



Economic Partnership Agreements (EPA) Update

25 February 2008

Introduction

This report focuses on developments regarding the negotiations on the Economic Partnership Agreements (EPAs) since the last report was drafted for the Committee in November 2007. It focuses particularly on the negotiations between the Southern African Development Community (SADC) group and the European Commission (EC), which represents the European Union (EU) in the negotiations.

The report begins with a background on EPAs and a review of the positions held by the negotiating partners on the agreements. The report will touch on the current status of the negotiations and then move on to discuss some of the implications arising out of the positions and the possible outcomes of the negotiations.

Background

Basically, EPAs are free trade agreements. A free trade agreement is an agreement that provides for preferential trading arrangements between countries and economic groupings. Preferential trade arrangements usually focus on reducing and substantially eliminating barriers to free trade, such as tariff and non-tariff barriers. Such free trade arrangements are made possible by Article XXIV of the General Agreement on Tariffs and Trade (GATT).

However, the point of deviation from normal free trade agreements is that EPAs are not merely meant to focus on trade, but also on development. EPAs are meant to allow traders to access larger markets in other countries and Regional Economic Communities (RECs), which in principle are meant to lead towards increased production and investment, and ultimately economic growth.

EPAs came about as a result of the Cotonou agreement of 2000, which replaced the preferential trade arrangements of the Lomé Convention. This Lomé trade regime was however found to be not compliant with the rules of the World Trade Organisation (WTO), as it discriminated against other developing countries that are not part of the Lomé Convention arrangement. The excluded countries only enjoy preferential trade arrangements as part of the General System of Preferences (GSP) and the GSP+.

The EPA negotiating partners consist of the EC, which represents member states of the EU and their counterparts, the Africa, Caribbean and Pacific group of countries (ACP). The EU possesses bigger economic power than the latter and therefore EPAs are intended to address trade imbalances



between the EU by offering the Least Developed Countries (LDCs) and developing countries of the ACP an opportunity to grow their economies by tapping into the larger EU market.¹

Successful EPAs may remove unfair trade asymmetry between and amongst the EU and ACP countries, and also promote competitiveness and diversification, whilst at the same time contribute regional integration.

To be more specific, the following are some of the benefits that EPAs are intended to bring:

- Making imports from the EU cheaper;
- Making imported parts and components for the manufacturing and processing sectors cheaper and more accessible;
- Stimulating development of new products to compete with products currently imported from the EU and other regions;
- Making products from non-preferred trading partners more accessible by channelling them through the EU because of drastically reduced tariffs, hence making the products cheaper;
- Enhancing market access where residual restrictions remain, by taking advantage of the EU's promise to liberalise "substantially all trade"; and
- Complement the EU'S "Everything, but Arms" (EBA) initiative which currently applies to all LDCs.

EPAs were set to be in place on 1 January 2008, and they would replace the Cotonou Agreement of 2000, which has been operating on the basis of a waiver granted by the WTO in 2002. The waiver was granted in order to allow for the negotiating partners to negotiate new WTO compliant preferential terms of trade. EPAs are preferred because they provide comprehensive legal security and substantially push for improved market access unlike the GSP and the GSP+. It has been shown that under GSP, ACP countries would experience increases in tariffs of up to 10 percent on their exports to the EU.² Others would have tariffs of up to 25 percent imposed on their exports, while for the rest it would be a 50 percent increase. Percentages would be determined by the total value of exports to the EU. High value exports lead to high tariff charges. Now that the deadline for signing new WTO compliant EPAs has gone past without the concerned parties reaching an agreement, this means that interim measures have to put in place, which should serve to minimise trade disturbances, as a result of having to implement WTO rules on tariff charges. Indeed the EU proceeded to sign such agreements with various members of the ACP group. Others did not sign due to disagreements with the substance of the various offers made to them by the EC. For countries that did not sign interim agreements, for them trade has to be conducted under the GSP and the GSP+ system of rules, but this does not mean that countries have automatically reverted to this system, as implementation

¹ The combined Gross Domestic Product (GDP) of the 25 EU countries is \$13,300bn, whilst that of the ACP countries amounts to 3.2 percent of this figure. See, *Unequal Partners: How EU-ACP Economic Partnership Agreements could harm the development prospects of many of the world's poorest countries*, Oxfam Briefing Note, September 2006.

² *Economic Partnership Agreements: What happens in 2008?* Overseas Development Institute Briefing Paper no. 23, June 2007.



usually kicks in much later as a result of authorities having to familiarise themselves with new ways of operating. Therefore, ACP countries are operating on the basis of a hybrid of rules, including the Cotonou preferential trade arrangements, the new interim arrangements as well as the GSP and GSP+ arrangement. This is a situation that requires urgent attention, as aggrieved WTO members may file legal processes against the EU in particular to force the latter to either comply with WTO rules or they may use such legal mechanisms as leverage to get the EU grant them substantive concessions, which explain the reasons why the EU has been pressing ACP countries to sign interim agreements.

However, for ACP countries to truly benefit from EPAs they need to ensure that they have strong macro- and micro-economic frameworks. Aside from these frameworks, ACP countries also need to work on their environmental policies, administrative and legal reforms, and supply side measures (such as infrastructure development). However, developing new policies and implementing new measures is a challenge for many ACP countries that lack in capacity.

While the Cotonou Agreement made poverty reduction and sustainable development the principal objectives of the EPAs, analysts contend however, that EPAs are about the restructuring of economic relations between the EU and ACP countries.³ The EU is seeking to gain a foothold in the ACP market by promoting the adoption of trade rules that govern trade in services, investment, intellectual property rights, government procurement and trade facilitation, which are often referred to as “behind borders” issues.⁴ ACP countries are however reluctant to make any commitments on these aspects, mainly due to implementation costs. In fact, research has shown that instead of pushing ACP countries to agree to terms on these trade-related areas, it should rather seek to negotiate these at a bilateral level, so as to take account of the specific needs of each country that is prepared to engage the EU on the issues. Seeking agreements on trade related issues as part of EPAs poses the “risk of unbalanced outcomes that may be prejudicial to national development objectives and prospects for deeper [regional] integration.”⁵

The Status of the Negotiations, Stakeholder Positions and Implications thereof

Reports show that South Africa, as the coordinator of the SADC negotiating group, refused in November 2007 to sign EPAs with the EU, an act that is said to have dealt a major blow to the local clothing and textile industry.⁶ This is because the agreement, which other members of the SADC group signed, contains less restrictive rules of origin, but due to new rules on cumulation, South African companies will not be able to benefit from the new deal. This means that some South African companies that have operations in neighbouring countries may be forced to move all their operations to those countries in order to fully benefit from the deal with the EU.

³ Ibid. Unequal Partners, Oxfam briefing note, September 2006, p. 3

⁴ European Research Office, *Main Issues in Africa-EU EPA Negotiations*, January 2007. p.7

⁵ European Research Office, op cit. p. 8

⁶ Mathabo Le Roux, Local textile and clothing sector faces blow as SA shuns EU trade deal, *Business Day*, February 19, 2008. <http://www.businessday.co.za/articles/topstories.aspx?ID=BD4A708436>



As a measure to avoid going over the December 31 (2007) deadline without signing EPAs, which would have meant reverting to the GSP system that is less preferred than EPAs, the EU proceeded to sign interim agreements with some members of the SADC group, including Botswana, Lesotho, Mozambique and Swaziland in November 2007. South Africa and Namibia refused to sign due to what their negotiators refer to as “unreasonable demands on the part of the EU.”⁷ Seemingly, only a month later Namibia cowed to pressure and in December the country also signed an interim deal with the EU. This has of course caused a split in the group, especially amongst Southern African Customs Union (SACU) members, whom have been facing the ever present threat of South Africa cancelling its membership of the Union, due to the uneven revenue sharing mechanism used herein.⁸ However, South African trade negotiators have discounted the possibility of this eventuality and instead contend that they will press on with the EPA negotiations in a way that all countries will benefit and none will be undermined.⁹

However, the situation is untenable as the SADC group does not understand South Africa’s position on the EPAs. Reportedly at the last SADC Ministerial meeting South Africa tabled a 32-page document outlining grievances it had with the EU deal and calls were made for the SADC deals to be renegotiated.¹⁰ Now SACU members find themselves in a difficult position, as South Africa has its own separate deal with the EU, where the latter may import goods into South Africa at lower tariff charges, unlike other members that signed deals with the EC in November, who for instance, were allowed to cap their tariff charges at 5 percent. This means that EU goods can still be channelled to SACU member states through South Africa at a low cost to the EU. Part of the EU deal presented to the SADC group is to receive duty-free access to the European market, and reciprocate by cutting tariffs by up to 80 percent in July. Due to competitive European industries, SACU countries will thus continue to suffer trade imbalances and the clash between their positions and South Africa’s position will lead to revenue losses.

South Africa renewed its bilateral trade agreement in the form of the Trade, Development and Co-operation Agreement (TDCA) with the EC in November 2007. This agreement is separate to the EPAs being negotiated collectively with the SADC group. South Africa was allowed to join the SADC group negotiations in 2007 as an observer and coordinator. South Africa did not qualify for the special preferential market access under the Cotonou system, because of the huge size of its economy and its level of development, and hence the country had to have its own separate agreement with the EU. However, having a separate agreement with the EU has had the unintended effect of causing trade imbalances and revenue losses for other members of SACU. This has ultimately had the effect of undermining regional integration, instead of promoting it, which is one of the premises that EPAs are based on.

⁷ Le Roux, M. Ibid. February 19, 2008.

⁸ Le Roux M. SA-EU trade row puts customs union at risk, *Business Day*, February 25, 2008.
<http://www.businessday.co.za/articles/topstories.aspx?ID=BD4A713519>

⁹ Le Roux M. February 25, 2008.

¹⁰ Le Roux M. February 25, 2008.



A trade expert has indicated that “the Southern African Development Community [...] is still behind with its regional harmonisation and [it is] busy setting up its own free trade area (FTA), while at the same time having to negotiate complicated trade deals with the EU, which have to be completed at the end of this year”.¹¹ Although, SADC has 14 member states, only 7 are part of the SADC EPA configuration. Processes are already underway under the guidance of the African Union (AU) to harmonise and rationalise Africa’s Regional Economic Communities (RECs). The protracted trade negotiations are slowing this process down.

The situation that the SADC group find itself in is somewhat similar to that of the Central African group. Countries from Central Africa have made a commitment to conclude EPAs with the EC by June 2008. The region is at a point where it has agreed to a negotiation ‘road-map’ with the EC that will pave the way towards a comprehensive trade liberalisation deal. Challenges remain however for the Central African group. While the pace of the negotiations has been slow, divisions have been sewed into the Group. This is due to Cameroon unilaterally signing an interim agreement with the EC, which will see the country benefiting from a zero-rate tariff for exporting bananas into the EU. The latter will however, benefit even more by having tariffs eliminated on over 80 percent its imported goods. There is concurrence amongst authorities in Central Africa that this will lead to massive revenue losses and to make up for these losses, Cameroon will have put in place more effective fiscal policies in the domestic economy.¹² This eventuality may harm the Central African region in another way, as the EU may well use Cameroon to import its goods into the region, which generally does not have capacity to effectively impose the rules of origin mechanism. Cameroon, even though it is still a poor developing country, its economy is much bigger than that of its neighbours, and hence the latter stand to suffer from the deal that Cameroon signed with EU.

Due to concerns over the robust nature of the EC proposals and the disparate positions held by the various stakeholders, which threaten regional unity, it was resolved at the recently held Second EU-Africa Summit that the AU Commission should meet with its counterpart, the European Commission in order to “discuss the terms of reference for the full EPA negotiations before individual countries begin their own talks.”¹³ The AU declaration on EPAs, issued at the recently held AU Summit in Ethiopia, calls for a review of the interim EPAs, in line with concerns raised at the EU-Africa Summit.¹⁴ The AU Assembly issued a further mandate to the AU Commission to “coordinate, monitor and harmonise efforts of AU Member States in the EPA negotiations with the European Union”.¹⁵

¹¹ Weidlich, B., Namibia: EPAs ‘might threaten regional integration’, *The Namibian*, February 15, 2008.

<http://www.tralac.org/scripts/content.php?id=7350>

¹² Central Africa: EPAs and regional integration, IPSNews.net, February 18, 2008.

<http://www.tralac.org/scripts/content.php?id=7351>

¹³ Weidlich, B. Ibid.

¹⁴ See: AU Declaration on Economic Partnership Agreements: DOC. EX.CL/394 (XII). To access document go to: [http://www.africa-](http://www.africa-union.org/root/au/Conferences/2008/january/summit/docs/decisions/Assembly_Decisions_171-191.pdf)

[union.org/root/au/Conferences/2008/january/summit/docs/decisions/Assembly_Decisions_171-191.pdf](http://www.africa-union.org/root/au/Conferences/2008/january/summit/docs/decisions/Assembly_Decisions_171-191.pdf)

¹⁵ Loc cit.



The EPAs are taking place against the backdrop of much broader negotiations at the World Trade Organisation (WTO), as part of the Doha Development Round of talks. The talks are set to produce a developmental outcome and it seems there may be gains in this regards as the Round tends toward a close by the end of the year. WTO trade diplomats contend that a deal on agriculture will soon come about due to the release of a revised agriculture negotiating text, which a majority of the parties are in favour of.¹⁶ However, challenges remain as developing countries have to contemplate concessions, especially in the area of industrial goods, where developing countries should seek to protect their sensitive products from the effect of lower tariffs on their side and subsidies given by developed States to their local producers.¹⁷ But, many rich countries are averse to the idea of reducing subsidies for their local producers, as this may negatively affect the competitiveness of their exports. There are fears therefore that due to this and the fact of having to accommodate developing countries' sensitivities, that they may not be very committed to the negotiating process.¹⁸ Trade in services is another contentious issue in the talks, as many developing countries' economies are not strong enough to compete with rich countries in the services sector. Nevertheless, an agreement on agriculture will be an important developmental outcome, as this is one of the critical sectors for developing countries, if not the most important.

Conclusion

The negotiations on EPAs have reached a turning point. Many of the protagonists are not content with the deal offered by the EU. Experts and analysts have warned that the current deals may threaten to undermine development in developing countries instead of promoting it. The matter has been discussed at the highest levels and corresponding high-level meeting are to be held shortly. The representatives of ACP countries will seek agreements with developmental outcomes and will therefore, with the support of multilateral institutions such as the AU, call on the EC to review its negotiation mandate and press for developmental objectives.

South Africa, even though its TDCA deal with the EU has had the effect of undermining regional coherence, its role in the negotiations is still crucial, because the position of the EC and the interim agreements it signed, particularly with members of the SADC EPA configuration, will further undermine regional integration. Therefore, South Africa's role will be to push for EPAs that complement its TDCA, so as to foster regional unity and the harmony of trade rules in the region, which will contribute immensely to reducing trade imbalances. The EPAs will also have to complement other developments that are occurring in the region, such the conclusion of the SADC FTA agreement, as well as the package of deals that are being negotiated at the WTO.

¹⁶ Jonathan Lynn, Trade talks still struggle but farms get boost, *Africa.Reuters.com*,

¹⁷ Lynn, J. Ibid.

¹⁸ Lynn, J. Ibid.



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