad and Tobago	0	0	0	0	0	0	0	0	0	0	0
	Total	3	4	1	1	26	4	0	0	0	3	42
Pacific	Cook Islands	0	0	0	0	0	0	0	0	0	0	0
	Micronesia	0	0	0	0	0	0	0	0	0	0	0
	Fiji	0	0	4	2	0	0	0	0	0	3	9
	Kiribati	0	0	0	0	0	0	0	0	0	0	0
	Marshall Islands	0	0	0	0	0	0	0	0	0	0	0
	Niue	0	0	0	0	0	0	0	0	0	0	0
	Palau	0	0	0	0	0	0	0	0	0	0	0
	Papua New Guinea	1	0	0	0	0	0	0	0	0	1	2
	Samoa	0	0	0	0	0	0	0	0	0	0	0
	Solomon Islands	0	0	0	0	0	0	0	0	0	0	0
	Tonga	0	0	0	0	0	0	0	0	0	1	1
	Tuvalu	0	0	0	0	0	0	0	0	0	0	0
	Vanuatu	0	0	0	0	0	0	0	0	0	0	0
	Total	1	0	4	2	0	0	0	0	0	5	12
Total		342	228	139	78	44	36	32	24	77	1,000	

Country/Region		Cocoa and cocoa preparations	Edible fruit, nuts, peel of citrus fruit, melons	Fish, crustaceans, molluscs, aquatic invertebrates	Coffee, tea, mate and spices	Sugars and sugar confectionery	Beverages, spirits and vinegar	Meat, fish and seafood food preparations			Other	Total
West Africa	Benin	4	0	2	0	4	0	0	0	0	1	8
	Burkina Faso	0	1	2	0	0	0	0	0	0	0	3
	Cape Verde	0	0	0	1	0	0	0	0	0	0	1
	Ivory coast	1	22	7	3	1	1	11	1	2	6	60
	Gambia	2	4	1	0	2	0	4	8	4	1	25
	Ghana	112	91	13	5	112	0	8	6	5	22	284
	Guinea-Bissau	0	0	0	0	0	0	0	0	0	0	0
	Liberia	0	0	0	0	0	0	0	0	0	0	0
	Mali	0	3	0	0	0	0	0	0	0	0	3
	Mauritania	0	0	1	0	0	0	0	0	0	0	1
	Niger	0	0	0	0	0	0	0	0	0	0	0
	Nigeria	34	90	13	10	34	0	1	2	7	7	171
	Senegal	17	4	10	15	17	1	3	4	0	8	70
	Sierra Leone	2	3	0	1	2	0	0	0	0	0	6
	Togo	3	4	0	0	3	0	1	0	0	0	8
	Total	175	222	49	35	175	2	28	21	18	45	640
CEMAC	Cameroon	1	2	0	1	1	0	0	1	0	0	5
	Chad	0	0	0	0	0	0	0	0	0	0	0
	Central African Republic	0	0	0	0	0	0	0	0	0	0	0
	Congo	2	1	0	1	2	0	0	0	0	0	4
	DRC	0	1	0	0	0	0	0	0	0	0	1
	Equatorial Guinea	0	0	0	0	0	0	0	0	0	0	0
	Gabon	0	0	0	0	0	0	2	0	0	3	8
	São Tomé and Príncipe	0	0	0	0	0	0	0	0	0	0	0
	Total	3	4	0	2	3	0	2	1	0	3	18

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Development Finance and EPAs

1. Introduction

Development Cooperation and EPA related finance have been probably the most contentious issues during the negotiations. While market access offers have been hard to agree, positions were confronted from an early stage regarding the availability of aid funds linked to the EPAs. The underlying problem has been the lack of agreement between the EU and ACP on the reasons that make the EPAs an instrument for development. While the EU sees a positive impact of the EPAs through trade and trade-related issues and acknowledges that some funds are required to smooth the transition to a full FTA, ACP countries believe that additional funds are necessary to facilitate adjustment and taking advantage of the different opportunities being created by the EPAs. The ACP perception is that giving market access to the EU and experiencing marginal improvements to ACP exports in the EU market are not enough to guarantee a positive development impact.

The main elements regarding development cooperation and finance in the EPAs have been extensively reviewed in Grynberg and Clarke (2006) and Bilal and Stevens (2009). The purpose of this section is to summarise the main elements related to the negotiations and raise some important concerns around the capacity that the aid finance architecture being designed around the EPAs may have for trade and development in general.

2. A Long Process: Development Assistance During the Negotiations

From early on in the negotiations ACP countries expressed their demands for additional funding resources linked to the EPAs and translated into binding commitments in the agreements for the EU. There have been several proposals on how to create this facility but the different alternatives were rejected by the EU. The EU refused to negotiate development resources as part of EPAs for three main reasons. First, the EC had no mandate to negotiate development assistance in a trade agreement such as EPAs. Second, financial cooperation with ACP countries is already regulated under the Cotonou Agreement, where the main instrument for development assistance is the European Development Fund. Finally, the EC was eager to separate both elements, since the perception of a linkage between signing the EPAs and additional resources could have undermined the negotiations.

As a result of the EC position, and closer to the 2008 deadline, the different regional groupings insisted that in order to reach an agreement there was a need for guarantees that additional resources would be added to the European Development Fund (EDF) linked to the EPAs. The ACP binding commitments on unilateral liberalisation would bring adjustment costs, and, therefore, binding resources should be established to offset those costs. In addition, it has been argued that the Cotonou Agreement expires in 2020, whereas the EPAs will be a permanent agreement, and, therefore, binding commitments to link the EDF to EPAs will give more stability and predictability to aid finance.

The outcome of this complex negotiation process has been that the EU agreed to include development chapters or related annexes in the agreements. These chapters allow for the possibility that EPA specific funds could be created and include pledges for increasing available funds, but without any binding commitments.

3. Development Cooperation and Finance in the EPAs

Whether the EC had mandate to negotiate within the EPAs is of little value for ACP countries, since the EU itself could give the EC this mandate. In fact, development cooperation and finance can be included in trade agreements. One example being the Trade and Development Cooperation (TDCA) between the EU and South Africa, where there is a chapter on development cooperation that aims, among other priorities, to support the integration of the South African economy on the world economy. In order to do so, Article 94 establishes a special financial facility established under the Community budget to support development cooperation. Therefore, it is possible to have specific financial instruments under a trade agreement for a signatory of the Cotonou Agreement.

The CARIFORUM EPA and the interim EPAs (IEPA) have different development cooperation chapters. Each of them develop different priorities, some more specific than others, however, the main element in common is the lack of binding aid finance agreements. One important innovation however, is for the case of the Central African region where it has been agreed to create an EPA regional fund. The issue of regional funds for the EPAs is currently being considered by the EU and maybe implemented in other EPA regions. Nevertheless, there is no clear indication whether more financial resources will be available for this new instrument. On the contrary, the Central African IEPA establishes that the main source of finance for this facility will be the EDF and contributions by EU members and potentially other donors. As a result, some advances are happening relating EPAs to aid finance in terms of instruments, but without binding additional resources.

4. Where are the Financial Resources Coming From?

The Cotonou Agreement clearly establishes the EDF as the main source of development finance for ACP countries. The EDF draws upon National Indicative Programmes (NIPs) and Regional Indicative Programmes (RIPs), which set the countries priorities for financing. Previous EDFs have been analysed in detail in Grynberg and Clarke (2006). They document several problems related to disbursement of funds in previous EDFs. More importantly is the fact that according to Silva and Grynberg (2006) the allocation of funds agreed in the 9th EDF NIPs in the trade sector was a mere 0.1% of funds, around €6.2 million, which clearly shows lack of support to trade related issues in previous EDFs.¹⁶⁴ Most of the resources to promote trade came from regional instruments, such as the ECOWAS and UEMOA RIPs

Parallel to the EPA negotiations, in an attempt to raise the profile of trade related assistance in OECD countries, the EC launched the EU Aid for Trade (AfT) strategy. Under the AfT umbrella the EC pledged to mobilise €2 billion per year for trade related assistance, which implies a large increase in development finance for trade related issues, some of which could potentially be used for EPA related issues. At the same time the new EDF 10th (2008-2013) has been launched and the EPAs are now considered a separate item within trade and regional integration. The following table shows the predicted sectoral breakdown of the 10th EDF based on the NIPs. Clearly, more funds are available for EPA activities; however, they are still much lower than other sectors such as governance or infrastructure. At the same time only 19 countries out of 79 have programmed finance in the EPA related areas.

5. But Finance for What...The Needs

The degree to which development cooperation is required depends on ACP countries' needs. We can classify these needs in two areas. First, there are significant costs of adjustment for ACP countries when implementing the EPA. A significant amount of tariff

¹⁶⁴ The sectoral breakdown of the 9th EDF suggests that only Namibia received €2 million for the trade sector based on the NIPs.

revenues, one of the main sources of domestic tax revenues in developing countries, will be lost as a result of liberalising trade with the EU. In addition, domestic inefficient sectors may have to close down as the result of increased competition, reducing employment in these sectors. On the other hand, significant supply constraints need to be removed in order to expand exports. If Cotonou and GSP/EBA preferences were not enough to expand export diversification in ACP countries, it is not clear that additional preferences to GSP countries and improvements in rules of origin could by themselves have an additional positive impact on exports.

The different costs of EPAs are summarised in Milner (2006). He establishes the needs of finance for all ACP countries in four areas: tax revenue loss, employment destruction, assistance required for increasing domestic competitiveness and assistance required for export diversification. Milner (2006) estimates a total assistance required of €9.145 billion; around €3 billion to compensate for revenue loss, €2.4 billion for export diversification, €1.5 billion for employment adjustment and finally, €2.3 billion for improving domestic skills and firm productivity. While the accuracy of these figures is difficult to determine, any real figure close to these estimates would imply the existence of a large aid financing gap. It would require 4.5 years of full disbursement of the EU AfT funds only for ACP countries on EPAs to finance these needs.

Another important element to stress is the fact that much of the discussion around development finance has been done at the macro level. However, two important issues seem to be missing from the debate. First, the EPA may provide for some countries specific export and economic opportunities. Duty free quota free access and better rules of origin may create new export opportunities, and, therefore, concrete assistance programmes should be formulated. In addition, other trade-related issues imply that assistance is required to take full opportunity on these areas such as trade in services or SPS. Investments in regulation or infrastructure for certification are crucial to take advantage of these opportunities. Therefore, there is a strong rationale to link at the micro level development finance with concrete opportunities arising from the EPAs, and that go beyond trade in goods.

A second and more important factor is how financing needs and priorities are formulated. The main question is whether the more important element is extra funds or better capacity to design priorities? While the discussion on more finance seems logical, its effectiveness clearly depends on the capacity of ACP countries to formulate focused priorities. While the EDF funds depend on NIP and RIP that should reflect countries priorities and their ownership, it is unclear the success so far in designing programmes of assistance. This issue appeared during the EPA negotiations, with blatant examples where existing EU funds could not be disbursed due to a lack of concrete programmes. While most of the EPA discussion has focused on additional funds and instruments for disbursement, little attention is paid on addressing the issue of priority formulation and programme design.

6. The EDF and Other Development Finance Instruments

Since the 9th EDF the EU has expanded considerably its commitment for AfT. This is reflected on the pledges to mobilise €2 billion per year and is translated on the sectoral composition of the 10th EDF as seen in the previous table. Despite this improvement, other sectors absorb most of the planned funds arising from the NICs and more funds will be required to meet ACP needs. It is important to point out however, that by the time that ACP countries that have signed EPAs will be implementing tariff reductions to EU goods, the relevant EDF could be the 12th or 13th. As a result, regarding adjustment needs, there is still time to increase development finance commitments to compensate when most costs will occur.

Given the problems that previous EDF have had for disbursement, some authors have suggested the creation of a special development finance instrument for EPAs. Silva and Grynberg (2006) propose the creation of an EPA adjustment facility, separated from the EDF. This facility would have more flexibility and agility for disbursement, which would be important for financing adjustment needs.

Another instrument that is being currently considered is the creation of regional funds for the EPAs (Braun-Munzinger, 2009), which is already included in the Central African IEPA (as noted previously). While the design of effective instruments for disbursement is important, it does not guarantee its effectiveness and whether they will improve the identification of national priorities and plans.

7. Summing Up

Development finance has been perhaps the main objective of ACP countries in the EPA negotiations. Marginally improved market access and agreements on other trade related issues are not appealing for most ACP countries, and securing additional funds have been the main target of the negotiations. This position is exacerbated by different studies that show substantial adjustment costs for ACPs while implementing EPAs

The reluctance by the EU to include binding commitments on additional funds on the EPAs has been a major source of tension and lack of agreement during the negotiating process. While the EU argued that development cooperation with ACPs is regulated by the Cotonou Agreement, there is evidence that additional funds and specific instruments could have been included. Development cooperation is becoming an element of Preferential trade Agreements (PTAs) when developing countries are involved. The TDCA is a clear example, which shows that not only cooperation priorities are established, but also specific instruments to finance these priorities (in a Cotonou country).

The final outcome of this negotiation process has been to include development cooperation chapters but without specific financing commitments, that are left for the traditional instrument, the EDF, and specific country donor programmes, and the new EU AfT strategy. An analysis of existing EDF allocations and disbursements show that funds available are very unlikely to meet the needs, even after the large increases for trade related assistance pledged at the AfT strategy. However, due to the long period for phasing down tariffs under the EPAs there is still time to increase funds related to EPAs.

Despite most of the discussion having been focused on additional funds and the creation of specific instruments for the EPAs, we believe that a more micro approach to development finance is required. Additional funds are ineffective if problems to establish priorities at the national level still prevail. In addition, 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 to take advantage of these opportunities. This is also the case not only for goods, but importantly, for taking advantage of SPS agreements and services liberalisation.

An important lesson of the process is that an early agreement on development finance during the process should be a priority for any trade agreements with developing countries, especially in the EPAs case as there are overwhelming substantial adjustment costs and the EU is a key donor player in these countries. While discussion on the how to design the instruments to disburse these funds should be an outcome of the negotiation, some initial agreement and willingness could facilitate negotiations. Keeping this in mind, however, more attention should be paid by the donor community on the identification of priorities and the design of successful assistance programmes, rather than focusing mainly on additional funds and instruments.

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