

**Gender in Global and Regional Trade Policy:
Contrasting Views and New Research.**

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Economic Partnership Agreements – where we are with the regional negotiations

A background discussion paper

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INTRODUCTION

Economic Partnership Agreements (EPAs) are proposed new trade agreements under negotiation between the European Union and six regional groupings from the African, Caribbean and Pacific (ACP) group of nations. The European Commission (EC) is mandated to negotiate for the EU. This paper aims to provide some factual background to stimulate discussion.

A brief history of EU-ACP trade agreements

Between 1975 and 2000 trade between the EU and ACP countries was governed by the Lomé conventions that granted ACP countries better access to the European market than other developing (and developed) countries by granting them trade preferences. Goods originating from ACP countries were subjected to a lower tariff than goods from other countries, or indeed a zero tariff. The preferences remain in place until 31st December 2007 under a WTO waiver when they must either be replaced by another trade agreement or be extended by another waiver.

The preferences granted to ACP countries under these conventions were non-reciprocal: ACP countries did not have to extend similar or other preferences to the EU in return. This was based on the recognition that, because of the vast differences in economic development between the EU and ACP countries, any fair trade arrangement had to treat ACP countries differently.

With the expiry of the Lomé preferences, the EU and ACP countries signed a trade and development accord known as the Cotonou Partnership Agreement in 2000, which provides for the negotiation and establishment of new trade agreements between the EU and ACP by 1 January 2008.

EPA NEGOTIATIONS TO DATE: AN OVERVIEW²

- 2000 Cotonou Partnership Agreement signed
- 2001 WTO Doha Development Round launched; special waiver for EU-ACP trade regime agreed until 31st December 2007
- 2002 17th July 2002: EU Council adopts European Commission's negotiating directives for EPAs; negotiations launched 27th September 2002; all-ACP-EC phase begins
- 2003 2nd October 2003 all-ACP-EC phase concluded; regional negotiations launched: West Africa (October 2003), Central Africa (October 2003), Eastern and Southern Africa (February 2004), the Caribbean (April 2004), Southern Africa (July 2004), Pacific (September 2004)
- 2004 Regional negotiations
- 2005 Regional negotiations
- 2006 Review of Economic Partnership Agreements due by European Commission and ACP
- 2007 Negotiations due to be concluded and new trade agreements signed
- 2008 New agreements begin; implementation commences

² The information is largely drawn from a European Commission staff paper, "The trade and development aspects of EPA negotiations", October 2005. Further information can be found in the appendix.

More details on the regional groupings and progress in the separate negotiations can be found in the appendix to this paper.

Negotiations review

In the second half of 2006, the European Commission and the ACP will contribute to a comprehensive review of the arrangements planned, in accordance with Article 37.4 of the Cotonou Agreement.

NEGOTIATING MANDATES

In 2002 both the European Union and the ACP agreed internal negotiating directives to guide their position in the EPA negotiations. On the EU side, member states mandated the European Commission with a set of objectives to pursue; on the ACP side member states agreed a set of guidelines for the various regional groupings to pursue in their negotiations with the European Commission. The two sets of negotiating mandates were very different.

The European Union's negotiating mandate³

Under the "objectives" section the EU mandate says that "special reference" will be made "to achieve progressive and reciprocal liberalisation of trade in goods and services, in accordance with WTO rules". Under the "trade in goods" section it goes on to say, "EPAs shall be directed at establishing free trade areas between the parties".

The EU envisages EPAs as free trade agreements and makes no provision for possible alternatives by stating that: "It is understood that the following market access conditions would be available only in the context of these EPAs".

Under "trade in services" the EU mandate states that EPAs "will provide for a progressive and reciprocal liberalisation of trade in services".

Under "Investment" the EU mandate states that EPAs will establish, "a regulatory framework which shall enhance and stimulate mutually beneficial sustainable investment between them. This framework will be based on the principle of non-discrimination".

Under "Public procurement" the EU mandate states that, "EPAs will aim to ensure full transparency in procurement rules and methods at all government levels. In addition the parties will seek progressive liberalisation of their procurement markets on the basis of the principle of non-discrimination".

The ACP negotiating guidelines⁴

The ACP guidelines are concerned to change WTO rules so as to be able to conclude a better trade agreement through EPAs with the EU:

It will be necessary for the ACP to participate actively in the current negotiations in the WTO so as not only to inject flexibility in the WTO rules,

³ This is a confidential document but a leaked version is available on www.epawatch.net

⁴ Available from www.epawatch.net

especially those relating to regional trading agreements and to have the development dimension better taken into account, but also to make the future EPAs compatible with the WTO (paragraph 10, page 3).

It further states:

In order to participate actively and constructively in the process, the ACP should prepare and submit concrete proposals for the development of WTO rules on regional trading agreements (paragraph 16, page 5).

The approach is outlined in more detail:

Current WTO rules are inherently imbalanced against the development needs of ACP states. In accordance with paragraph 9 above, the ACP will keep in view what is being done in the WTO in the context of the Doha Work Programme with a view to:

- (i) clarifying and improving WTO rules covering regional trading agreements between developed and developing countries;*
- (ii) taking adequately into account the development dimension in WTO rules; and*
- (iii) operationalising and making legally binding in the WTO existing and new provisions on special and differential treatment.*

This will then enable ACP states to be in a position to agree EPAs that are compatible with WTO rules then prevailing. Furthermore, the ACP should urge the EU to support its position (paragraph 22, page 6).

In terms of the final outcome, the negotiating guidelines are clear that:

Irrespective of the outcome of the EPA negotiations, with respect to trade relations with the EU, no ACP state should be worse off in the post-2007 period than under the current ACP-EU trade arrangements (paragraph 20, page 6).

In contrast to the EU's desire for reciprocal trade liberalisation the ACP guidelines state:

Moreover, given the possible adverse effect of reciprocity on domestic production and fiscal stability in ACP states, the latter cannot a priori accept to provide reciprocity in EPAs with the EU (paragraph 21, page 6)

EPAs at the WTO

The differences between the ACP and EU are highlighted by their respective submissions on rules on regional trade agreements to the WTO.

The ACP submission⁵ seeks to extend the transition period for regional trade agreements:

The modality for determining "exceptional circumstances" should be clarified so that a transition period longer than 10 years will be made legitimately and more easily available to developing countries;

⁵ TN/RL/W/155, 28 April 2004. Available from www.wto.org

The maximum length of the transition period permissible is to be established, the period should be determined in such a manner that is consistent with the trade, development and financial situation of developing countries, but in any case not less than 18 years; (paragraph 11, page 3)

The EU submission⁶ states:

The European Communities continues to consider that, if at all invoked, 'exceptional cases' should only be applied to a limited number of products under RTAs (paragraph 12, page 3)

And adds:

the European Communities are open to consider separate and differentiated, i.e. lower, thresholds for developing countries and least developed countries, as proposed in the submission by the ACP-countries (TN/RL/W/155). Moreover, longer transition periods might be necessary to facilitate market building and consolidation through gradual openness to trade in weak and vulnerable developing countries, taking into account their specific needs and constraints. The European Communities would thus like to confirm in the negotiations these specific justifications for developing country parties to RTAs to depart, where necessary, from the general rule of ten years maximum. (paragraph 18, page 5)

CONTROVERSIAL ISSUES⁷

Three issues that have emerged from the negotiations are reciprocal trade liberalisation, the inclusion of the 'Singapore' issues (investment, competition policy and government procurement) which the ACP rejected, along with other developing countries at the WTO in 2003, and alternatives to Economic Partnership Agreements.

The arguments around reciprocal trade liberalisation encompass both development strategy and revenue loss. For developmental states to emerge and succeed in Africa, governments must have the necessary policy tools, including the flexibility to raise (and lower) tariffs as needed. An agreement which seeks to dramatically lower ACP tariffs (and eventually eliminate them) stands at odds with the development strategies that most now developed countries, and the more successful developing countries, used in the past.

Regarding revenue loss: many ACP countries depend heavily on trade taxes for fiscal revenue; up to 50% of total government revenues for some countries. Tariff cuts from trade liberalisation commitments would erode this revenue base. Moreover it does not constitute a short-term adjustment cost, particularly given that many ACP countries have had great difficulty in diversifying their tax systems. Because of this some ACP negotiators are pushing hard for aid increases from the EU to compensate.

⁶ TN/RL/W/179, 12 May 2005. Available from www.wto.org

⁷ These are covered in more detail by ActionAid (2004) Trade traps: why EU-ACP Economic Partnership Agreements pose a threat to Africa's development: <http://www.actionaid.org.uk/100231/epas.html>

The EU's push for the inclusion of new agreements on investment, competition policy, and government procurement would further remove the policy tools that governments need to ensure that investment is socially responsible, economically productive and consistent with national development goals.

The question of alternatives to EPAs themselves is also hugely important. If EPAs cannot be reformed sufficiently to become truly developmental agreements then one possible approach would be to scrap them altogether. Before we reach this point more work needs to happen on what the possible alternatives are and how they would work so that ACP countries have a genuine choice of trade deal. The review of negotiations in the second half of 2006 provides an opportunity to consider alternatives.

Other issues that have been problematic

- The impact on regional integration, given that many existing regional integration schemes are undermined by the EPA process.
- The negotiating dynamics given that on one side there is an economic superpower (the EU) and on the other an economic minnow (the ACP). Concerns have also surfaced around the European Commission's apparent direct funding of several negotiators on the ACP side.
- The transparency of the negotiations has also been a problem. The European Commission has in the past been hostile to scrutiny of its actions, even by EU member states. The Commission have apparently softened their stance a little after the release of a UK Government position paper in March 2005 and increasingly parliamentary scrutiny, notably by the UK International Development Committee in 2004-5 and the recent European Parliament hearing in 2005-6. The EC is now more willing to engage in discussions with EU member states. NGOs are largely excluded beyond the civil society dialogue process.

GENDER AND COTONOU⁸

Article 1 of the Cotonou Partnership Agreement states that, "Systematic account shall be taken of the situation of women and gender issues in all areas – political, economic and social." Gender is also referred to as a "thematic and cross-cutting" issue in Article 31. This states that:

Cooperation shall help strengthen policies and programmes that improve, ensure and broaden the equal participation of men and women in all spheres of political, economic, social and cultural life. Cooperation shall help improve the access of women to all resources required for the full exercise of their fundamental rights. More specifically, cooperation shall create the appropriate framework to:

- (a) integrate a gender-sensitive approach and concerns at every level of development cooperation including macro-economic policies, strategies and operations; and*

⁸ Largely drawn from K. Arts, Gender aspects of the Cotonou Agreement, WIDE (January 2001): http://www.igtn.org/pdfs/55_WIDECotonou.pdf

- (b) *encourage the adoption of specific positive measures in favour of women such as:*
- (i) *participation in national and local politics;*
 - (ii) *support for women's organisations;*
 - (iii) *access to basic social services, especially to education and training, health care and family planning;*
 - (iv) *access to productive resources, especially to land and credit and to labour market; and*
 - (v) *taking specific account of women in emergency aid and rehabilitation operations.*

The economic and trade co-operation provisions of the Cotonou Agreement do not refer explicitly to the gender aspects of trade.

In addition to the main Cotonou Agreement a "Compendium" was drawn up "to complement, specific or develop" the main agreement and to provide policy or operational guidelines for the Agreement's implementation. Section 4.1. defines gender as:

the different and interrelated roles, responsibilities and opportunities of women and men, which are culturally specific and socially constructed, and can change over time, inter alia as a result of policy interventions.

The Compendium also lists five principles that should guide cooperation:

- (i) *Gender analysis at macro, meso and micro-levels must be mainstreamed in the conception, design and implementation of all development policies and interventions, as well as in monitoring and evaluation;*
- (ii) *Women and men should both participate in and benefit from the development process on an equal basis;*
- (iii) *Reducing gender disparities is a priority for society as a whole;*
- (iv) *The analysis of differences and disparities between women and men must be a key criterion for assessing the goals and results of development policies and interventions; and*
- (v) *Co-operation must encourage and support changes in attitudes, structures and mechanisms at political, legal, community and household levels in order to reduce gender inequalities and in particular:*
 - *Political power-sharing and full and equal participation in decision-making must be promoted at all levels;*
 - *Economic empowerment and equal access to and control over economic resources must be strengthened;*
 - *Equal access to and control over social development opportunities must be fostered.*

The section further points out that the "formulation of all development policies shall explicitly take into account the general principles for gender-sensitive development co-

operation.” These principles shall also be a constant feature in all policy dialogue and negotiation with partner countries. Gender-sensitive revision of existing policy, legal and administrative frameworks shall be encouraged and supported.

As far as I know, these commitments have not been taken up by either the EU, NGOs or the ACP negotiators, although gender issues are raised in the development plans of various ACP countries.

END

Appendix

Central Africa Region

Countries: Cameroon, Central African Republic, Chad, Congo (Republic of), Equatorial Guinea, Gabon, Sao Tome and Principe.

Central Africa is the smallest of the sub-Saharan Africa EPA areas, with a combined total population of only some 32 million. Democratic Republic of Congo (population of about 60 million), has indicated that it might be interested in joining the Central Africa EPA.

With the exception of Sao Tome and Principe (and DRC), all countries are members of the Central African Economic and Monetary Community (CEMAC), share a common currency and form a customs union.

Negotiations with the European Commission

Launched: 4th October 2003

Internal structure: Central Africa's negotiating positions in the EPA discussions are co-ordinated by CEMAC's Executive Secretariat.

Eastern and Southern Africa (ESA) region

Countries: Burundi, Comoros, Djibouti, Congo (Democratic Republic of), Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Uganda, Zambia and Zimbabwe.

The ESA region contains three overlapping regional integration schemes: COMESA, EAC, SADC:

- COMESA has a Free Trade Area with 11 members and is working towards a customs union in 2008.
- EAC launched its customs union in 2005.
- SADC plans a Free Trade Area for 2008 and a customs union for 2010.

All 16 ESA members belong to COMESA. (Egypt and 3 other countries are also COMESA members). All COMESA members have agreed to December 2008 as the date for the formation of a customs union.

Negotiations with the European Commission

Launched: 7th February 2004

Internal structure: Two levels – ministerial and ambassadorial. Negotiations are prepared by the Regional Negotiating Forum which assembles trade experts from ESA member states and regional organisations and meets every 3-4 months.

Southern Africa Development Community (SADC) Group

Countries: Angola, Botswana, Lesotho, Mozambique, Namibia, Swaziland and Tanzania. (South Africa participates in an observatory and supportive capacity).

SADC is confronted with overlapping regional integration initiatives and its member states are also involved in a web of bilateral trade arrangements. Their members are party to 4 regional preferential trading arrangements: SACU, COMESA, EAC, Indian Ocean Commission. Except for Mozambique (which is considering joining SACU), all of the SADC Member States belong to at least one other arrangement.

While SADC plans to establish a Free Trade Area in 2008 and a customs union in 2010 (and subsequently a Common Market by 2015) only 7 of its members decided to negotiate an EPA as a SADC Group. COMESA has a Free Trade Area with 11 members (some of whom are also members of SADC) and is working towards a customs union in 2008. South Africa is a member of SACU along with 4 (Botswana, Lesotho, Namibia and Swaziland) of the 7 SADC EPA Member States.

Negotiations with the European Commission

Launched: 8th July 2004

Internal structure: Two levels - ministerial and ambassadorial. Botswana is the chief negotiator at both ministerial and ambassadorial level. Negotiations are prepared by the technical negotiating group which assembles trade experts from SADC member states and the EPA Unit of the SADC Secretariat and meets regularly (every 2-3 months).

West Africa Region

Countries: Benin, Burkina Faso, Ivory Coast, Guinea Bissau, Mali, Niger, Senegal, Togo, Cape Verde, The Gambia, Ghana, Guinea, Liberia, Nigeria, Sierra Leone, Mauritania.

All countries are members of the Economic Community of West African States (ECOWAS) except Mauritania. Benin, Burkina Faso, Ivory Coast, Guinea Bissau, Mali, Niger, Senegal, Togo are also members of the West African Economic and Monetary Union (WAEMU).

The West Africa region has a combined population of 260 million.

Only 3 countries are not classified as Least-Developed Countries (LDCs): Nigeria, Ghana, Ivory Coast.

ECOWAS plans a fully-fledge customs union in 2007.

Negotiations with the European Commission

Launched: 6th October 2003

Internal structure: The executive secretariat of ECOWAS, in collaboration with the WAEMU Commission, is conducting the negotiations within the framework of a regional committee which represents the member states, the private sector and civil society organisations.

Caribbean Region

Countries: Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago.

Cuba has not signed the Cotonou Agreement and is not a part of the negotiations (although it is a member of the ACP group). The British overseas territory of Montserrat is a member of the Caribbean Community (CARICOM) but is not independent and is not part of the negotiations.

The Caribbean region is the Caribbean Forum of ACP States (CARIFORUM), which consists of the Dominican Republic and the 14 independent countries of CARICOM.

The Dominican Republic and CARICOM have begun to put into practice a free trade agreement, signed in 1998, which partly liberalises trade in goods and envisages further liberalisation and co-operation in services, investment, government procurement, intellectual property rights, rules of origin, sanitary and phyto-sanitary measures, technical barriers to trade, unfair and uncompetitive business practices and customs co-operation. There is no strict timetable for this further liberalisation and co-operation, but joint meetings have been stepped up also as a way to prepare for EPA negotiations.

CARICOM is forging a regional integrated area, the CARICOM Single Market and Economy (CSME). CARICOM has a common external tariff but free circulation of goods between CARICOM countries exists as a treaty objective but not yet in practice and, for a significant minority of tariff lines, CARICOM allows different rates between countries.

Negotiations with the European Commission

Launched: 16th April 2004

Internal structure: ministerial, senior official, and technical levels, with Caribbean Regional Negotiating Machinery co-ordinating and presenting many CARIFORUM negotiating positions at senior official and technical level.

Pacific Region

Countries: Cook Islands, Fiji, Kiribati, Marshall Islands, Federated States of Micronesia, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu.

The Pacific region includes:

- 5 LDCs: Vanuatu, Tuvalu, Samoa, Solomon Islands, Kiribati
- 3 WTO members: Papua New Guinea, Solomon Islands, Fiji.
- 3 WTO observers: Samoa, Tonga, Vanuatu.

East Timor is about to become a member to the Cotonou Agreement and hence may soon join the Pacific ACP group.

Tokelau, currently a self-administering territory of New Zealand and preparing steps to obtain independence, may also join the ACP group at some stage in the future.

The Pacific Forum secretariat based in Fiji.

All 14 Pacific members belong to a free trade zone being progressively created under the Pacific Island Countries Trade Agreement (PICTA). Together with Australia and New Zealand, the 14 Pacific ACP have also signed up to an Umbrella Agreement, the Pacific Agreement on Closer Economic Relations (PACER) for future trade and economic co-operation. Finally a subgroup of 4 larger Melanesian Pacific countries (Papua New Guinea, Solomon Islands, Vanuatu and Fiji) have formed a separate free trade agreement among themselves i.e. the Melanesian Spearhead Group (MSG).

Negotiations with the European Commission

Launched: 10th September 2004

Internal structure: The Pacific Regional Negotiation Team (RNT) is led by the Fiji Minister of Foreign Affairs and External Trade as the overall lead spokesperson for the region. Negotiations or discussions are held at 3 levels: ministerial, senior, technical and are supported on the Pacific side by the Forum Secretariat and a group of experts.

The commencement of EPA negotiations on bilateral Pacific-EC market access may trigger the start of discussions with Australia and New Zealand on a free trade agreement in accordance with article 5 of the Pacific Agreement on Closer Economic Relations. Moreover, the countries covered by the Compact Agreement with the United States (Palau, Federated States of Micronesia, Republic of Marshall Islands) will need to pursue their discussions with the US in order to gain formal permission to enter into an EPA.

Further reading

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