

DIRECTORATE-GENERAL FOR EXTERNAL POLICIES
POLICY DEPARTMENT



African, Caribbean and Pacific (ACP) countries' position on Economic Partnership Agreements (EPAs)

DEVE





DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION

DIRECTORATE B

POLICY DEPARTMENT

African, Caribbean and Pacific (ACP) countries' position on Economic Partnership Agreements (EPAs)

Abstract

After twelve years, Economic Partnership Agreements (EPAs) negotiations between African Caribbean and Pacific (ACP) countries and the EU continue to drag on, as many contentious issues remain pending. The decision by the EU to remove their unilateral trade preferences by 1 October 2014 for countries that have not signed or ratified the EPAs is now creating tremendous pressure and tension in various countries and sub-regions.

In particular, African countries are caught in the dilemma of losing their preferential market access for the few products they export to the EU if they do not sign the EPAs, versus their longer-term development prospects if they do sign the EPAs. The threats presented by EPAs as articulated by many stakeholders include: significant tariff revenue losses, loss in policy space and threats to local industries, unemployment, serious disruption of existing or planned customs unions and the displacement of existing regional trade and regional production capacities.

Several alternatives to the EPAs have been proposed which could be WTO-compatible and which the EU already provides to some other countries. Options could include: improving the EU's Generalised System of Preferences (GSP) schemes by, for instance, giving all countries in 'LDC customs unions' Everything But Arms (EBA) treatment, or improving the EU's GSP+ scheme. Alternatively, the EU could demand a waiver from WTO members for specific developing country regions, as the US has successfully done.

This study was requested by the European Parliament's Committee on Development.

AUTHORS:

Aileen Kwa, Programme Coordinator, South Centre, Geneva

Peter Lunenborg, Researcher, South Centre, Geneva

Wase Musonge, Programme Officer, South Centre, Geneva

ADMINISTRATOR RESPONSIBLE:

Manuel MANRIQUE GIL
Directorate-General for External Policies of the Union
Policy Department – DG EXPO
WIB 06 M 083
rue Wiertz 60
B-1047 Brussels

Editorial Assistant: Elina STERGATOU

LINGUISTIC VERSIONS

Original: EN

ABOUT THE EDITOR

Editorial closing date: 8 April 2014.

© European Union, 2014

Printed in Belgium

ISBN: 978-92-823-5667-8

Doi: 10.2861/60923

The Information Note is available on the Internet at

<http://www.europarl.europa.eu/activities/committees/studies.do?language=EN>

If you are unable to download the information you require, please request a paper copy by e-mail : poldep-expo@europarl.europa.eu

DISCLAIMER

Any opinions expressed in this document are the sole responsibility of the authors and do not necessarily represent the official position of the European Parliament.

Reproduction and translation, except for commercial purposes, are authorised, provided the source is acknowledged and provided the publisher is given prior notice and supplied with a copy of the publication.

TABLE OF CONTENTS

TABLE OF CONTENTS	3
EXECUTIVE SUMMARY	6
ACRONYMS	8
1. INTRODUCTION	11
1.1 CONTEXT AND AIM OF THE STUDY	11
1.2 HISTORICAL BACKGROUND TO THE ECONOMIC PARTNERSHIP AGREEMENTS (EPAS)	11
1.3 EPA NEGOTIATING REGIONS	12
1.4 MARKET ACCESS REGULATION 1528/2007 PUTTING PRESSURE ON ACP COUNTRIES TO SIGN EPAS	14
2. VIEWS OF ACTORS AT ACP/AFRICAN LEVEL	15
2.1 ACP HEADS OF STATE AND GOVERNMENT AND ACP SECRETARIAT	15
2.2 AFRICAN UNION	16
2.3 INTER ACTION COUNCIL (IAC)	18
2.4 CIVIL SOCIETY AT GLOBAL OR AFRICAN LEVEL	18
3. WEST-AFRICA EPA	21
3.1 BASIC CHARACTERISTICS OF THE REGION	21
3.2 STATE OF PLAY	21
3.3 SUMMARY OF STAKEHOLDERS VIEWS	23
3.4 ECOWAS COMMISSION	24
3.5 GOVERNMENTS	24
3.6 PARLIAMENTARIANS	25
3.7 CIVIL SOCIETY	26
3.8 PRIVATE SECTOR	30
4. CENTRAL AFRICA EPA	34
4.1 BASIC CHARACTERISTICS OF THE REGION	34
4.2 STATE OF PLAY	34
4.3 SUMMARY OF STAKEHOLDERS VIEWS	35
4.4 ECCAS COMMISSION	35
4.5 GOVERNMENTS	35
4.6 PARLIAMENTARIANS	36
4.7 CIVIL SOCIETY	37

4.8	PRIVATE SECTOR	38
5.	EAST AFRICAN COMMUNITY (EAC) EPA	39
5.1	BASIC CHARACTERISTICS OF THE REGION	39
5.2	STATE OF PLAY	39
5.3	SUMMARY OF STAKEHOLDERS VIEWS	40
5.4	GOVERNMENTS	41
5.4.1	Kenya	41
5.4.2	LDC EAC Member states	42
5.5	PARLIAMENTARIANS	44
5.5.1	East African Legislative Assembly (EALA)	44
5.5.2	Kenya's National Assembly	46
5.6	CIVIL SOCIETY	48
5.7	PRIVATE SECTOR	50
6.	EASTERN AND SOUTHERN AFRICA (ESA) EPA	52
6.1	BASIC CHARACTERISTICS OF THE REGION	52
6.2	STATE OF PLAY	52
6.3	SUMMARY OF STAKEHOLDERS VIEWS	53
6.4	COMESA SECRETARIAT	54
6.5	ESA EPA GOVERNMENTS	54
6.5.1	ESA EPA governments that continue negotiations for full EPA	54
6.5.2	ESA EPA governments that started implementing the ESA interim EPA	55
6.6	PARLIAMENTS	56
6.7	CIVIL SOCIETY	56
6.8	PRIVATE SECTOR	57
7.	SOUTHERN AFRICA DEVELOPMENT COMMUNITY (SADC) EPA	59
7.1	BASIC CHARACTERISTICS OF THE REGION	59
7.2	STATE OF PLAY	59
7.3	SUMMARY OF STAKEHOLDERS VIEWS	60
7.4	SOUTHERN AFRICAN CUSTOMS UNION (SACU) GOVERNMENTS	61
7.4.1	South Africa	61
7.4.2	Namibia	62
7.4.3	Botswana	63
7.4.4	Lesotho	63
7.5	PARLIAMENTARIANS	63

7.6	CIVIL SOCIETY	65
7.6.1	Trade unions	65
7.6.2	Other civil society	65
7.7	PRIVATE SECTOR	66
7.8	NON-SACU SADC EPA COUNTRIES (ANGOLA AND MOZAMBIQUE)	68
8.	PACIFIC ACP (PACP) EPA	70
8.1	BASIC CHARACTERISTICS OF THE REGION	70
8.2	STATE OF PLAY	70
8.3	SUMMARY OF STAKEHOLDERS VIEWS	71
8.4	GOVERNMENTS	71
8.5	PARLIAMENTARIANS	74
8.6	CIVIL SOCIETY	75
8.7	PRIVATE SECTOR	75
9.	CONCLUSIONS AND RECOMMENDATIONS	76
9.1	CONCLUSIONS	76
9.2	POLICY RECOMMENDATIONS TO THE DEVE COMMITTEE	78
9.2.1	Recommendations to provide alternative to EPA	78
9.2.2	Recommendations related to EPA negotiations	80
9.2.3	Recommendations for specific EPA negotiating regions	80
	BIBLIOGRAPHY	82

EXECUTIVE SUMMARY

Economic Partnership Agreements (EPAs) supposedly aim to promote trade and development, regional integration, sustainable growth and poverty reduction. However, they remain deeply controversial. There are fears they may be actually undermining the sustainable and long-term development of ACP countries and their regional integration processes.

To facilitate better understanding about the current impasse in the EPA negotiations and in contributing to the conversation on the possible ways forward, this paper presents the most recent views and analyses of ACP countries' stakeholders regarding the EPA negotiations, in Africa as well as the Pacific.

The EPA negotiations continue to drag on, as many contentious issues remain pending. The decision by the European Union to remove their unilateral trade preferences by 1 October 2014 for countries that have not signed or ratified the EPAs is now creating tremendous pressure and tension in various countries and sub-regions.

In particular, African countries are caught in the dilemma of losing their preferential market access for the few products they export to the EU if they do not sign the EPAs, versus their longer-term development prospects if they do sign the EPAs. The threats of the EPA articulated by many ACP stakeholders include significant tariff revenue losses, loss in policy space and threats to local industries, unemployment, serious disruption of existing or planned customs unions, and the displacement of existing regional trade and regional production capacities.

Due to this dilemma, not all stakeholders share the same views. Those pushing for the signing of EPAs are usually closely related to or are concerned with the immediate losses in the sectors currently benefiting from EU preferences. These tensions are apparent within countries and also within sub-regions.

Therefore, this study urges Europe to:

- (i) Recognise and support ACP countries' regional integration efforts and the problems and contradictions posed by the EPAs.
- (ii) Recognise the importance of tariffs and other trade policy instruments needed by ACP countries, particularly in Africa in order to develop its industries, agriculture and services sectors.
- (iii) Acknowledge the importance of tariff revenues for ACP countries especially Africa, and the impact the EPAs would have on tariff revenue. Alternative sources of revenue such as income and valued added taxes have not proven to be as effective given the large informal sectors in developing countries.
- (iv) Support Africa and the Pacific in a meaningful manner by finding the political will to provide non-reciprocal preferential trade arrangements that are WTO-Compatible. The EU provides such treatment for Syria (based on an agreement notified under Article XXIV of GATT), Moldova, Western Balkans and Pakistan (the latest three by way of WTO waivers)

Alternative WTO-compatible non-reciprocal arrangements include (i) the AU Proposal for a Common and Enhanced Trade Preference System for LDCs and Low Income Countries (LICs) which has been endorsed by African trade ministers. This can be incorporated by the EU as an improved GSP scheme that gives all countries in 'LDC customs unions' Everything But Arms (EBA) treatment (ii) a separate scheme for an EPA region/Africa that would require a waiver at WTO – something akin to the African Growth and Opportunity Act (AGOA) of the United States and (iii) an improved EU's GSP+ scheme.

The following are recommendations to make the EPAs less damaging. However, even with these changes, EPAs will still be the wrong development model for Africa, unless

- Very carefully crafted **development benchmarks are used, linking African countries' progressive liberalisation of tariffs in the EPA to their level of development and /or level of manufactured production capacity**. This means that if a country does not progress in terms of its level of development of industrial capacity, liberalisation in the EPA for the African country will also not advance. This is to ensure that the level of market opening does not run ahead of a country's ability to cope with the competition with the EU.

The other changes to the EPAs as they are presently conceived include:

- The principle that the most favourable provision in any one EPA configuration would be extended to the others should be reaffirmed (as adopted by AU trade ministers in October 2013).
- **Regional EPA negotiations that are still going on should be limited to goods**. This has been suggested by, for example, the ACP and COMESA Secretariats. In other words, regional EPA negotiations should not deal with issues such as services, investment, competition, government procurement, labour, environment, intellectual property issues, tax governance issues.
- **EPAs should not contain export tax provisions constraining the use of export taxes**. Tinkering at the edges to make the provision 'less strict' has only produced superficial results.
- **EPAs should not contain an MFN provision**. Most EU FTAs do not have MFN provisions. The MFN provision means that the level of liberalisation in the EPA will always be ratcheted up. EU should not also ask ACP countries that have already signed an EPA with an MFN clause to liberalize even further through the 'customs union clause' that obliges ACP countries to enter into an FTA with Turkey.
- **Rendezvous clauses (existing or those under negotiation) should not contain issues that have never been inserted in the WTO agenda** - e.g. investment, competition, government procurement, labour, environment, higher than WTO levels of intellectual property protection, tax governance issues.
- **Prioritisation of ACP issues**. Issues mentioned by stakeholders across the different regions such as addressing non-tariff barriers that the EU puts on ACP products, sanitary and phytosanitary standards (SPS)/ technical barriers to trade (TBT), mechanisms to mitigate preference erosion for ACP states and provisions that discipline the distortionary nature of EU's Common Agricultural Policy (CAP) should be dealt with.

ACRONYMS

AAM	Anti-Apartheid Movement
ACDIC	Association Citoyenne de Défense d'Intérêts Collectifs
ACP	African Caribbean Pacific
AGOA	African Growth and Opportunity Act
AgriSA	Agri South Africa
APC	All Peoples Congress
APIBANA	African Pineapples and Bananas Association
ASCCI	Association of SADC Chambers of Commerce and Industry
ASR	American Sugar Refining
ATN	African Trade Network
CAP	Common Agricultural Policy
CAR	Central African Republic
CEMAC	Communauté Économique et Monétaire de l'Afrique Centrale
CEO	Chief Executive Officer
CET	Common External Tariff
CFTA	Continental Free Trade Area
CNES	National Confederation of Employers of Senegal
CNCR	Conseil National de Concertation et de Coopération des Ruraux du Sénégal
CNP	National Council of Employers of Senegal
CNPB	Conseil National du Patronat Burkinabé
COAPA	Confédération Africaine des Organisations de Pêche Artisanale
COMESA	Common Market for Eastern and Southern Africa
COPAN	Cocoa Processors Association of Nigeria
COSATI	Congress of South African Trade Unions
CPDM	Cameroon People's Democratic Movement
CSOs	Civil Society Organizations
CUTS	Consumer Unity and Trust Society
CZI	Confederation of Zimbabwe Industries
DEVE	Committee on Development of European Parliament
EABC	East African Business Council
EAC	East African Community
EALA	East African Legislative Assembly

EBA	Everything But Arms
EC	European Commission
ECOWAS	Economic Community of West African States
EDF	European Development Fund
EPADP	Economic Partnership Agreement Development Fund
EPAs	Economic Partnership Agreements
ESA	Eastern and Southern Africa
ESAFF	Eastern and Southern Africa Small Scale Farmers Forum
FEWACCI	Federation of West Africa Chambers of Commerce and Industry
FMITI	Nigeria's Federal Ministry of Trade and Industry
FSC	Fiji Sugar Corporation
FSIR	Fund for Supporting Regional Integration
FTA	Free Trade Agreement
GDP	Gross Domestic Product
GICAM	Groupeement inter-patronal du Cameroun
GSP	Generalised System of Preferences
GTLC	Ghana Trade Livelihoods Coalition
IAC	Inter Action Council
IEPA	Interim Economic Partnership Agreements
ITUC	International Trade Union Confederation
KFC	Kenya Flower Council
KHRC	Kenya Human Rights Commission
KSSFF	Kenya Small Scale Farmers Forum
LDCs	Least Developed Countries
LICs	Low Income Countries
MAN	Manufactured Association Nigeria
MCCI	Malawi Confederation of Chambers of Commerce and Industry
MDG	Millenium Development Goals
MFN	Most favoured Nation
MINEPAT	Ministry of Economy, Planning and Regional Integration
MP	Member of Parliament
NACCIMA	Nigerian Association of Chambers of Commerce, Industry, Mines and Agriculture
NANTS	Nigerian Association of Nigerian Traders
NGOs	Non-Governmental Organizations

OPS	Organized Private Sector
PAFCO	Pacific Fisheries Company
PANG	Pacific Network on Globalisation
PAP	Pan-African Parliament
PIPSO	Pacific Islands Private Sector Organisation
PNG	Papua New Guinea
RECS	Regional Economic Communities
RoO	Rules of Origin
SACU	Southern African Customs Union
SADC	Southern African Development Community
SATUCC	Southern African Trade Union Coordination Council
SEATINI	Southern and Eastern African Trade Information and Negotiation Institute
SPS	Sanitary and Phytosanitary
TDCA	Trade Development and Cooperation Agreement
TNCs	Transnational Corporations
TUC	Trade Union Congress
UEMOA	West African Economic and Monetary Union
VAT	Value Added Tax
WCPFC	Western and Central Pacific Fisheries Commission
WTO	World Trade Organization

1. INTRODUCTION

1.1 Context and aim of the study

Economic Partnership Agreements (EPAs) supposedly aim to promote trade and development, regional integration, sustainable growth and poverty reduction. However, they remain deeply controversial. There are fears they may be actually undermining the sustainable and long-term development of ACP countries and their regional integration processes.

To facilitate better understanding about the current impasse in the EPA negotiations and in contributing to the conversation on the possible ways forward, this paper presents the most recent views and analyses of ACP countries' stakeholders regarding these negotiations, in Africa as well as the Pacific.

1.2 Historical background to the Economic Partnership Agreements (EPAs)

In 2000, the Cotonou Partnership Agreement was signed to replace the Lomé Conventions which previously regulated trading relations between Africa, Caribbean and Pacific States (ACP) and the then European Economic Community (EEC). The Cotonou Agreement has three pillars. The political and development pillars are due to expire in 2020. The trade pillar expired at the end of 2007.¹

Under the Cotonou Agreement and in accordance with the principle of non-reciprocity, the ACP countries were under no obligation to offer reciprocal market access to the EU.² In fact, Article 36.1 of the Cotonou Agreement states that 'the Parties agree to conclude new World Trade Organisation (WTO) compatible trading arrangements, removing progressively barriers to trade between them and enhancing cooperation in all areas relevant to trade.' On the other side the EU granted ACP products full duty-free and quota-free access, except for products competitive with those falling under the Community's Common Agricultural Policy³, for which the only obligation was that they be granted treatment more favourable than non-ACP products.⁴

In preparation for the expiration of the trade pillar of the Cotonou Agreement, negotiations on EPAs commenced in September 2002 and were due to be completed in time for the agreements to come into force on 1 January 2008. The broad framework for these negotiations was set out originally in the Cotonou Agreement as follows: '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 the regional integration process within the ACP.'⁵

Therefore, EPAs are essentially free trade agreements (FTAs) that envisage the creation of a free trade area between the EU and ACP countries, in which there are progressively fewer duties on goods imported and exported between these countries. The standard request from the EU is that ACP countries liberalise 80% of their trade i.e. for 80% of tariff lines or value of trade, ACP countries are to bring down to zero the tariffs imposed on EU imports. Most African countries have not been convinced

¹ Cotonou Agreement (2000) OJ L317/3, amended (2005) OJ L287/1

² Art. 5 of the Cotonou Agreement

³ CAP products are (a) arable: cereals, sweet lupins, peas, field beans, animal feedstuffs, cotton, hops, sugar, fibre flax and hemp, olive oil, rice, dried fodder, flowers and live plants, tobacco, seed, honey, fruit and vegetables, seed flax, oilseed, silkworms, potatoes, wine; and (b) meat and dairy: beef and veal, milk and milk products, pig meat, poultry meat and eggs, sheep meat, and goat meat.

⁴ Arts 1-2 of the Cotonou Agreement

⁵ Art. 36 (5) of the Cotonou Agreement

by the implications of widespread tariff elimination and other conditionalities that would be imposed on them. However, negotiations are still continuing in some form or other because many want to avoid the prospect of having a less preferential trading regime with the European Union as compared with what they had under the Cotonou Agreement.

1.3 EPA negotiating regions

It should also be understood that the EPA negotiations have been taking place at sub-regional levels. In Africa, there are five separate negotiating blocks – West Africa, Central Africa, Southern Africa, the East Africa Community (EAC) and the Eastern and Southern African (ESA) countries. The Pacific countries are negotiating their own regional EPA with the EU, and the Caribbean countries completed their EPA with the EU in 2007. The countries belonging to the EPA regional negotiating blocks do not coincide exactly with the ACP countries' own regional configurations. This has and continues to be a major hiccup in the negotiations. To add to these complexities, some countries are considering or have signed the EPA not with their regional block but as either single countries or a smaller group of countries.

To date in Africa, 10 out of the 47 countries have signed the EPAs: Cameroon in Central Africa; Mauritius, Seychelles, Zimbabwe and Madagascar from the Eastern and Southern African (ESA) region; Cote d'Ivoire from West Africa; and Lesotho, Botswana, Swaziland and Mozambique from Southern Africa (the SADC EPA). They have signed goods-only EPAs. These have rendezvous clauses to continue negotiations on other trade-related issues such as services, investment, government procurement and competition. Others have initialled but not signed the EPAs. However, thus far, only the ESA countries – Mauritius, Seychelles, Zimbabwe and Madagascar are implementing their EPA. The box on the next page provides an overview of the situation in Africa.

Fifteen Caribbean states (CARICOM⁶ countries plus the Dominican Republic) signed a comprehensive EPA in 2008, covering areas beyond trade in goods. The Agreement will enter into force upon the ratification of all parties. In the meantime, it is being provisionally applied. Of the 15 countries which are party to the EPA negotiations in the Pacific, two have signed the EPA – Papua New Guinea (PNG) and Fiji but only PNG is implementing the interim EPA. For the most part, the negotiations with African and Pacific countries have been dragging on for many years and despite the efforts many contentious issues remain pending.

⁶ CARICOM countries are: Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, St Lucia, St Kitts and Nevis, St Vincent and the Grenadines, Suriname, Trinidad and Tobago

Box - African Countries that have Signed or Not Signed an EPA

Negotiating region	LDCs and Non-LDCs that have signed an EPA	LDCs that have not signed an EPA (export to EU under EBA or Market Access Regulation (MAR) 1528/2007)	Non-LDCs that have not signed an EPA
Central Africa	Cameroon (Signed on 26 November 2008 ; exports to EU under MAR 1528/2007)	Central African Rep., DR Congo, Chad, Equatorial Guinea, Sao Tome	Gabon (MFN), Rep. Congo (GSP)
East African Community		Burundi, Rwanda, Tanzania, Uganda – initialled	Kenya – initialled (exports to EU under MAR 1528/2007)
Eastern and Southern Africa (ESA)	Mauritius, Seychelles, Zimbabwe, Madagascar (All above have signed on 29 Aug 2009; Exports to EU under EPA)	Djibouti, Eritrea, Ethiopia, Malawi, Somalia, Sudan Comoros, Zambia – initialled	
West Africa	Cote d'Ivoire (Signed on 26 Nov 2008 ; Exports to EU under MAR 1528/2007)	Benin, Burkina Faso, The Gambia, Guinea, Guinea Bissau, Liberia, Mali, Mauritania, Niger, Senegal, Sierra Leone, Togo	Ghana – initialled (exports to EU under MAR 1528/2007) Nigeria (GSP) Cape Verde (GSP+).
SADC	Botswana, Swaziland, Lesotho (Signed on 4 June 2009), Mozambique (Signed on 15 June 2009) (All export to EU under MAR 1528/2007)	Angola	Namibia – initialled (exports to EU under MAR 1528/2007)

1.4 Market Access Regulation 1528/2007 putting pressure on ACP countries to sign EPAs

In end 2007, the EU introduced Market Access Regulation (MAR) 1528/2007. This regulation allows the ACP countries that had signed or initialed EPAs by that time, but had still not ratified or implemented them, to export to the EU under the same terms as the Contonou regime (duty-free and quota-free).

However, on 30 September 2011, the European proposed to remove trade preferences for 18 countries that have been exporting duty-free to the EU under MAR 1528/2007 on the grounds that they had not gone on to sign, ratify or implement the EPA.⁷ The countries involved are:

- Nine (9) LDCs: Comoros, Mozambique, Rwanda, Lesotho, Zambia, Haiti, Uganda, Burundi, Tanzania
- Eight (8) African non-LDCs: Côte d'Ivoire, Cameroon, Ghana, Kenya, Namibia, Botswana, Swaziland, Zimbabwe. (Zimbabwe has ratified the EPA in 2012).
- One (1) Pacific non-LDC: Fiji

Following negotiations between the different EU institutions, it was decided that removal of countries would take place by 1 October 2014. Countries, in particular the eight (8) non-LDCs that by 2012 had not signed the EPAs, have come under pressure to sign/ ratify an EPA before this deadline in order to ensure continued preferential access to the EU market that they currently enjoy under MAR 1528/2007.

Since each of these countries is part of a customs union – Cote d'Ivoire and Ghana in ECOWAS, Botswana, Namibia and Swaziland in Southern African Customs Union (SACU) and Kenya in the East African Community (EAC), the LDCs in these customs unions are also pressurized to come on board and sign the EPAs. If the LDCs would not sign, internal border controls would have to be strengthened to avoid the leakage of EU imports from non-LDCs into their markets, reversing the process of regional integration. There would also be different EU rules of origin applying to exports from the region, hindering regional production arrangements. Yet if the sub-regions sign on to the EPAs, as many countries' industries are not competitive vis-à-vis the EU, there are real fears of deindustrialization and loss of employment, and existing intra-regional trade being negatively impacted. Such a result would be counter-productive for the regional integration project. For EPAs going beyond goods, the regulatory aspects of the EPAs would likely inhibit the formulation of home-grown regional policies, for example in services, intellectual property, competition, investment and other issues.

Thus, ACP countries especially those in Africa face a dilemma – should LDCs and non-LDCs open up their markets and incur large losses in terms of tariff revenue loss, loss in policy space, risks to local production, so that the non-LDCs could continue to enjoy preferential market access to the EU on the limited number of goods they export to the EU? In this scenario, a common trade regime to support regional integration could be preserved but the paradox is that there will be setbacks because liberalization will impact negatively on existing regional trade. Or should countries not sign EPAs, causing immediate hardship for the selected export sectors in the non-LDCs such as flowers, fish, cocoa, bananas and sugar? This question has been on the minds of many stakeholders in the ACP, and this study synthesizes the views of EPAs across different types of stakeholders (governments, parliamentarians, civil society, private sector) and across the different regions that are negotiating EPAs.

⁷ 'EU/ACP countries' Economic Partnership Agreements: exclusion of certain countries from trade preferences; Commission delegated powers', European Parliament/Legislative Observatory, <http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2011/0260%28COD%29&l=en>

2. VIEWS OF ACTORS AT ACP/AFRICAN LEVEL

This Chapter presents the positions on Economic Partnership Agreements (EPAs) of actors working at the ACP or African level. The positions of stakeholders within the different EPA negotiating regions are discussed in subsequent Chapters.

The most important actors at this level from the governmental side are the African, Caribbean, and Pacific Group of States (ACP) coming together as a collective and the ACP Secretariat as well as the African Union (AU). The Inter Action Council (IAC), an international organization that brings together former world leaders also pronounced itself on EPAs.

From civil society, the most important actors at that African level that have formulated positions on EPAs include the African Regional Organisation of the International Trade Union Confederation (ITUC Africa) and the civil society organizations that organized themselves in the called 'Stop EPA campaign'.

From parliamentary side, the Pan-African Parliament (PAP) has organized sensitization sessions with parliamentarians (around 2008) but has not pronounced itself publicly on EPAs.

2.1 ACP Heads of State and Government and ACP Secretariat

The Sipopo declaration of December 2012, the latest declaration of **ACP Heads of State and Government** that deals with EPAs,⁸ noted that 'several contentious issues that severely limit policy space or tilt the balance of rights and obligations in the EPAs persist and progress in resolving them has not been satisfactory. They recommended 'that where technical discussions on unresolved issues have been exhausted, issues that are not germane to WTO compatibility, should be removed from the negotiations.'

The Sipopo Declaration also notes 'that the EPAs have undermined the regional integration processes with multiple regimes governing trade with the European Union in some of our regions', and states that 'consolidation of regional integration processes should precede any trade liberalization commitment in the EPA process'. Furthermore, ACP Heads of State or Government 'affirm that it is necessary to accord regions with a membership, whose majority is LDC states, a status equivalent to that granted to LDC States.' In this regard, they called 'for further examination of the proposal for a common and enhanced trade preference system for least developed countries (LDCs) and low income countries (LICs)'. The same proposal was adopted by African Union trade ministers in 2011.

The Sipopo declaration said that any future EPA should include 'mitigation provisions' allowing for modification of market access commitments by ACP countries, include monitoring provisions and provide for additional resources. They are also concerned that EPAs do not sufficiently address the proliferation of EU regulations and legislations on non-tariff measures and lack a mechanism to maintain ACP margin of preferences on the EU market (preference erosion)

ACP Secretary General Dr. Mohamed Ibn Chambas, who left this position in March 2013, stated that "It is our ardent hope that both the EU Council and the Commission will be persuaded to change their hard-line position (regarding amendment to Market Access Regulation 1528/2007). A contract that is signed under duress cannot have the force of law". 'We believe that the best agreement that we can

⁸ 'The future of the ACP group in a changing world: challenges and opportunities', ACP document ACP/28/065/12 [Final], 7th Summit of ACP Heads of State and Government, Sipopo, Equatorial Guinea, 14 December 2012, http://www.epg.acp.int/fileadmin/user_upload/Sipopo_Declaration.pdf

reach with Europe is one that is based on a spirit of mutual understanding and trust, devoid of any form of coercion'.⁹

Alhanji Muhammad Mumuni, the current ACP Secretary General, says the Group needs to expedite the process of completing a full fledged Economic Partnership Agreement (EPA) between member states and the European Union. 'The Caribbean has successfully concluded its EPA, the other regions have some difficulties because there have been some divergences but the idea really is to try to have some kind of political impetus, invoking the political responsibility particularly of the EU side to help resolve some of the difficulties,' Mumuni explained.¹⁰

Speaking on the deadline of October 2014, he said that ACP believes that 'any amendment to that Regulation ought to have been agreed to, by both Parties. What the ACP feared [...] is sadly coming to pass. It is our view that the amendment to EC Market Access Regulation 1528/2007 has become the key complicating factor in the remaining EPA negotiations. The ideal situation for the ACP States concerned would have been to allow for the negotiations to continue without this undue pressure, so that the final outcome is satisfactory to all concerned. It is important that the implementation of the Agreements reached can stand the test of time.'¹¹

Furthermore, in Mumuni's opinion, the deadline harms the countries involved by forcing them to ratify interim EPA agreements that are counterproductive to regional integration. 'The states are encouraged to trade with the EU but not among themselves,' he said.¹²

The **ACP Secretariat** argues that the EU should recognise the need to delay the entry into force of Market Access Regulation 1528/2007 in order to allow the conclusion of regional negotiations. In the interest of concluding the negotiations, outstanding issues should be limited to trade in goods and areas where progress has been made. Furthermore, the EU should demonstrate greater flexibility concerning outstanding issues, in particular export taxes (the ACP Secretariat notes that these are non-negotiable for most ACP regions), relaxation of the conditions for cumulation in the rules of origin and accompanying measures that include additional resources to enable implementation of commitments under the EPA and address supply side constraints and trade-related infrastructure.¹³

2.2 African Union

The **African Union (AU) trade ministerial meeting of 2011** in Accra adopted a proposal that calls upon OECD countries, and developing countries in a position to do so, to provide LDC preferences to LDC regions. The rationale of this proposal by the AU was to promote regional integration and the empirical fact that in Africa, many non-LDCs have similar levels of development as LDCs (see Box 1 below). LDC regions are customs unions (planned and existing) where more than 50% of members are LDCs.¹⁴ Applied to EU, this would mean the extension of the Everything But Arms (EBA) programme to

⁹ Malabo, R. T., 'CARICOM to launch EPA review as ACP countries continue to express reservations', Daily Observer Antigua, 14 December 2012, <http://www.antiguaobserver.com/caricom-to-launch-epa-review-as-ACP-countries-continue-to-express-reservations/>

¹⁰ Ligaiula, P., 'ACP needs to work on boldness, urgency to conclude EPA: SG Mumuni', Pacific Network on Globalisation, 27 March 2013, <http://pang.org.fj/ACP-needs-to-work-on-boldness-urgency-to-conclude-epa-sg-mumuni/>

¹¹ Statement by the Secretary General at the 9th ACP Ministers of Trade meeting, 9 Oct 2013, Brussels, <http://www.acp.int/es/content/statement-secretary-general-9th-ACP-ministers-trade-meeting-9-oct-2013-brussels>

¹² 'EU pressures Botswana to sign trade agreement' Sunday Standard, 5 May 2013, <http://www.sundaystandard.info/article.php?NewsID=16819>

¹³ The authors would like to thank Morag Webb and Guy Stinglhamber from COLEACP (Comité de Liaison Europe-Afrique-Caraïbes-Pacifique) for providing this information

¹⁴ AU Conference of Ministers of Trade, 7th Ordinary Session, 29 November – 3 December 2011, Accra, Ghana

some non-LDCs in LDC regions. In 2012, in the context of the EU GSP reform, the CONCORD Trade Reference Group made specific proposals for amendments of the EU GSP regulation that would enable EBA treatment to LDC regions.¹⁵

Box 1: Non-LDCs in LDC regions are like LDCs

- **East African Community (EAC):** Four out of 5 Members are LDCs. Kenya is the only non-LDC in EAC. Kenya could have become an LDC in 1991, having satisfied the criteria. The Committee for Development Policy however found it a 'borderline case' and did not recommend its inclusion. If it had been included as an LDC in 1991, it would not yet have graduated.
- **West-Africa EPA (ECOWAS plus Mauritania):** Twelve out of 16 countries are LDCs. Ghana fulfilled the LDC criteria in 1991, 1994 and 2000. If it had acceded to LDC status, it would not yet have graduated. Nigeria repeatedly satisfies all the criteria, except for the population size criterion. Since 1991, the UN decided that LDC countries should have populations smaller than 75 million (Bangladesh was already an LDC in 1971 and was allowed to stay on in the LDC category in 1991, despite having a population of over 75 million). Cote d'Ivoire almost qualified as an LDC in 1997. If it had joined the LDC ranks then, it would not yet have graduated. Cape Verde remains vulnerable (and currently trades under GSP+).
- **Central Africa EPA:** Five out of 8 countries are LDCs. Congo fulfilled all the three criteria in 2000, maybe earlier. However, the Committee decided not to recommend the Congo for inclusion in the list of least developed countries despite the low scores on per capita GDP and human resources (APQLI). It noted then that the general deterioration in its economic and social situation was associated with civil war and its high level of economic vulnerability was associated with its status as an oil exporter.

Source: adopted from AU 2011 'Proposal for a Common and Enhanced Trade Preference System for Least Developed Countries (LDCs) and Low Income Countries (LICs), Rev.1'.¹⁶

In July 2013, the AU organized a meeting together with the Regional Economic Communities (RECs) in Libreville. The Libreville meeting resolved that the EPA agenda be taken up to the AU Trade Ministerial Conference in October 2013, the January 2014 AU Summit as well as the Africa-EU Summit scheduled to be held in April 2014.

The statement from the **AU/RECs Libreville meeting of July 2013** read in part that 'The AU should propose alternatives to the EPAs and should develop and agree on common positions on all divergences with especially in the following areas: export taxes, most favoured nation clause, agricultural subsidies in EU, development finance for EPAs, rules of origin, exclusion and non-execution clauses.'

Furthermore, Member States were encouraged to consider postponing the signing of the EPAs taking into account (i) completion of Africa's sub regional integration projects such as the Tripartite FTA and the Continental Free Trade Area (CFTA) and other regional integration initiatives; (ii) the holding of a High level meeting between the EU and AU Foreign and Trade Ministers and the AU-EU Summit; (iii) request the EU to review its EPA negotiating mandate to ensure flexibility to deal with development and contentious issues; (iv) the review by the African Union Commission and its technical partners of

¹⁵ The CONCORD Trade Reference Group is a forum where European development NGOs work together to influence and promote an EU trade agenda that is coherent with the overall objectives of EU development policy (sustainable development and poverty eradication) and contributes to the achievement of the UN Development Goals.

¹⁶ The proposal can be downloaded from

http://ti.au.int/ar/sites/default/files/TI6204%20_E%20Original%20preferences%20Rev%201.pdf

the implications of EU's negotiations with third parties on preferential arrangements with other developed countries; (v) guarantees that SPS, TBT and other standards do not serve as barriers to trade with the EU.

Furthermore, the Libreville meeting reiterated that the EU should consider providing a non-reciprocal trade arrangement for Africa, either in the way it has done for Moldova and the Western Balkan countries to support their economic development or to give EBA treatment to both LDCs and non-LDCs in LDC regions.

The **AU trade ministerial in October 2013** noted with concern the current situation of the EPA negotiations that were complicated by many factors such as the amendment to the EC Market Access Regulation 1528/2007 which withdraws some AU Member States from the benefits therein. Trade ministers called on the EU to demonstrate meaningful flexibility in its EPA negotiating demands particularly regarding contentious issues and not to use the withdrawal of regulation 1528/2007 to force countries to conclude EPAs that do not meet African development aspirations.¹⁷

On the EPA negotiations, trade ministers were concerned by the introduction of new issues by the EU, as well the proliferation of EU regulations and legislations on non-tariff measures and EU negotiations with third parties. They called upon the EU to agree to provisions on Rules of Origin and Cumulation across the various EPAs that support Africa's integration objectives and promote intra-Africa trade. Trade ministers also stressed the need for accompanying measures including additional resources which allow the implementation of the commitments reached in the EPAs and also enable the African states to be competitive. They affirmed the principle that the most favourable provision in any one EPA configuration would be extended to the others, and called upon the EU to ensure that the EPA negotiations do not impose WTO-plus commitments on African Countries.

Finally, trade ministers stressed the need to include the EPAs on the agenda of the Fourth Africa-EU Summit to end the current impasse in the EPA negotiations. They believe that the Africa-EU Summit provides a good opportunity for Africa and Europe to engage in political dialogue at the highest level, and together find lasting solutions to the challenges in the EPA negotiations.

2.3 Inter Action Council (IAC)

The **Final Communiqué of IAC's 31st annual plenary meeting (9-11 May 2013)** called upon 'entities negotiating new economic partnerships, such as the EU and other development partners, to ensure market access for African exports consistent with the realization of the Millennium Development Goals and promotion of an agreed post-2015 agenda' and recommended 'the international community to recognize the centrality of the African Union on issues of African development and to encourage regional economic integration.'¹⁸

2.4 Civil society at global or African level

'The huge employment deficit in Africa could be worsened by EPAs. ', according to Kwasi Adu-Amankwah, **general secretary of ITUC-Africa**, and he has called for solidarity to save jobs in Africa and

¹⁷ AU document AU/TI/TD/CAMoT-8/EPA.DECL/FINAL, Declaration on the Economic Partnership Agreements (EPAs), 8th Ordinary Session of the Conference of AU Ministers of Trade, 21st – 25th October 2013, Addis Ababa, Ethiopia, http://ti.au.int/en/sites/default/files/EPA_DECLARATION_Final_edited%20clean.pdf

¹⁸ Interaction Council, Final Communiqué, 31st Annual Plenary Meeting, 9-11 May 2013, Manama, Kingdom of Bahrain, <http://interactioncouncil.org/final-communiqu-46>

put employment creation at the centre of all trade and investment policies.¹⁹ The second ITUC-Africa congress held in 2011 asserted that 'the EU has shown disrespect for African countries and institutions and treated them with disdain in their approach to the negotiations on the EPAs'. They re-affirmed, among others, that 'the purposed benefits of the EPAs in the form of more service jobs and duty-free access would not be enough to stimulate industrialisation in African countries. Opening markets of African countries could result in de-industrialisation.'

Furthermore, 'EPAs have already caused division and tension among members of various regional economic communities. This will make it difficult for RECs to implement regional integration projects.' Also, 'the EPAs will result in trade deficits because of unbalanced trade between highly developed [EU] and less developed Africa, destruction of local firms by established EU firms, closure of domestic firms and retrenchments, loss of skills and productive capacity. Furthermore, EPAs will increase dependence on food imports.'

The second ITUC-Africa congress recommended that EU improve existing legal instruments such as Everything But Arms and the Generalised System of Preferences (GSP) or continue a non-reciprocal scheme such as AGOA.²⁰ Prohibition from export taxes and services, as well as other issues not resolved at the WTO should be excluded from EPA.

At a global level, the **Stop EPA campaign** has been a reference for NGO participation in the EPA negotiation process. The Stop EPA campaign was launched in April 2004 at the European Social Forum in London on the initiative of the Accra based Africa Trade Network (ATN) together with a number of European NGOs, such as 11.11.11, ActionAid, Oxfam and Attac Germany. They saw the EPAs as being driven by the interests of European business and a small economic elite in the ACP states, and that EPAs would significantly harm the ACP producers. They also pointed out that the scope of the new agreements was broader than what it required according to WTO rules and, in fact, contained issues that were rejected by developing countries in the WTO negotiations.

As a joint endeavour of African and European NGOs, the Stop EPA campaign aims to raise public awareness of the EPA negotiations and the contentious issues identified by the campaign. The EPAs are criticised for their detrimental effects for development, making the EPA negotiations "the most unequal trade negotiations in history" (ActionAid). The campaign thus called on national parliaments and governments to intervene with the Commission for an extension of the negotiation period beyond 2007 and to consider 'development friendly' alternatives to the EPAs. Supported by major NGOs such as Oxfam and ActionAid, the campaign issued a Global Call for Action to Stop EPAs in March 2006.

In this declaration, the Stop EPA Campaigners expressed strong concerns regarding the European Commission's new strategy and rhetoric to sell the EPAs and justify continuation of its mandate. This included encouraging false hopes of increased European development assistance to ACP countries, the use of different forms of pressure including aid conditionality to counter the reluctance of ACP groups to yield to its interests. At a meeting of the Africa Trade Network (ATN) in September 2007 which was closely covered by some Southern African newspapers, both the Head of Oxfam's EU Advocacy Office, Luis Morago, and the Africa Head of Programmes of the Third World Network, Tetteh Hormeku expressed NGOs' opposition to the EPA negotiations as coming from 'a range of voices raised against these deals – from the World Bank to trade lawyers to civil society and trade unions'. The ATN warned

¹⁹ Africa: Trade Liberalisation a Downturn to Economy, Says Unions, Daily Nation (Kenya), 7 October 2008, <http://allafrica.com/stories/200810070814.html>

²⁰ Resolution Seven: World Trade Organisation (WTO) and Economic Partnership Agreements, 2nd ITUC-Africa Congress, 25-27 November 2011

that the 'EU trade deals could sink poor countries', and Hormeku accused the EU of using the EPAs as a means to re-colonialise Africa.²¹

In October 2013, NGOs of the Stop EPA campaign came together in Harare and issued a statement titled 'Enough is Enough! Time to Abandon the EPA Charade!!' (see box 2 for African NGOs supporting this statement). They conclude that the 'EPAs are incapable of delivering their proclaimed developmental promises, affirming only their damaging implications for ACP economies', also giving as an example of undelivered promises the Caribbean EPA. In addition, they said that 'the EPA negotiations have now become a fruitless diversion of energy from the economic developmental tasks confronting ACP countries.'

The NGOs demand that '(i) EPA negotiations, ratifications, and/or implementation must be abandoned; (ii) ACP countries must take steps to address their trade and investment relations with Europe in the wider context of emerging challenges and opportunities in the changing global economy, and in line with their own initiatives; (iii) In support of this, Europe must, in its own long-term interest, allow these countries the space needed by extending one of the many alternative trade regimes available to it; (iv) in the absence of an EPA, ACP countries must mobilise their own resources to support their relatively few exporters likely to suffer distress rather than put their whole economies and domestic and regional producers and markets at risk.'

They realize that some ACP governments are inclined to go ahead with EPA negotiations or implementation, but the NGOs claim that this is partly because ACP countries continue to hold out hope of the EU providing 'financial' support. According to them, the Caribbean experience has demonstrated that the EU offers are 'not good faith; and in any case, in the light of the global financial crises and austerity, the EU is not in position to provide the requisite levels of additional financial support.'


Box 2: African NGOs supporting the October 2013 statement 'Enough is Enough! Time to Abandon the EPA Charade!!'

ACDIC (Cameroon), African Coalition for Debt and Development, (Zimbabwe), Civil Society EPA Coalition (Botswana), Caribbean Policy Development Centre (Barbados), Caribbean Association for Feminist Research and Action, CAFRA (St Lucia), Cross-Border Traders Association (Zimbabwe), EcoNews Africa (Kenya), Economic Justice Network of Focissia (South Africa), Economic Justice Network of Malawi, ENDA-CACID (Senegal), ITUC-Africa (Togo), Kenya Human Rights Commission, National Association of Nigeria Traders (NANTS), Network for Women's Rights, NETRIGHT (Ghana), SADC Council of NGOs (Botswana), SEATINI-Uganda, SEATINI-Zimbabwe, TWN-Africa (Ghana), Women's Empowerment Group (Zimbabwe), Zimbabwe Coalition of Debt and Development (ZIMCODD) Zimbabwe

²¹ The preceding two paragraphs borrow from a paper by Ulrike Lorenz, 'David vs. David vs. Goliath? South(ern) African civil society actors in the SADC-EU EPA negotiations', <http://www.open.ac.uk/socialsciences/bisa-africa/files/africanagency-seminar5-lorenz.pdf>

3. WEST-AFRICA EPA

3.1 Basic characteristics of the region

	<p><u>Countries in the West Africa EPA configuration:</u> the 15 Member States of the Economic Community of West African States (ECOWAs) as well as Mauritania</p> <p><u>Regional negotiator for West Africa:</u> ECOWAS Commission based in Abuja, Nigeria in cooperation with the West African Economic and Monetary Commission based in Ouagadougou, Burkina Faso (WAEMU, or UEMOA in French).</p>	
Country in West Africa EPA configuration	Current EU preferential trade regime(s)	Development status
Benin, Burkina Faso, The Gambia, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Senegal, Sierra Leone, Togo, Mauritania	EBA	Least Developed Country (LDC)
Cape Verde	GSP+	
Cote d'Ivoire, Ghana	Market Access Regulation 1528/2007 and GSP	
Nigeria	GSP	Low Income Country (LIC)

© European Commission (map)

3.2 State of play

Twelve out of 16 countries in the West Africa EPA region are LDCs and currently access the EU market under Everything But Arms (EBA). Cote d'Ivoire signed an individual interim EPA in November 2008 and Ghana initialled the interim EPA in December 2007. Nigeria, a non-LDC did not sign or initial the interim EPA and is now trading with the EU under the Generalized System of Preferences (GSP).

Nigeria unsuccessfully applied for GSP+ for the 2009-2011 period due to non-ratification of one of the 27 required treaties, the Convention on Prevention and Punishment of the Crime of Genocide (Genocide Convention). The Nigerian Association of Nigerian Traders (NANTS) noted that this decision was politically coloured and essentially not made in good faith.²² Nigeria officially became a party to this Convention on 27 July 2009.²³ On 9 December 2011, the EU granted Cape Verde, which has recently graduated from being an LDC "GSP+" status. It is the first African nation to join the GSP+ scheme, allowing for its fish products to enter the EU duty-free.²⁴

No text-based negotiations took place between April 2012 and December 2013, and therefore no progress was made in the six 'persistent divergences' in the negotiations with the EU as identified by the ECOWAS Commission: the Most Favoured Nation (MFN) Clause, non-execution clause, agricultural

²² NANTS position on the EPA and the EU's rejection of Nigeria's GSP+ application, Press release, 19 December 2008, http://www.acp-eu-trade.org/library/files/Ukaoha_EN_191208_NANTS_NANTS-position-on-the-EPA.pdf

²³ Parties to Convention on the Prevention and Punishment of the Crime of Genocide, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-1&chapter=4&lang=en

²⁴ 'Cape Verde secures access to EU markets and boosts its development, European Commission, Press release, 9 December 2011', <http://trade.ec.europa.eu/doclib/press/index.cfm?id=763>

subsidies, customs union clause, market access offer and EPA Development Fund (EPADP, PAPED in French).²⁵

During 2012 and 2013, the ECOWAS and UEMOA Commissions developed modalities for the envisaged Regional Fund for the EPA (FRAPE) to operationalize the EPA Development Programme (PAPED) which was forwarded to the European Commission for consideration. Also, a new West-Africa market access offer was developed for the sub-region, increasing the level of liberalisation offered to the EU from 70% to 75% (in terms of tariff lines).

In the Dakar Summit of 25 October 2013, ECOWAS heads of state and governments agreed to resume the negotiations on the basis of the new proposals, and with a view to concluding the regional agreement as soon as possible. They also directed chief negotiators to ensure that adequate financing is provided for EPADP and fiscal adjustment costs in order to ensure balance with the market access offer.

The EU and West-Africa formally met in Dakar in the week of 20 January 2014. On the market access offer, the EU asked for clarification on the reasons why the West Africa has excluded from liberalization some tariff lines seeking to increase the rate to over 75 %. But West Africa rejected this possibility, explaining that their choices are consistent with the Common External Tariff (CET) and that there is no more space for concessions on market access. On 24 January 2014, senior officials reached an agreement on the EPA with the EU on the six 'persistent divergences', including a 75% market opening.

Several stakeholders have questioned whether the new West-Africa offer represents an opening of 75% in reality; the liberalisation in terms of value of imports appears to be higher than 75%. According to estimates reported by the National Association of Nigerian Traders (NANTS), based on 2012 data, West Africa would open up 82% of its market. Nigeria will be liberalizing 81% in the next 15 years and close to 86% in 20 years. Similarly, Senegal is set to liberalize 82.5% within 15 years and close to 86% in 20 years. Togo is set to liberalize close to 92% at the end of the EPA implementation period and Ghana also exceeds 80% liberalization. In contrast, Cote d'Ivoire is likely to have gained an improvement to its interim EPA market access offer liberalizing around 75% within 20 years. Overall, it appears that EU has been successful in meeting its initial demand of 80% within 15 years, at least for the major importers in West-Africa.

On 6 February 2014, chief negotiators endorsed the deal reached on 24 January 2014. On 17 February 2014, the Ministerial Monitoring Committee (MMC) on EPAs adopted the compromise proposals. However, political endorsement of the entire West Africa EPA text was elusive. The ministers reiterated the need take into account the economic adjustment cost and the net fiscal loss induced by EPA. Ministers also invited ECOWAS and UEMOA Commissions formulate and implement an appropriate communication policy on the content of the EPA towards different stakeholders of the region, mainly civil society, parliament, and economic actors.²⁶ The MMC is a special body that does not report to Heads of State and Government. Ministers are expected to meet again at a regular ECOWAS Council of Ministers by the end of March 2014.

²⁵ Note on Progress in the Negotiations for the EPA between the West Africa Region and the EU and the Outlook for the Future, ECOWAS Commission, September 2013.

²⁶ ECOWAS document CMS-AO/17/02/14 – Rev 1, Ministerial Monitoring Committee Meeting on the EPA Negotiations – Summary of Conclusions and Recommendations, Dakar, 17 February 2014

3.3 Summary of stakeholders views

The market access offer is clearly the largest bone of contention in the West Africa region, mentioned by all stakeholders (governments, parliamentarians, civil society and the private sector). West-Africa moved its market access offer from 60% to 75% in terms of tariff lines throughout the EPA negotiations, and lowered the implementation period to 20 years. Agreement on this issue has been reached at a technical level in January 2014, but not yet at the political level. The current offer of 75% continues to be a concern for civil society and the private sector, as in value terms, it would appear to liberalize more than 80% of EU's current imports into West Africa. The key driver pushing for the completion of the EPA in the region seems to be Cote d'Ivoire. The country stands to lose especially in the cocoa and banana sectors if preferences to the EU are terminated.

Publicly, at least in the recent months, governments in West-Africa have not been very vocal in expressing their actual concerns and positions on the EPA. Nonetheless, individual countries have indicated a need for a better safeguard along the lines of ECOWAS Regulation on Supplementary Protection Measures, clarifications on the EPA Development Programme, the sugar protocol etc. In the most recent Ministerial Monitoring Committee (MMC) meeting of 17 February, the Nigerian Minister plus a couple of other Ministers voiced concerns about proceeding with the EPA and called for a further review of its possible implications. Nigeria's nascent industries will be negatively impacted. The EPA will also represent significant losses in tariff revenue and these losses will increase over time (as imports from the EU are increasing exponentially). Since Nigeria is already trading with the EU under the GSP regime, not signing a regional EPA will simply be maintaining the status quo for the country.

West-African parliamentarians have raised some issues that did not figure prominently in the EPA negotiations. These include visa-free travel for business persons and ECOWAS levies imposed on imports that are used to fund the ECOWAS Commission and need to be removed according to the current EPA text. One can conclude that the interpretation by ECOWAS Commission of this obligation is different, because it would be incomprehensible that ECOWAS Commission would agree to take away its own source of funding. Interestingly, most of the parliamentarians that spoke up on EPAs were those that were involved in EU-ACP Joint Parliamentary Assembly processes.

Export-reliant companies are generally in favour of EPA, but there are surprisingly no strong voices from Nigeria's private sector in favour of EPA, also considering that Nigeria is already trading under EU's GSP for more than 6 years. The private sector has also indicated a lack of information about contents and impact of EPA.

Civil society and the private sector oriented towards domestic and regional trade have proposed alternatives to EPAs, the most prominent include:

- GSP+, in particular mentioned by the domestic and regionally oriented private sector
- a Fund for Supporting Regional Integration (FSIR), which could be funded by a single ECOWAS Community Levy of 1.5% to be used to offset the losses that may be incurred by Cote d'Ivoire and/or Ghana not ratifying interim EPAs. Currently, UEMOA member states apply a 1% levy for financing the UEMOA Commission and 0.5% levy for financing the ECOWAS Commission, while non-UEMOA ECOWAS member states levy 0.5%. This alternative has been put forward by West African civil society.

3.4 ECOWAS Commission

Regarding the EPA, **Désiré Ouedraogo Kadré, the president of the ECOWAS Commission** stated that ECOWAS stands together with Côte d'Ivoire and Ghana who have signed interim agreements with the EU. However, he felt that for the integration of the sub-region, it is essential to achieve as soon as possible, a comprehensive EPA that involves all countries in West Africa.²⁷

3.5 Governments

The key driver pushing for the completion of the EPA in the region seems to be Cote d'Ivoire. The country stands to lose especially in the cocoa and banana sectors if preferences to the EU are terminated. According to Jeune Afrique, a leading newspaper, Côte d'Ivoire signed the interim EPAs because it is particularly concerned about its exports such as cocoa, bananas and conserved tuna, to the EU market.²⁸

The **President of Cote d'Ivoire, Alassane Ouattara**, is promoting the signing of an agreement at the regional level with the European Union.²⁹ The **Ivorian Prime Minister, Daniel Kablan Duncan**, has said that conclusion of the EPA is crucial for Cote d'Ivoire. He noted that if the EPA negotiations would not lead to a conclusive result, 41% of Côte d'Ivoire exports would face EU customs duties causing an estimated 772 billion FCFA annual loss. Also, according to him, it would undermine the EPA development program (EPADP) funded over five years to the tune of 393.6 billion FCFA (around EUR 600 million) which would help integrate the Ivorian economy into the global economy.³⁰

The figure of EUR 600 million mentioned by Ouattara is the estimated share of the EPA Development Programme that Cote d'Ivoire would receive, based on a total allocation of EUR 15 billion that would be additional to existing allocations.³¹ However, thus far, the EU has pledged USD 6.5 billion mainly based on already existing development programmes for West-Africa. According to some estimates, the expected EPADP funding for Cote d'Ivoire in case of a total EUR 6.5 billion allocation for West-Africa would be EUR 260 million ($6.5 / 15 \times \text{EUR } 600 \text{ million}$).³²

The **Ghanaian Minister of Trade, Haruna Iddrisu** stated in September 2013 that the country's decision will be determined largely by the ECOWAS position on the trade agreement as the sub-region wants a collective agreement which will favour all member States. He pledged that the government will take a collective decision on Ghana's stance on the EPAs with Ivory Coast and Nigeria as well. He also said that, 'Ghana will not sign onto any agreement that will be inimical to our international economic interests and more importantly to the economic interest of Ghana; we need to protect our exports.'³³

²⁷ Questions Sous-Regionales: Le President De La Commission de la CEDEAO Echange avec le Chef De L'Etat, Press release from Cote d'Ivoire government, 11 December 2012, http://www.gouv.ci/actualite_1.php?recordID=3030

²⁸ 'La Côte d'Ivoire signe avec l'Europe', Jeune Afrique, 8 December 2008, http://www.jeuneafrique.com/Article/ARTJAJA_2499_p090-091.xml5/

²⁹ Press release http://www.gouv.ci/actualite_1.php?recordID=4032

³⁰ Cooperation Economique : Le Gouvernement Examine Les Accords De Partenariat Economique Entre La Côte D'Ivoire Et L'Union Europeenne, Official, press release from Cote d'Ivoire government, 10 December 2012, http://www.gouv.ci/actualite_1.php?recordID=3025&depart=40&c=p

³¹ The first Ivorian EPADP was estimated at EUR 1.6 billion, and Cote d'Ivoire came down to EUR 0.6 billion when the total West Africa EPADP was estimated at EUR billion.

³² Estimate provided by government official from Cote d'Ivoire. Note: the percentage of 41% and 772 billion FCFA annual loss assumes that Cote d'Ivoire would lose all its exports that would face duties under the EU GSP regime. Furthermore, the bulk of Cote d'Ivoire exports that would face duties without EPA are cacao products that would not face duties under GSP+.

³³ 'Ghana to finalise decision on EPA by end of October' Joy online, 9 September 2013, <http://business.myjoyonline.com/pages/news/201309/112809.php>

In December 2013, Iddrisu mentioned market access and duration of market access as the two major issues that have delayed the signing of the agreement. 'For instance, they want free, a more liberalized 100 per cent regime; what we have offered so far at the regional level is 75 per cent market access so that we can protect 25 per cent,' he noted. Iddrisu said, 'We have also requested the European Union to give us development support in terms of building our capacity to absorb the shock that would be associated with some of the revenue losses and other negatives that might be associated with the EPA.' Nevertheless, Ghana did not yet take a formal position on EPAs in January 2014. 'I am confident that early next year, we will engage stakeholders in the country, with a view of taking the country's position, which would be influenced by the regional position', the trade minister indicated.³⁴

According to a press release of the ECOWAS Commission, **Cape Verde's Minister of External Relations**, Jorge Borges raised concerns about the level of market access offered to the EU. Opening a one-day meeting of regional ministers of trade and finance on 21st March 2013 in Praia, he warned of dire consequences for West Africa's economy should the region concede to the EU's request for 80-per cent opening. The minister said that no country has developed without protecting its industries, and warned that the region runs the risk of having its market taken over by European goods.³⁵

Officials from **Nigeria's Federal Ministry of Trade and Industry (FMITI)** have expressed their concerns with the West Africa EPA text which does not reflect the needs and priorities of ECOWAS member states. They explained that Nigeria insisted on exclusion of certain pharmaceutical products, especially the types that are produced in Nigeria, but that these concerns are not taken on board. Also, FMITI considers the EPA safeguard as inadequate and should instead build upon the ECOWAS regulation on Supplementary Protection Measures agreed upon in October 2014 by ECOWAS Heads of State and Government that has enabled agreement on the implementation of a new ECOWAS Common External Tariff (CET) by 1 January 2015. Furthermore, FMITI has expressed frustration with the negotiation process arguing that ECOWAS member states have limited influence and negotiation texts are not always available in English. In the most recent Ministerial Monitoring Committee (MMC) meeting of 17 February, the **Nigerian Minister of Trade** plus a couple of other Ministers voiced concerns about proceeding with the EPA and called for a further review of its possible implications. Nigeria's nascent industries will be negatively impacted. The EPA will also represent significant losses in tariff revenue and these losses will increase over time (as imports from the EU are increasing exponentially). Since Nigeria is already trading with the EU under the GSP regime, not signing a regional EPA will simply be maintaining the status quo for the country.³⁶

As of February 2014, **The Gambia** said that there is a need for clarity on the modalities and allocation of EPADP funding. **Cote d'Ivoire** also indicated the need to expand or clarify some issues, among others on EPADP, rules of origin (status of Andorra, Ceuta and Melilla) and the sugar protocol.³⁷

3.6 Parliamentarians

The general picture in the region is that parliamentarians are not actively involved in the negotiations but are usually presented with the negotiation text after signature. For instance, as of January 2014, the Cote d'Ivoire government indicated that it plans to discuss the EPA with the National Assembly in May

³⁴ ECOWAS' decision to influence Ghana in signing EPA – Haruna Iddrisu, 12 December 2013, <http://www.ghanaweb.com/GhanaHomePage/business/artikel.php?ID=294893#>

³⁵ ECOWAS press release, 'Minister Cautions West Africa on EPA Negotiations with EU', 24 March 2013, <http://news.ecowas.int/presseshow.php?nb=078&lang=en&annee=2013>

³⁶ Interviews with FMITI officials.

³⁷ Interviews with officials from The Gambia and Cote d'Ivoire.

2014.³⁸ For this reason, **Assarid Ag Imbarcaouane from Mali** (ADEMA-PASJ / ASMA-CFP, and member of the ACP-EU Joint Parliamentary Assembly has said that ‘Regional EPAs should include a clause stipulating that national parliaments must ratify them’.³⁹

Nonetheless, there have been several informal information sessions organized by ECOWAS Commission, ECOWAS member states as well as NGOs. At one of these meetings, **lawmakers in the Economic Community of West African States** (ECOWAS) cautioned against any decision to open up the region’s market too wide and hastily to the EU and have expressed concern about the potential impact of exposing the 70 per cent of the region’s market and productive capacity on the basis of a liberalisation schedule.⁴⁰

They have also urged regional leaders to strongly defend their position regarding the proposal by the EU for the scrapping of ECOWAS levies imposed on imports into the region from third countries as they constitute independent sources of financing regional integration as well as funding the Community’s activities and the West African Economic and Monetary Union (UEMOA). In the current draft text of the West Africa EPA, the community levy is not safeguarded. Article 11 of the draft negotiation text reads: ‘the Parties agree that the funding mechanism independent organizations responsible for West African regional integration is maintained until the introduction of a new mode of financing’ (translated into English from French). ‘The terms of the agreement’ include the obligation to remove fees and charges on imports.

The Nigerian Parliament held an interactive session on EPAs in April 2009, to enable stakeholders to voice their views. Farmers were not convinced that they should go along with the EPA as they understood it, according to **Aminu Waziri Tambuwal (currently Speaker of the House of Representatives of Nigeria)**.⁴¹

The **ECOWAS Parliament** has called for a visa-free regime to be integrated into the EPA. The Parliamentary Speaker said the free visa regime would contribute to balanced trade and cooperation, describing as “unacceptable diplomatic let down and economic setback, a situation where qualified and credible ECOWAS business persons and government officials are denied visa to enter and carry out legitimate businesses in Europe.”⁴²

Ibrahim Bundu, Member of Parliament of the All Peoples Congress (APC) in Sierra Leone, had said that ‘Sierra Leone has no infrastructure, does not export, and our manufacturers cannot withstand competition. In countries like ours, where EPAs could be counter-productive, they should specifically provide for improvements to infrastructure and productive capacity’.⁴³

3.7 Civil society

Many civil society organisations (CSOs) felt that it was a betrayal of ECOWAS when Ghana and Cote d’Ivoire initialled the interim EPA in West Africa in 2007. They were the only countries within the sub-

³⁸ Interview with official from Cote d’Ivoire.

³⁹ EU-ACP Joint Parliamentary Assembly, Press Release No. 5, ‘EPAs must be made more flexible, says ACP- says ACP---EU JPA’, 8 April 2009, http://www.europarl.europa.eu/intcoop/acp/60_17/pdf/economique_en.pdf

⁴⁰ APE: les parlementaires ouest africains préconisent la prudence, Senemag, 6 September 2010, <http://senemag.free.fr/spip.php?article808>

⁴¹ ‘EPAs must be made more flexible, says ACP-EU JPA, Press Release No. 5, ACP-EU Joint Parliamentary Assembly, 8 April 2009, http://www.europarl.europa.eu/intcoop/acp/60_17/pdf/economique_en.pdf

⁴² ‘Speaker calls for enhanced powers of ECOWAS parliament’, African press organization, 18 March 2013, <http://appablog.wordpress.com/2013/03/18/speaker-calls-for-enhanced-powers-of-ecowas-parliament/>

⁴³ ‘EPAs must be made more flexible, says ACP-EU JPA, Press Release No. 5, ACP-EU Joint Parliamentary Assembly, 8 April 2009, http://www.europarl.europa.eu/intcoop/acp/60_17/pdf/economique_en.pdf

region to do so. Cote d'Ivoire went on to sign it later. In Ghana, various intelligence reports also indicated a lot of arm-twisting by the European Union through the office of the President.⁴⁴

West-African CSOs point out that some European parliaments have blasted the EPA. For instance, Mr. Cissokho from CNCR (*Conseil national de concertation et de coopération des ruraux*) has said that the French and British Parliaments in 2008 disapproved of the EPA. Some say that President Sarkozy was convinced of the need to stop EPA because of negative consequences for African countries leading to increased immigration into Europe.⁴⁵

Prior to the Dakar Summit of October 2013, the civil societies of West-Africa came out with a statement rejecting EPAs, supported by the wide spectrum of civil society actors across West-Africa encompassing trade unions, women groups, faith based groups, farmers and agricultural producer organisations and youth movements (see Box 3 for a complete listing of supporters). In this statement, they say that analyses of interim EPAs show that contrary to what is said so far, Côte d'Ivoire and Ghana could lose more by implementing their EPA than renouncing them. One of the reasons is that most of their industrial goods generating relatively high value added and employment are exported regionally. They argue that not signing the EPA will not cost anything to their countries because it will not cause the Europeans to abandon the import of coffee, cocoa and minerals from the region. The conclusion of EPAs can be justified only if it contributes to progress and it can effectively contribute to achieving the objectives of economic and social development of countries and their peoples. The agreement under negotiation is still far from reflecting the interests of ECOWAS countries, including 11 of the 15 LDCs.

West African civil society also note that contrary to initial promises of the European Union that the EPA is a tool for strengthening regional integration, the opposite happened because West Africa has been fragmented and balkanized into five different trade regimes following the signing of the interim EPAs. In addition, the EU is pushing EPAs 'at any price' as illustrated by the decision to withdraw preferences to Côte d'Ivoire, Ghana, and other ACP countries by 1 October 2014, which puts pressure and weakens the resistance lines of West Africa.

They ask the governments of Cote d'Ivoire and Ghana to refrain from acts that destabilize regional integration, and in parallel asks all States, regional institutions, civil society and the private sector to do utmost efforts to find as soon as possible a solution to the interim EPA.

In their Dakar statement, the West-African civil society proposed an alternative to the EPA. They called for the establishment of a Fund for Supporting Regional Integration (FSIR), which could be funded by a single ECOWAS Community Levy of 1.5% to be used to offset the losses that may be incurred by Cote d'Ivoire and/or Ghana not ratifying interim EPAs.⁴⁶ Currently, UEMOA member states apply a 1% levy for financing the UEMOA Commission and 0.5% levy for financing the ECOWAS Commission, while non-UEMOA ECOWAS member states levy 0.5%. Also, the region should finalize and implement common regional sectoral policies which increase competitiveness and deepen economic integration.

The West-African civil society rejects the new market access offer of 75% because it is not economically viable and socially disastrous for West Africa, and 'rigorous studies hitherto unchallenged, showed its negative impact in terms of trade diversion, loss of revenue, loss of household income, insecurity and threat of use and investment, among others.' They also note that West Africa has made the greatest

⁴⁴ Economic Partnership Agreements – The Case of Ghana,

http://www.solidar.org/IMG/pdf/b11_trade_unions_and_ngos_response_to_epas_ghana.pdf

⁴⁵ Procès-verbal de la réunion de la société civile sur le sommet extraordinaire des chefs d'états et de gouvernements sur le Tarif Extérieur Commun et les négociations des APE prévu le 25 octobre à Dakar, 14 octobre 2013 au CNCR

⁴⁶ Currently, UEMOA member states levy 1% for UEMOA and 0.5% for ECOWAS, and non-UEMOA ECOWAS Member states levy 0.5% for ECOWAS.

efforts to get closer to the position of the European Union which has remained 'encamped' on its position, still requiring 80% of regional market opening.

Box 3 - Supporters of the civil society statement for the Dakar Summit of October 2013

Plateforme des Acteurs de la Société Civile (PASCIB) from Benin, Le Secrétariat Permanent des Organisations Non Gouvernementales (SPONG) from Burkina Faso, OSCAF-CI from Cote d'Ivoire, The Association of Non-Governmental Organizations (TANGO) from The Gambia,⁴⁷ CECIDE from Guinea, Mouvement de la Société Civile from Guinea-Bissau, Coalition Malienne des Acteurs non Etatiques pour l'Accord de Cotonou (CMANE-AC) from Mali, RODDADHD from Niger, the Nigerian Association of Nigerian Traders (NANTS) from Nigeria, Groupe d'Action et de Réflexion sur l'Environnement et le Développement (GARED) from Togo, ENDA, Conseil national de concertation et de coopération des ruraux (CNCR), Forum social sénégalais (FSS), le Comité de Coordination du Mouvement du 23 juin (M23), Y'en a Marre ('Fed Up')⁴⁸, Conseil des Organisations Non Gouvernementales (CONGAD), Confédération Nationale des Travailleurs du Sénégal (CNTS) from Senegal, as well as the following regional CSOs: Third World Network (TWN) Africa, La Plateforme des organisations de la société civile de l'Afrique de l'Ouest sur l'Accord de Cotonou (POSCAO), Network of Farmer and Agricultural Producer Organisations of West Africa (ROPFA), West African Civil Society Forum (FOSCAO) ; la dynamique des Organisations de la Société civile d'Afrique Francophone (OSCAF) ; Association des femmes de l'Afrique de l'Ouest (AFAO) ; le Réseau des Plates-Formes d'ONG d'Afrique de l'Ouest et du Centre (REPAOC) and la Coalition des Organisations Africaines pour la Sécurité Alimentaire et le Développement durable (COASAD)

Concerning the EPA Development Programme (PAPED), West-African civil society recalls that the EU is reducing aid. At the same time, twelve LDCs in West Africa open their markets and forgo significant tax revenues. West-African civil society demands that full funding of PAPED, with additional, stable and predictable resources constitutes a key prerequisite for the signing of the EPA. Third World Network argues that the supposition that a more refined and targeted EPA development programme will secure better commitment from the EU is unfounded. The Caribbean experience proves that EU did not provide any additional funding, contrary to its commitment, but sought to re-package existing EDF fund and bilateral aid commitments.⁴⁹

On the MFN clause, West-African civil society's view is that its inclusion in the EPA will negate all the efforts of States in West Africa to diversify their business partnerships and access new technologies and investment opportunities from emerging countries. They call upon Heads of State to strictly limit the MFN clause to developed countries.

Some civil society organisations argue that EPAs are a concerted attempt by Europe to recolonize Africa by other means. For instance, the **Association of African Women for Research and Development (AAWORD)**, a think tank for research and development, is of the view that EPAs threaten regional

⁴⁷ Index to membership register, <http://www.tango.gm/memberlist.htm>

⁴⁸ A group of Senegalese rappers and journalists, created in January 2011, to protest ineffective government and register youth to vote. They are credited with helping to mobilize Senegal's youth vote and oust incumbent President Abdoulaye Wade, though the group claims no affiliation with Macky Sall, Senegal's current president, or with any political party (source: Wikipedia).

⁴⁹ Third World Network – Africa, Media Brief: Issues for forthcoming Extraordinary ECOWAS Heads of State Summit in Dakar, Issued in Accra, 22 October, 2013

economic integration and that they are a backdoor way to recolonize Africa and to take its natural and human resources.⁵⁰

Mr Kingsley Ofei-Nkansah, General Secretary, **General Agriculture Workers Union (GAWU) of the Ghana Trade Union Congress (TUC)**, said the EU is pushing a bad agreement down the throat of African Governments, especially Ghana. He said there was nothing beneficial in the EPA to the people of Ghana, but rather it's dividing the regional integration. "It does not make economic sense for Government to sign the EPA," he added.⁵¹ The head of Industrial Relations and Social Protection at the Ghana TUC, Mr Seth Abloso, said the terms of the EPA would have disastrous consequences for Ghana's domestic industry especially in the manufacturing and agricultural sectors, and therefore destroy the jobs and livelihoods of millions of people. "It's an attack on our productive capacities, our development efforts and therefore our employment generation capacities," TUC said.⁵²

Gender and women's groups in Ghana are concerned about the IEPA's impact on women who work in the retail industry. They warn that many women will 'fall out' of the industry due to the entrance and eventual dominance of multinational companies. They also argue that because 70% of the trade of women in Ghana and ACP bloc is not exported, the majority of women would not benefit from an increase in exports to the EU.

The **Ghana Trade Livelihoods Coalition (GTLC)**, a network of farmer-based organisations, local food crop producers, civil society organizations and non-governmental organizations (NGOs), has warned of the economic damage that the IEPA will cause to Ghana's economy. The National Coordinator of the group, Mr Ibrahim Alkalbila noted that it 'will destroy our domestic services sector and undermine our prospects for sustainable development through ways such as retention and re-investment in our economies'.

The **Global Network in Ghana** has stated that in the event of the signing of the EPAs, the most damaging result would be the cuts inflicted on socioeconomic development programmes including health, education, welfare services. Governments' desire to plug revenue gaps caused by the abolition of customs tariffs may also lead to introduction of more taxes including VAT.

Malian civil society is of the view, among others, that the EPA in its current form does not respect the principles of the Cotonou Agreement, represent risks for Malian agricultural production and industries and would lead to increased unemployment, poverty and environmental degradation. If concluded the EPA should include a regional EPA fund that compensates for tax losses resulting from the implementation of EPAs, provide for increased investment for the creation and promotion of new businesses, and enhance the capacity of the private sector both nationally and sub-regional to improve product quality in compliance with sanitary and phytosanitary standards.⁵³

According to **Ablassé Ouedraogo, a former Deputy Director General of the WTO and Regional Adviser for Africa within the African Development Bank** has said that 'The current negotiations on Economic Partnership Agreements (EPAs) are not likely to boost regional integration', because ACP

⁵⁰ 'L'Afard prône la valorisation du capital humain', Sud Quotidien, 10 December 2013, http://www.sudonline.sn/l-afard-prone-la-valorisation-du-capital-humain_a_16639.html

⁵¹ Ghana to lose \$88.575m annually under EPA regime, <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=287226>

⁵² EPA Will Kill Ghana's Industries, Peace FM online, 28 May 2012, <http://news.peacefmonline.com/pages/news/201205/116141.php>

⁵³ Declaration de Renforcement de la Position Nationale des Acteurs Non Etatiques et des Organisations de la Société Civile sur l'Accord de Partenariat Economique (APE), 14-15 June 2007

countries are fragmented into six artificial blocks that face the strongest and most experienced negotiation structure, the European Commission.⁵⁴

Kofi Benti, Vice President of IMANI-Ghana, a policy think tank, believes that, in the absence of a better strategy, Ghana will have to sign the Economic Partnership Agreement (EPA) with the European Union, in order to survive. The policy analyst says although there are issues with the EPA, he is backing the signing of the deal because Ghana has no option. 'Sometimes you do a bad deal just to survive for the short run. But if you are smart, then while you do a bad deal to survive, you shore up your leverage so when the next time comes around you will be in a better position to negotiate better for yourself'. Ghana has three years to fully sign onto the Agreement, although it has been running on an interim EPA since 2007. According to an analysis by the **West Africa Civil Society Institute**, the signing of the agreement opens up the market to about 80% to imported goods from European Union which will eventually outcompete domestic products which are either similar or substitutable.⁵⁵

3.8 Private sector

The position on EPAs by the domestic private sector is influenced by their level of awareness of the EPA issues and the extent to which firms think they will benefit or be harmed by it.

Exporting firms in non-LDCs are typically in favour of the EPA, especially those that depend on the European market. In Ghana, the President of the **Sea Freight Pineapple Exporters Association (SFPEA)**, Stephen Mintah, said the signing of the agreement meant that Ghana's trade with the EU would not be disrupted and, therefore, pineapple exporters would continue to export to that market without restrictions. He explained that Ghana would have access to the EU market duty-free, just as the nation had under the Lomé Convention. The SFPEA also considered the signing of the Interim Partnership Agreement to be a good deal that would promote growth in the Ghanaian economy, because Ghana was expected to liberalise just 80% of its market while the EU has agreed to liberalise 100%.

The **African Pineapples and Bananas Association (APIBANA)** with current membership in Ghana, Cote d'Ivoire and Cameroon stated that 'the EU must at all costs sign the agreement allowing the sector to keep its privileged relationship with its main market'. They are also against the preferential customs tariffs on bananas provided by EU to Central and Latin America. George Kporye, President of APIBANA 'has urged [the Ghanaian] government to sign the Economic Partnership Agreement (EPA) with the European Union (EU)', to preserve duty-free access to the EU market. He pointed out that in the face of reduced tariffs and associated increased competition from Latin American banana exporters, West and Central African banana exporters could not afford any re-imposition of EU import duties.⁵⁶ Nonetheless, even with an eventual EPA, preferences will be eroded and they posit that the industry must also turn to other markets, including the Arabian Peninsula.⁵⁷

However, not all export-oriented businesses urge their governments to sign EPAs. In Nigeria, local cocoa processors represented by the **Cocoa Processors Association of Nigeria (COPAN)** consider Nigeria's

⁵⁴ Ablassé Ouedrago : Les négociations sur les APE ne sont pas faites pour impulser l'intégration, Burkinapmepmi, 22 December 2010, <http://burkinapmepmi.com/spip.php?article2880>

⁵⁵ 'EPA best for Ghana in the absence of superior strategy', Ghana web, 22 November 2013, <http://www.ghanaweb.com/GhanaHomePage/business/artikel.php?ID=292831>

⁵⁶ Agritrade, 3 May 2012, <http://agritrade.cta.int/en/layout/set/print/Agriculture/Commodities/Bananas/Conclusion-of-EPA-process-seen-as-key-to-African-banana-exports>

⁵⁷ Agrobusiness : Apibana ou l'art du lobbying, Jeune Afrique, 14 May 2012, <http://www.jeuneafrique.com/Articles/Dossier/JA2678p128-129.xml2/agriculture-banane-exportation-europeagrobusiness-apibana-ou-l-art-du-lobbying.html>

fall back to GSP as a way of punishing the country for its refusal to sign the EPA in 2007 and called on the Nigerian Federal Government to urgently come to their rescue and protect the nascent sector from dying.⁵⁸ They have not asked Nigeria to sign the EPA. Instead, COPAN demands from the Nigerian government the removal of export subsidies and the imposition of export restrictions (taxes, bans) on cocoa beans.⁵⁹ Eurostat figures show that the EU's imports of defatted cocoa paste from Nigeria have actually increased in value as well as quantity terms despite the GSP tariff of 6.1% (0% under GSP+).

Sid'Ahmed Ould Abeid of the *Confédération Africaine des Organisations de Pêche Artisanale (COAPA)*, opined 'This agreement is important' but he advises that 'Mauritania should not sign an EPA at any price. The EPA must take account of domestic producers'. He also pointed out that there are two partners, one of which is very powerful. Mr Sid Ahmed pointed out that Mauritania experiences the effect of an unjust and unfair fishing agreement, and this reality should be reflected by negotiators.

Usually businesses mainly producing for the domestic market are against EPAs. For instance, in Ghana, the President of the **Ghana National Poultry Farmers Association**, Ken Quartey, has stated that the poultry industry in the EU benefits from huge subsidies, while the industry in Ghana does not, making competition with poultry products from the EU very difficult. The Association would have preferred the government to revisit the question of Generalized Systems Preferences Plus (GSP+), saying that the procedure for that facility was neither as forbidding nor cumbersome as it was made out to be. Furthermore, under GSP+, a lot of Ghana's exports would be covered and exporters would have duty free access to the European market.

In Nigeria, most business associations disapprove of the EPA. The Nigerian Association of Nigerian Traders (NANTS) organized a large gathering of representatives of government, private sector, civil societies as well as the National Assembly on 18 October 2013. At that meeting, the **Lagos and Abuja Chambers of Commerce, Manufactured Association Nigeria (MAN) and other representatives of traders and farmers organizations in Nigeria** all expressed concerns on the 75/25 market access offer. This is because it endangers Nigeria's local production and exports because the EPA liberalises tariff lines which Nigeria is not competitive in. These products include bottled water, agricultural products (including palm oil), vehicles, oil derivatives and chemical products including fertilizers, worked wood, paper products and light industrial products.⁶⁰

Participants noted that West Africa has been shifting position on market access and considered it proper for the EU to accept the West African market access offer as well as increase its proposed funding for the EPA Development Programme (EPADP).⁶¹ At the same time, they also noted that the economic depression currently rocking the EU makes it increasingly difficult for the EU to provide the necessary funds for mitigating the adjustment costs, including the loss of revenue on the part of the West African countries. Added to this is the cost of implementation of the EPA in addition to resources required for the capacity building of the private sector as envisaged in Art. 37.3 of the Cotonou Agreement.

⁵⁸ Osagie, C., Firms Fret Over Plot to Kill Cocoa Processing Industry, This Day, 14 January 2013, <http://allafrica.com/stories/201301140805.html>

⁵⁹ The Case for Cocoa Value Addition in Nigeria, This Day, 3 September 2013, <http://www.thisdaylive.com/articles/the-case-for-cocoa-value-addition-in-nigeria/157985/>

⁶⁰ Communiqué issued at the end of the "Consultation On The EPA: Challenges, Risks And Decision Time For Nigeria" organised by NANTS on the 18th Of October, 2013 At Nuggets Hotel, Utako, Abuja, <http://nants.org/communique-of-the-national-stakeholders-consultation-on-nigeria-and-the-epa/>

⁶¹ Communiqué issued at the end of the "Consultation On The EPA: Challenges, Risks And Decision Time For Nigeria" organised by NANTS on the 18th Of October, 2013 At Nuggets Hotel, Utako, Abuja, <http://nants.org/communique-of-the-national-stakeholders-consultation-on-nigeria-and-the-epa/>

Participants insisted that there is a need for a 'plan B' by Nigeria and West Africa. To this end, a study to ascertain the cost of not signing the EPA by the West African region was canvassed. Participants unanimously voted that Nigeria should undertake to bear the bulk of this cost in order to safeguard the regional integration process.⁶²

Some private sector representatives have pointed out that regional integration should be strengthened first prior to conclusion of a regional EPA. For instance, in 2012, the then Director-General of the **Nigerian Association of Chambers of Commerce, Industry, Mines and Agriculture (NACCIMA)**, the umbrella organisation for the Organized Private Sector (OPS) was of the view that one can only talk about the economic partnership agreement in one sub-region if there is a customs union with one external tariff and harmonized VAT levels.⁶³

Some business associations have argued that the EPA could, although detrimental in the short term, be beneficial in the long run. For instance, the **Lagos Chamber of Commerce** has said that the EPA could give incentives for the government to pursue domestic reforms that are beneficial for businesses which would less likely to occur without the external pressure induced by EPAs.⁶⁴

Most business associations in LDCs do not see the EPA as being beneficial. For instance, Mr Ould Abdel Lafdal Wedoud, General Secretary of the **Federation of Trade in Mauritania** said he was not convinced by the EPA and does not see how it could be beneficial to Mauritania. Other issues such as port charges for Nouakchott are more important than the EPA.

In Senegal, Mor Talla Kane, executive secretary of the **National Confederation of Employers of Senegal (CNES)** believes that the level of development of the two regions is different, the EU being one of the most competitive areas in the world. 'We wanted a minimum opening because we have a fragile industry. More openness makes it more difficult to withstand external shocks'. Hamidou Diop, Secretary General of the **National Council of Employers of Senegal (CNP)** said he agreed that the domestic private sector wants an EPA that supports productive private investment, allows for the creation of sustainable jobs and promotes socio-economic development in our region in West Africa, including Senegal, but that the level of market opening would jeopardize these goals. He notes that the West-African region had to make huge concessions by increasing its market access offer from 60% to 63.1% and then to 66.4%, and finally to 70% in terms of tariff lines and volume. At the same time, the position of the European Union has never changed, 'it has always been 80% - take it or leave it'. This also applies to the negotiation on transition periods where West Africa demands 25 years, and the EU continues to insist on 15 years. The Secretary General of CNP stated 'It must be said that today more than ever, our process of economic integration is threatened.' According to him, the new strategy of the negotiators of the European Union is to ask the Ivory Coast and Ghana to choose between consolidation of preferential access to the European market and preservation of the process of regional economic integration. Diop was not optimistic that regional solidarity would be preserved.⁶⁵

The **Conseil National du Patronat Burkinabè (CNPB)** said that West Africa has made much effort in the negotiations to reconcile positions with the EU. The Burkinabe private sector continues to maintain a lot of mistrust vis-à-vis the EPAs because it is unbalanced. Referring to Market Access Regulation 1528/2007, the CNPB believes that region should not give in to blackmail.

⁶² Ibid.

⁶³ Trading with the West detrimental to our economy - D-G, NACCIMA, The Nigerian Voice, 6 July 2012, <http://www.thenigerianvoice.com/nvnews/93968/1/trading-with-the-west-detrimental-to-our-economy-d.html>

⁶⁴ Author's interview with representatives of Lagos Chamber of Commerce and other Nigerian-based business associations

⁶⁵ Walfadjiri, Accords de Partenariat Economique: Les craintes du secteur privé, 20 August 2013, <http://www.walf-groupe.com/economie/11493-accords-de-partenariat-economique-les-craintes-du-secteur-prive>

The CNPB considers that the EPA is a trade agreement that would not bring more than what they already have today, and is likely to sacrifice the embryonic industrial fabric of the country. In their view, if the region would sign the unbalanced EPA, it would be the private sector paying the heaviest price because they would be called upon to offset decline in government income due to reduced tax revenues and elimination of tariffs. It will be the private sector that faces competition from European products. And in return, the agreement will not improve its presence in European markets.⁶⁶

Part of the private sector simply does not have strong opinion about EPAs, because they have little or no information and do not have the capacity to follow closely the EPA negotiations. At a Regional Private Sector Forum on the Economic Partnership Agreement held in Dakar on 12 and 13 December 2012, a plea was also made to sub-regional institutions (WAEMU, ECOWAS) to have greater involvement of employers' organizations in the process of EPA negotiations.⁶⁷ For many firms, their lack of awareness does not allow them to make an assessment of the impact of the EPA on their businesses.

The **Federation of West Africa Chambers of Commerce and Industry (FEWACCI)** is of the view that the West Africa EPA threatens the cohesion of the ECOWAS region by the continuous pressure put on the non-LCD countries, principally Ghana, Nigeria and Cote d'Ivoire to sign the EPAs individually. It also demands an agreement on the proposed EPA for Development Programme (EPADP) before the completion of the negotiations.⁶⁸

Overall, the private sector in West-Africa is not clamouring for the EPA in particular in LDCs. They do not see large short-term benefits of the EPA as it basically solidifies existing market access. Several representatives of business associations noted the need for investments but generally do not seem to believe that the EPA could deliver this.


⁶⁶ Interview with CNPB

⁶⁷ 'Forum du secteur privé régional sur l'accord de partenariat économique : les organisations patronales ouest africaines harmonisent leurs positions sur les négociations en cours', Conseil National du Patronat Burkinabe, <http://www.patronat.bf/index.php/component/content/article/1-les-pages-du-site/100-forum-du-secteur-prive-regional-sur-lape-les-organisations-patronales-ouest-africaines-harmonisent-leurs-positions-sur-les-negociations-en-cours.html>

⁶⁸ 'Private sector views on EPAs', East African Business Council, 17-18 may 2013, http://ti.au.int/en/sites/default/files/May%2017%2018%202012%20Private%20Sector%20Views%20on%20EPAs%20F_0.pdf

4. CENTRAL AFRICA EPA

4.1 Basic characteristics of the region

	<p><u>Countries in the Central Africa EPA configuration:</u> The six Member countries of the Economic and Monetary Community of Central Africa (usually referred to as CEMAC, its French acronym) - Gabon, Cameroon, the Central African Republic (CAR), Chad, the Republic of the Congo and Equatorial Guinea as well as Democratic Republic of Congo and Sao Tome and Principe. All of them are also Member of the Economic Community of Central African States (ECCAS).</p> <p><u>Regional negotiator for Central Africa EPA configuration:</u> CEMAC commission based in Bangui, Central African Republic together with the ECCAS Commission, based in Libreville, Gabon.</p>	
Country in Central Africa EPA configuration	Current EU preferential trade regime(s)	Development status
Cameroon	GSP and Market Access Regulation 1528/2007	Lower middle income
Congo (Brazzaville)	GSP	Lower middle income
Gabon	None (MFN)	Upper middle income
Central African Republic, Chad, Democratic Republic of Congo (Kinshasa), Equatorial Guinea ⁶⁹ , Sao Tome and Principe	EBA	LDC

© European Commission (map)

4.2 State of Play

Cameroon signed an interim Economic Partnership Agreement with the EU in 2009. Negotiations are expected to continue for the conclusion of an EPA with the whole of the central African region. On 12 November 2013, Emmanuel Djoumessi Nganou, Cameroon's **Minister of Economy, Planning and Regional Integration (MINEPAT)**, announced the intention of Cameroon to ratify the interim EPA.

All other countries did not sign an EPA. Congo currently trade with the EU under the EU's Generalised Scheme of Preferences scheme (GSP). Gabon trades on MFN basis. As an upper-middle income country (according to the World Bank classification), Gabon has not been eligible for the new Generalized System of Preferences scheme as of 1 January 2014.

There are many points of divergence in the Central Africa EPA negotiations: market access, full compensation for loss of revenue, EPA accompanying and financial measures, free movement of Central African nationals within the EU, safeguard measures, the MFN clause, agricultural subsidies, export taxes, non-execution clause, community levies to fund CEMAC and ECCAS Commissions (these are additional charges on imports that are prohibited by the EPA).⁷⁰

With respect to the degree of openness, the position of Central Africa was 60% as opposed to the EU position of 80% over 15 years. As of August 2013, Central African negotiators had increased their offer

⁶⁹ Equatorial Guinea was identified for graduation by United Nations in 2006 because its Gross National Income (GNI) per capita reached twice the graduation threshold set for GNI per capita. Countries normally need to meet the graduation thresholds set for all 3 criteria for applying to LDCs - GNI per capita: Human assets index and Economic vulnerability index.

⁷⁰ Update on EPA negotiations in Central Africa, joint note by CEMAC and ECCAS, October 2013

to 3,816 tariff lines, representing a market opening of 73% with a tariff dismantling period of 20 years including a transition period of 5 years. Both parties agreed on the need for further work to determine and assess the net fiscal impact of EPAs. Rules of origin remain problematic including verification of origin, cumulation with countries that do not have an EPA, and rules of origin for fisheries products.

4.3 Summary of stakeholders views

Of the non-LDCs in the Central African EPA, Cameroon is the only country that has stated its intention to ratify the EPA, despite the tariff revenue losses that might be associated with it. It is commonly known that Cameroon's interest is driven by its wish to protect its banana preferences in the EU market. Nevertheless, even within the Cameroon government, there are divergent views.

Other governments, including the other non-LDCs, Gabon and Congo, have not shown the same level of interest in signing the EPA in the near future, focusing more on domestic, political and regional issues.

The civil society in Cameroon has argued that the population had not been informed about the EPA. They also fear that Cameroon's ratification of the EPA would be negative for Central African regional integration. Parliamentarians have said that they have no influence to change decisions taken by the higher political authority.

The private sector has not been outspoken on the issue, except for the banana sector which is reliant on the EU market (represented by APIBANA, see also Section 3.8 above). The domestic private sector in Central Africa is relatively underdeveloped and is not well organised. It is mainly involved in the extraction of raw materials and in agriculture-based sectors, usually focused on supplying the local or regional market. The general sense is that the EPA is not the answer to the challenges facing the Central African private sector.

4.4 ECCAS Commission

According to Carlos Bonfim, director of macroeconomic policies, trade and industry, in the capacity of the Representative of the **Secretary-General of ECCAS**, 'in their current form, the EPA poses a threat to the process of regional integration in Africa' (August 2013). He also noted 'the current state of EPA negotiations was further complicated by the threat of Regulation 1528/2007 which weighs on some African countries'. Furthermore, 'The persistence of the European Union to distinguish between middle-income countries and least developed countries treating them differently, and not taking into account the principle of asymmetry, are not likely to facilitate negotiations'.⁷¹

4.5 Governments

It is commonly known that Cameroon's interest is driven by its wish to protect its banana preferences in the EU market. Nevertheless, even within the Cameroon government, there are divergent views.

Mme Chantal Elombat, director of regional integration of the **Ministry of Economy, Planning and Regional Integration (MINEPAT)** and president of the **National Committee for Monitoring and Coordination of EPAs** in Cameroon which was established by the prime minister in 2003⁷², said that free trade is not a miracle for development and improvement of standards of living. The EPAs, if well

⁷¹ Accord de partenariat économique: L'Afrique centrale demande à l'Union européenne d'attendre encore, La Nouvelle Expression, 20 August 2013, <http://www.lanouvelleexpression.info/index.php/home/2013-05-16-08-46-27/item/1492-accord-de-partenariat-economique-l-afrique-centrale-demande-a-l-union-europeenne-d-attendre-encore>

⁷² French acronym of the Committee is CNSCN APE Cameroun. See this Yahoo Group: <http://fr.groups.yahoo.com/neo/groups/CNSCN-APECameroun/info?tab=s>

negotiated, could be drivers of development, the fight against poverty, and integration into the world economy. Nonetheless, GSP is an option and the choice between GSP and EPAs really depends on the content of these schemes and the extent to which the EU takes into account the concerns of Central African countries regarding the development dimension, rules of origin, sanitary and phytosanitary measures, technical barriers to trade, as well as adequate funding of adjustment mechanisms.

Mme Elombat has warned that the EPA could lead to dramatic economic consequences compared to the simple application of the GSP. Tax losses arising from its implementation would be 5-8 times greater than the use of GSP. At present, the EPA does not include a development component and could jeopardize the dynamics of regional integration. Finally, she concluded that the final decision is political, and noted that whatever alternative is chosen (GSP or EPA); the debate on the diversification of Cameroonian trading partners is worth pursuing.⁷³

President Paul Biya announced in July 2013 that Cameroon would soon begin the ratification process. On 12 November 2013, Emmanuel Djoumessi Nganou, **Minister of Economy, Planning and Regional Integration (MINEPAT)**, announced the intention of Cameroon to ratify the interim EPA, after a visit by EU Trade Commissioner de Gucht.⁷⁴

In 2008, the **trade minister of the Central African Republic**, Ms Rosalie Koudounguéré Mologbama, declared that further negotiations should continue with European partners, hoping that it 'contributes to socio-economic recovery of the Central African Republic'.⁷⁵

Equatorial Guinea has chosen not to be part of the regional EPA negotiations and has decided to become an observer. **Gabon** likewise has meanwhile refused to be part of the negotiations, citing that while it faces annual losses of over 45 billion CFA in plywood exports to the European market, the losses in case of signing an EPA are considered three or four times larger.⁷⁶

4.6 Parliamentarians

Alexis Ndema Same, President of the **Union of the Populations of Cameroon** (UPC, *Union des Populations du Cameroun*) does not like the fact that his government signed an EPA with EU. He has said that currently Cameroonians face unfair competition against European companies and the EPA would worsen the situation.⁷⁷

Emmanuel Bamni, member of the **Cameroon People's Democratic Movement (CPDM, *Rassemblement démocratique du Peuple Camerounais*)** for Balikumbat, in the North West Region, has said that the EPA will not be beneficial to Cameroonians and that Cameroon does not have the economic capacity to compete with Europe. Nonetheless, he suggested that the decision to sign it

⁷³ Defis des Negotiations des APE pour le Cameroun (Challenges of the EPA negotiations for Cameroon), presentation by Mme Chantal Elombat Mbedey, 7 May 2013, Douala, http://www.legicam.org/index.php?option=com_docman&task=doc_download&gid=646&Itemid=76

⁷⁴ Fuhnwi, J., EU Pressurizes Gov't To Ratify Economic Partnership Agreement, Cameroon Web News, 18 November 2013, <http://cameroonwebnews.com/2013/11/18/featured/eu-pressurizes-govt-to-ratify-economic-partnership-agreement/>

⁷⁵ Clôture de l'Atelier sur l'Accord de partenariat économique entre l'Union européenne et la République Centrafricaine, Agence Centrafrique Press, 25 January 2008, http://www.acap-cf.info/Centrafrigue-economie-Cloture-de-l-Atelier-sur-l-Accord-de-partenariat-economique-entre-l-Union-europeenne-et-la_a925.html

⁷⁶ L'Accord de partenariat économique en voie d'être ratifié par le Cameroun, Journal du Cameroun, 19 November 2013, <http://www.journalducameroun.com/article.php?aid=15832>

⁷⁷ Message de Nouvel an de l'Union des Populations du Cameroun, Journal du Cameroun, 2 January 2014, <http://www.journalducameroun.com/article.php?aid=16223>

might have been taken already at the top, implying that he could not influence this decision. (CDPM is the political party of the president).⁷⁸

The **Cameroonian Prime Minister** Philémon Yang and Djibril Cavaye Yéguié, president of the **National Assembly of Cameroon** since 1992 and leading member of the Cameroon People's Democratic Movement (CPDM) is reported to have extolled the benefits of the EPA.⁷⁹

4.7 Civil society

In Cameroon, the move to ratify the EPA has been strongly condemned by CSOs which argued that the population had not been informed about the agreement.

The **Citizens Association for the Defence of Collective Interests** (*Association Citoyenne de Défense d'Intérêts Collectifs*, ACDIC), one of the major CSOs based in Yaounde, accuses President Biya of betraying Cameroonians by accepting to sign the EPA with the European Union, which they say will permit countries of the EU to export products to Cameroon tax free. ACDIC is against ratification of the EPA.⁸⁰

Raymond Ebale, a **university lecturer** in Yaoundé, was quoted as saying 'Other sub-regional countries have not yet signed this agreement, yet this was meant to be a regional agreement. Cameroon is insisting on going ahead to sign the agreement and questions still linger as to what will happen to the country's relations with its neighbours after the ratification of EPAs with EU.' Ebale insists that the talks have not taken into account Cameroon's development needs, something that is a matter of concern for both civil society and the government. 'Cameroon had raised concerns over possible reductions in customs revenue, something that was not well responded to by the EU. But to our surprise, Cameroon is still insisting on going ahead to sign the EPAs,' Ebale lamented.⁸¹

Another report published on 31 July 2013, by Repère, a French language weekly, says that **Groupeement inter-patronal du Cameroun (GICAM)**, organised a debate in May 2013, which proved that the private sector, the civil society and even the government was against the ratification of the EPA.⁸² The GICAM is an association made up of companies, unions and professional groups. GICAM has about 300 members including 15 professional associations and unions.

Most CSOs seem to realize that they cannot change or influence decisions taken at the higher political level and, given this practical reality, urge the government to do everything to counter possible negative impacts. This mood seems to be reflected in an end-of-year reflection in the newspaper *Mutations*, which is at times more critical of the government than the government newspaper (Cameroon Tribune). In December 2013, it wrote that, 'In terms of economic cooperation with EU, Cameroonian people expect the President to act upon the problem of EPAs. Probably he will discuss the

⁷⁸ Anger rages as Biya wants to unilaterally sign the EPA, Cameroon Journal, 13 August 2013

⁷⁹ Accord APE: L'UE (France) dit "accompagner" le Cameroun, le vrai mot c'est retarder, 18 Novembre 2013, <http://cameroonwebnews.com/2013/11/18/featured/accord-ape-lue-france-dit-accompagner-le-cameroun-le-vrai-mot-cest-retarder/>

⁸⁰ Anger rages as Biya wants to unilaterally sign the EPA, Cameroon Journal, 13 August 2013, <http://cameroonjournal.com/anger%20rages.html>

⁸¹ Cameroon to ratify economic partnership deal with EU amid doubts, 19 November 2013, Xinhua, http://news.xinhuanet.com/english/world/2013-11/19/c_125722518.htm

⁸² Anger rages as Biya wants to unilaterally sign the EPA, Cameroon Journal, 13 August 2013, <http://cameroonjournal.com/anger%20rages.html>

steps to be taken by the government to ensure that opening borders would become less harmful to our SMEs facing European giants.⁸³

4.8 Private sector


The domestic private sector in Central Africa is relatively underdeveloped, based on the extraction of raw material or agriculture-based and usually focused on supplying the local or regional market. According to Kolyang Palebe, leader of the **Chadian national farmers' association**, the 'very existence of the African peasantry is threatened'. He has expressed his fears on the risks that EPAs weigh upon food sovereignty in Africa. 'There is a confusion in defining priorities', he explains, 'What Africa needs, is support from the EU in setting up national infrastructure that supports agriculture, organisation of sub-regional markets and financing systems adapted to the agriculture such as agricultural banking and agri-business schemes. Meanwhile, it would help to bring agricultural producers on board at all the stages of the process.'⁸⁴

⁸³ Discours de fin d'année: Les sujets sur lesquels les camerounais attendent Paul Biya, Mutations, 29 December 2013, <http://www.237online.com/article-35840-cameroun--discours-de-fin-d-annee-les-sujets-sur-lesquels-les-camerounais-attendent-paul-biya--cameroon.html>

⁸⁴ African farmers on trade and Agriculture, Afrique-Europe-Interact, http://afrique-europe-interact.net/index.php?article_id=212&clang=1. See also <http://www.oxfamfrance.org/Des-voix-africaines-contre-les-534>

5. EAST AFRICAN COMMUNITY (EAC) EPA

5.1 Basic characteristics of the region

 <p><u>Countries in the EAC EPA configuration:</u> Members of the East African Community – Burundi, Kenya, Rwanda, Tanzania and Uganda</p> <p><u>Regional co-ordinator for EAC EPA configuration:</u> EAC Secretariat based in Arusha, Tanzania</p>		
Country in EAC EPA configuration	Current EU preferential trade regime(s)	Development status
Kenya	GSP and Market Access Regulation 1528/2007	Lower middle income
Burundi, Kenya, Rwanda, Tanzania and Uganda	EBA and Market Access Regulation 1528/2007	LDC

© European Commission (map)

5.2 State of Play

The EAC EPA covers the five EAC member states - Kenya (non-LDC) and 4 LDCs - Burundi, , Rwanda, Tanzania and Uganda. The EAC Secretariat coordinates for the EAC States. All five countries initialled a framework EPA (mainly dealing with trade in goods) on 28 November 2007, and are now negotiating a comprehensive regional EPA. The framework agreement has not been signed or ratified.

In the EAC configuration, the keenest country to sign the EPA is Kenya since it is the only nation in the EAC region that is not a Least Developed Country. Tanzania remains the least interested. As an LDC it does not stand to gain any more market access over and above the EBA and it is not enthused about eliminating tariffs for EU products that would compete with its domestic industries.

The sticking points in the EAC negotiations are the (i) Chapter on Economic and Development Cooperation, (ii) agriculture, in particular the treatment of EU agricultural subsidies, (iii) rules of origin, (iv) MFN clause and (v) dispute settlement and institutional provisions and (vii) non-execution clause.

The EU and EAC have agreed to negotiate services and trade-related issues (competition, investment and private sector development, trade, environment and sustainable development, intellectual property rights, transparency in public procurement) at a later stage.⁸⁵ EAC negotiators have refused to include a newly EU proposed text on governance in tax.

Following technical and Senior Officials meetings on 28 and 29 January 2014, a Ministerial meeting took place in Brussels on 30 January 2014 to provide guidance to negotiators. Ministers referred outstanding issues back to Senior Officials level ahead of a further Ministerial. The next meetings at technical and Senior Official level will take place in March 2014.

⁸⁵ Status of the EAC-EU EPA negotiations, May 2013, Briefing paper from EAC Secretariat, presented to ACP trade ministers in October 2013

5.3 Summary of stakeholders views

Ahead of the 1 October 2014 deadline, Kenya, as the only non-LDC in the EAC configuration is under the most pressure to sign the EPA. In Kenya, it is the flower industry that has been pushing for the EPA in order to maintain their preferences to the EU market. Nevertheless, there are also strong voices in Kenya, including from within the government, warning that the overall costs of an EPA would far outweigh the benefits to the flower sector.

Of the other LDCs in the EAC region, the Ugandan EPA negotiators have been the keenest on concluding the EPA, with Tanzania being the most cautious. Tanzania has raised concerns about the EPA market access offer, the impact on employment, productive capacities as well as the tariff revenue losses. It has also stressed the need to wait until the EU-Africa Summit scheduled for April 2014 for any eventual political agreement concerning the EPAs.

Government representatives in the EAC negotiating at the WTO have raised questions about whether the EPAs are compatible with the World Trade Organization (WTO) – considering for example that the WTO's Doha Round recognises the importance of tariffs for LDCs and thus LDCs have not been required to take on any tariff cuts in agriculture or industrial products in the Doha Round. Even Kenya is recognised as a small and vulnerable economy and enjoy flexibilities in the Doha Round negotiations. The EPAs would render the flexibilities and efforts of LDCs and Kenya at the WTO void.

The private sector in the EAC is divided on the market access offer. Those in the East African Business Council (EABC) consider that the product exclusions are adequate. On the other hand, small scale farmers are strongly opposed to the tariff concessions that would be made effective under the EPA.

Across the board, the private sector would like to see domestic supports and export subsidies offered by EU to its agricultural sector disciplined by the EPA, because they distort the market and lead to dumping. However, the EU has insisted that this issue can only be addressed at the WTO. (The reality is that these issues are not being effectively addressed at the WTO). Private sector also posits that the customs union clause (implying commencing FTA negotiations also with Turkey) should not be included in the EPA. The EPA should extend assistance to the establishment of capacities in the area of food safety and SPS compliance. According to the private sector, Rules of Origin should be simple, flexible and asymmetrical. Most of the issues raised by the private sector are also brought forward by EAC governments in the EPA negotiations.

All the various stakeholders want the EAC member states to maintain the flexibility to levy export taxes, which is an important tool for industrialisation. In EACB's view, EAC states should be allowed to impose export taxes for industrialization purposes, and only be required to notify the European Commission. Currently, the EPA text allows new export taxes only when the European Commission gives its consent.

The EPA negotiations have been extensively debated in the East African Legislative Assembly (EALA) as well as Kenya's National Assembly, after a motion tabled by Dr. Laboso, who co-chaired the ACP-EU Joint Parliamentary Assembly until November 2013. The Kenyan parliament has resolved that the government does not sign the Economic Partnership Agreements in their current form until all outstanding issues especially the Most Favoured Nation, Export Taxes and Development clauses are conclusively addressed.

Furthermore, civil society and private sector have lamented the lack of transparency in the EPA negotiations; the Kenya High Court demanded from the government more openness in the negotiations.

The East African Legislative Assembly (EALA) has proposed an alternative to EPA, requesting the EU to extend EBA treatment to Kenya, in line with the African Union's trade preferences proposal adopted by African Trade Ministers in 2011. Other stakeholders, such as Kenya Human Right Commission and some officials in EAC LDC member states have suggested that GSP+ or an enhanced GSP mechanism would be better than the EPA.

Lastly, all the stakeholders generally agree that the EU should not have unilaterally set a deadline with respect to MAR 1528/2007 but should allow for the negotiations to continue until all contentious issues are resolved.

5.4 Governments

In 2012, at a forum organized by CUTS⁸⁶, WTO delegates of EAC member countries stressed the urgent need for harmonising the positions of EAC in WTO and EPA negotiations, to ensure, among others, that concessions obtained in the multilateral forum are not whittled away elsewhere.

According to them, the lack of policy coherence, harmonisation and coordination has led EPA negotiators to consider 82.6% trade opening which is more than the currently proposed at the WTO (0% for LDCs) and would result in the loss of hard-earned policy space. Even Kenya is recognised as a small and vulnerable economy and enjoy flexibilities in the Doha Round negotiations. The EPAs would render the flexibilities and efforts of LDCs and Kenya at the WTO void. The EAC Geneva envoys pointed out that some other countries such as Moldova and Syria which are economically better off than some of the EAC countries were able to obtain DFQF market access to the EC without opening their markets.

Besides the extent of liberalisation and the lack of coordination between Geneva, Brussels and capitals, delegates were worried both about the substance and potential benefits of the EPA and the seemingly protectionist provisions by the EU. For instance, it has been argued that the horticultural sector would draw tremendous benefits if the EPA is concluded. This argument, however, overlooks the fact that this will be at the expense of other sectors which might have a greater degree of importance in the overall economy. According to the EAC delegates, this sector can hardly compensate, for instance, for the loss of greater employment, industrial development, and business creation opportunities in some of the other sectors. They indicated a need for more in-depth research to validate some of the arguments presented for conclusion of the EPAs.

Further, provisions such as Rules of Origin (RoO) would complicate the EAC ability to utilise the Duty Free Quota Free (DFQF) market access offered. In addition the EU now proposes future negotiations on labour and environmental issues that would further curtail the EAC's policy space, given the region's level of development. Technical assistance and other developmental measures are still missing despite the stated development objectives of the agreement.⁸⁷

5.4.1 Kenya

A press report in June 2013 quoted **Deputy President William Ruto** as saying that Kenya's government would 'do all within its responsibility to ensure the EPAs was signed within the period to guarantee tax-free treatment of Kenyan goods in European Union countries.'⁸⁸

⁸⁶ CUTS International - Consumer Unity & Trust Society, a non-governmental organisation pursuing social justice and economic equity

⁸⁷ Report of the 3rd EAC Geneva Forum Meeting, CUTS International Geneva, 30 April 2012, <http://www.cuts-geneva.org/pacteac/images/Documents/EAC%20Forum/Forum3/120430-3rd%20EAC%20Geneva%20Forum-report.pdf>.

⁸⁸ Jaramogi, P., Kenya's move to sign EPAs worries EAC states, New Vision Uganda, 1 June 2013, <http://www.newvision.co.ug/news/643459-kenya-s-move-to-sign-epas-worries-eac-states.html> 1 June 2013

In July 2013, **Dr. Eng. Karanja Kibicho, the Principal Secretary in the Ministry of Foreign Affairs and International Trade**, subsequent to a motion tabled in Parliament urged the Government not to sign the EPAs. He was concerned about the alleged 'skewed trade in favour of the EU Countries and that small scale growers would be adversely affected'.⁸⁹

In December 2013, the **Council of Governors**, a body that brings together the 47 county governors in Kenya, expressed concern over the central government's failure to sign the EPA with the EU. With the deadline approaching, the council warned that jobs and investments worth billions of shillings were at stake following the ongoing impasse. The governors were told in a meeting organized by Kenya Flower Council (KFC) that more than 500,000 jobs were at stake while flower farmers could face a new tax of between 8 and 12 per cent in the EU market should the deadlock persist. Addressing the press in December 2013, Bomet's Governor Isaac Rutto, also chairman of the council, said they were ready to lobby government ministries so that an agreement could be signed by the end of 2013. 'Our market share in the EU market stands at 40 per cent and we stand to lose unless the EPA is signed before the end of this year,' said Rutto. Nyeri Governor Nderitu Gachagua said the horticulture sector is crucial to the economy, contributing nine per cent to the GDP and employs more than 90,000 people. 'This could have devastating effects on counties dealing with floriculture farming' said the governor.⁹⁰ He said the ongoing reforms in devolved governments had destabilised the sector, adding that there was need to involve stakeholders in setting regulations at county level.

5.4.2 LDC EAC Member states

Trade officials from Tanzania have expressed concerns about the market access offer being 82.6% of trade.⁹¹ According to internal briefing papers, Tanzania's tariff revenue loss at the end of the implementation period would be USD 760.2 million, higher than Kenya's tariff revenue loss. This is because Tanzania's imports from the EU are estimated to grow faster than Kenya's imports from EU (see table 1 below).

According to Tanzania's internal briefing papers, the entire EAC will face revenue losses of USD161.5 million a year (based on 2010 – 2012 trade figures). Furthermore since flowers are duty free under GSP+, Kenya will not face significant duties if it does not sign/implement an EPA if Kenya manages to qualify for GSP+. Currently, Kenya, in contrast to the other 4 EAC Member states, is not a party to two of the required 27 conventions that have to be implemented to qualify for GSP+: ILO Convention 87 concerning trade unions as well as the Genocide Convention.

⁸⁹ East Africa close to a trade agreement with Europe, Kenya Flower Council, 19 July 2013, <http://www.kenyaflowercouncil.org/blog/?p=4827>

⁹⁰ Renew trade pact with European Union, State told, Standard Media Digital, 5 December 2013, <http://www.standardmedia.co.ke/?articleID=2000099425>

⁹¹ Interviews with officials of Tanzanian Ministry of Industry & Trade

Table 1 -Tariff Revenue Losses of EAC Member States

Region	Country	<u>Column 3</u> Tariff Revenue Loss per year at the end of the EPA implementation period, based on imports during 2010-2012 (USD million)	<u>Column 4</u> Tariff Revenue Loss per year at the end of the EPA implementation period, projecting historical import growth (of products from EU) during the period 2001-2012 into the future (USD million)	Compound Import growth between 2001 and 2012
East Africa Community (EAC)	Kenya	74.2	596.2	9.1%
	Tanzania	46.4	760.2	12.4%
	Uganda	29.0	482.8	12.4%
	Rwanda	7.7	195.9	14.4%
	Burundi	4.2	19.4	6.5%

Source: Tanzania internal briefing papers

Speaking at the Inter Action Council (IAC), former **President Benjamin Mkapa of Tanzania** said at its 31st Annual Plenary Meeting in May 2013 that the EU's proposals in the EPA negotiations insisting on the removal of import tariffs and export taxes seriously impede the development path of African countries, leading to de-industrialisation, stopping the value addition on their primary goods exports and denying government revenue for effective governance.

He pointed out that the EU's EPA proposals put locally produced products at risk – 51.3% of locally produced products in EAC countries, 54.1% in ECOWAS countries and 80.5% in SADC countries. Weighing gains against costs of signing the EPAs for Sub-Saharan (SSA) countries, Mkapa said that SSA would gain annually USD 946 million against costs of USD 3,385 million.⁹²

The Tanzanian Ambassador to the EU, Dr Diodorus Kamala said it was decided that African regions negotiating Economic Partnership Agreements (EPAs) with the European Union (EU) should hold out signing the EPAs until the Africa-EU summit slated for April 2014 has taken place.⁹³ 'The EPAs should be included in the agenda of the Africa-EU Summit scheduled to be held in April 2014. It was also agreed that the African Union Commission and EPA negotiating regions will have to prepare a joint matrix of challenging issues in the EPA negotiations with possible solutions,' he said in a statement after having attended an African Union organized meeting.⁹⁴

In February 2013, Emmanuel Mutahunga the Senior Principle Commercial Officer and one of the lead technical negotiators in **Uganda's Ministry of Trade Industry and Commerce** considered that negotiations were moving towards a right direction. 'Negotiations are about give and take. The starting point is to know where you are going and what you intended to get out of it all,' said Mutahunga. He

⁹² EU, Africa economic partnership agreements imbalanced-Mkapa, Daily News Tanzania, 13 May 2013, <http://www.dailynews.co.tz/index.php/local-news/17355-eu-africa-economic-partnership-agreements-imbalanced-mkapa>

⁹³ EAC for Diplomatic Engagement With EU, Tanzania Daily News, 9 September 2013, <http://allafrica.com/stories/201309090046.html?viewall=1>

⁹⁴ Jaramogi, P., Uganda moving to sign EPAs, New Vision, 24 February 2013, <http://www.newvision.co.ug/news/640103-uganda-moving-to-sign-epas.html>

noted that though the negotiations were like swimming in troubled waters, 'Uganda has to find a right balance to remain afloat or sink.' Mutahunga also said, 'If we don't make a decision we shall spear the tail and be left with nothing. Let's go by what we want and leave what we don't want. Where there is no consensus we shall take the extreme end.'⁹⁵

Ambassador Nathan Irumba, a well-known WTO negotiator and former Ugandan envoy to Geneva warned against rushing into signing EPAs. 'It is only 15 countries from the Caribbean under the CARIFORUM who have signed the full EPAs but just three years down the road there is nothing achievable on ground,' he said. He said the EPA implementation is a problem for many states. 'By mid-2011 only 5 of the 15 states that signed had set up the implementation units and there is nothing to show in terms of export and beneficial gains,' he said.

5.5 Parliamentarians

5.5.1 East African Legislative Assembly (EALA)

In 2010, Catherine Kimura the then president of the Commerce Committee of the **East African Legislative Assembly (EALA)** pointed to the disastrous consequences of EPA 'that compete directly with the regional integration process underway' which is 'the key to development in Africa.'

According to Hon. Kimura, the conditions outlined by the EPAs are unduly constricting compared to those recently negotiated at the WTO for developing countries. 'We refuse to endorse at bilateral level that which has not been tabled at the multilateral level of the WTO'

She also argued that EPAs shall lead to direct loss of revenue for the countries involved. Export and import taxes represent an important revenue source for government budgets in Africa, at times up to 50 per cent. Their decrease therefore reduces available expenditure for public and social service sectors including health, education and puts in peril the sustainability of expenditures within the public service and social sectors.⁹⁶

In May 2012, the **EALA** adopted a resolution on EPAs. EALA's concerns with respect to the EPA included, among others, the high level of liberalization EU is asking of the EAC, the inability to introduce new export taxes, the impact of the MFN clause on the ability to have South-South cooperation and other trade agreements, the Development Chapter where Europe refuses to take on binding and additional commitments, the Chapter on labour and environment that could oblige EAC countries to sign and implement more than a dozen additional international treaties which includes a dispute settlement to enforce these commitments, the agricultural chapter where the EU continues to refuse addressing their yearly 80+ billion Euro domestic support even as they want the EAC to develop commercial agricultural markets in the region.⁹⁷ The EU has refused to tackle domestic support in the EPAs, stating that the WTO is the appropriate forum for that.

The EALA resolution noted that whilst the EAC region wants to have continued access to the EU market, and this access can support the region's development, EAC suffers from chronic supply-side constraints and challenges. Access to the EU would not therefore be equivalent to the region's automatic entry to that market.

⁹⁵ Jaramogi, P., Uganda moving to sign EPAs, New Vision, 24 February 2013, <http://www.newvision.co.ug/news/640103-uganda-moving-to-sign-epas.html>

⁹⁶ African Farmers on Trade and Agriculture, http://afrique-europe-interact.net/index.php?article_id=212&clang=1

⁹⁷ Resolution of the East African Legislative Assembly on EPAs, done at Arusha on the 22nd day of May 2012, http://www.eala.org/key-documents/doc_download/292-resolution-urging-the-european-union-to-conclude-the-eap-negotiations-.html

The parliamentarians also pointed out that the losses of signing the EPA outweigh the gains. Tariff revenue losses would amount to approximately USD 301 million yearly (although this is an underestimation as imports are increasing) of which Kenya's tariff revenue loss would be about USD 193.8 million a year. In addition to tariff revenue losses, there will also be other losses in terms of future industrial development, current local production and food security risk. On the other hand, the 'benefit' of the EPA – duty avoidance amounts to 43 million Euros a years, according to European Commission figures. Exports from LDCs in the EAC will not incur additional duties without the EPA.

The EALA resolution listed a number of sectors where there is at present substantial trade that would be negatively impacted due to EPA liberalization (see box 4 below).

Box 4 - EAC Products at risk due to EPA

- Processed oil products – petroleum distillates, aviation spirit.
- Chemical products for agriculture – urea, fertilizer, fungicides, rodenticides.
- Commodity chemicals – diammonium phosphate, ammonium sulphate, silicates of sodium, carbon dioxide, polyethers.
- Intermediate industrial products – bars and rods, parts of boring or sinking
- Machinery, articles for conveyance or packing of goods (of plastic), insulated winding wire, co-axial cable and other co-axial electric conductors, angles, shapes and sections, tubes and pipes, hot rolled iron and steel, boards and panels.
- Medicines, vaccines, antibiotics.
- Vehicle industry – Trailers and semi-trailers, wheel tractors.
- Agricultural products – maize starch, seeds for sowing, barley.
- Books, brochures, leaflets and similar printed matter.
- Final industrial products – liquid dielectric transformers.

Source: EALA resolution on EPAs, May 2012

They noted the commitment in the Cotonou Agreement taken by the EU and ACP countries to support regional integration. In this context, the AU's 'Proposal for a Common and Enhanced Trade Preference System for Least Developed Countries (LDCs) and Low Income Countries (LICs)' adopted by AU Trade Ministers in Accra in 2011 supports regional integration and provides a timely and credible alternative to EPAs. It suggests a very marginal improvement to the already existing preferences the EU provides to all LDCs, calling for the EBA to be extended also to LDC regions. The EAC, where 4 out of 5 countries are LDCs, is thus an LDC region. The EBA should therefore be extended to Kenya. Kenya is not materially that different from the LDCs in the region. It was found to be a 'borderline' case – it could have become an LDC when the UN's Committee for Development Policy made its assessment in 1991. If it had joined the LDC category then, it would not yet have graduated.'

In conclusion, the EALA requested the EAC Council of Ministers to engage further with the EU to address the pertinent concerns raised in their resolution on EPAs (the 2012 resolution as well the 2010 'Resolution of the Assembly urging the EAC Partner States to halt the signing of the EU-EAC EPAs until

revisions are made to the framework').⁹⁸ Most importantly, they propose the 'alternative solution that Africa has already put forward - the EBA which should be extended to the LDC regions.'

They also urged the EAC ministers to lobby against the amendment to the Market Access Regulation (EC) 1528/2007 which threatens to lock some countries out of European market, while many technical issues are still outstanding. Negotiations are to be concluded only after the full and formal resolution of the contentious issues.

In December 2012, **EALA's Committee on Communications, Trade and Investment** held a consultative workshop together with civil society and the private sector. They recommended that EAC Partner States continue as a bloc to negotiate and conclude the EPA. The EPA should maintain the need to have policy space/flexibility on issues of export taxes and the Most Favoured Nation (MFN) clause to allow value addition and industrial development, and should deepen the regional integration process. Furthermore, the EU should support EAC to develop infrastructure such as energy, roads and railways so as to address the region's supply side constraints and create trade predictability and sustainability.

The Committee also recommended that the EAC should insist that the EU maintains the Regulation 1528/2007 until full EPAs have been signed and implemented.⁹⁹

5.5.2 Kenya's National Assembly

In July 2013, deputy Speaker Joyce Laboso introduced a motion in the **Kenya's National Assembly (House of Parliament)** to abandon the EPA. Dr. Laboso, who co-chaired the ACP-EU Joint Parliamentary Assembly until November 2013, stated that 'the rejection of EPAs in their current form is informed by the potential harm on the Kenyan economy'. 'Nowhere will the dangers of an all-out liberalisation of trade with EU be felt more than in the dominant agricultural and the nascent manufacturing sector.' The motion was seconded by Ugenya's MP David Ochieng, who called upon the EAC to restart the negotiations with European Commission (EC) on new and favourable terms to the region.¹⁰⁰ The motion adopted by Kenya's National Assembly is presented in Box 5 below.

The MPs said EAC should only grant unfettered access to EU products only if European countries agree to compensate them for customs revenue losses and pay adjustment costs to local firms. "The standards set by EU for access to its market is so high implying investment that only a few firms can afford," said Kabete's MP George Muchai, adding EPAs would end up denying many Kenyans job opportunities."¹⁰¹

⁹⁸ Resolution of the Assembly urging the EAC Partner States to halt the signing of the EU-EAC EPAs until revisions are made to the framework, Done at Mombasa on the 3rd day of June 2010, http://www.eac.int/index.php?option=com_docman&task=doc_download&gid=451&Itemid=189

⁹⁹ Final Report of the Committee on Communications, Trade and investments on the Consultative workshop between EALA, civil society and the private sector on the Economic Partnership Agreements (EPAs), 9-11 December 2012, http://www.eala.org/key-documents/doc_download/339-workshop-between-eala-civil-society-a-the-private-sector-on-economic-partnership-agreements-epas.html

¹⁰⁰ Kenya National Assembly Official Report, Wednesday, 3rd July, 2013, Parliamentary Debates, http://www.parliament.go.ke/plone/national-assembly/business/hansard/wednesday-3rd-july-2013-morning/at_multi_download/item_files?name=Wednesday,%203rd%20July,%202013%20%20Morning.pdf

¹⁰¹ Omondi, G., 'Parliament halts talks with Europe on trade treaties', Business Daily, July 3 2013, <http://www.businessdailyafrica.com/Parliament-halts-talks-with-Europe-on-trade-treaties/-/539546/1903822/-/cno56b/-/index.html>

Box 5 - Motion adopted by Kenya's National Assembly 9 July 2013¹⁰²

THAT, aware that since the signing of the Cotonou Agreement in the year two thousand, the government has been negotiating Economic Partnership Agreements (EPAs) with the European Union (EU) together with other member states of the Eastern African Region;

further aware of the concerns raised by the Eastern African Region on the contentious aspects of the EPAs, including offering undue advantage to products from other markets at the expense of growth of local and regional industries;

further taking cognizance of the adverse effects that the EPAs are projected to have on Kenya's economy particularly on agriculture and manufacturing sectors;

aware of an amendment to the European Union's Market Access Regulations (1528 of 2007), whose effect is that the 18 countries which have not signed or ratified the full EPAs, most of which are from Sub-Sahara Africa, Kenya included, will henceforth be removed from duty-free, quota-free access to the EU Markets;

further aware that once removed, Kenyan products will, from, October 2014, cease to enjoy the duty free, quota free tariffs in the EU market and that the national economy is estimated to lose more than Kshs. 10 billion in that year alone;

this House resolves that the Government does not sign the Economic Partnership Agreements in their current form until all outstanding issues, especially the Most Favoured Nation, Export Taxes and Development clauses as raised by the East African Community and Kenya in particular, are conclusively addressed and that the Government continues to explore more beneficial trade negotiations with the European Union.

Bughaya's MP Kasirivu Atwoki stressed the need to involve the Ministry of Agriculture in the negotiations. 'We are talking about opening trade especially in agriculture products with Europe but the people involved with agriculture, the Ministry technocrats are nowhere in the negotiations,' said Atwoki.¹⁰³

¹⁰² Kenya National Assembly, Orders of the day, Tuesday 9th July 2013 at 02.30pm, http://www.parliament.go.ke/plone/national-assembly/business/order-paper/tuesday-july-09-2013-at-2.30/at_multi_download/item_files?name=TUESDAY,%20JULY%2009,%202013%20AT%202.30%20PM.pdf

¹⁰³ Jaramogi, P., 'Kenya's move to sign EPAs worries EAC states', New Vision Uganda, 1 June 2013, <http://www.newvision.co.ug/news/643459-kenya-s-move-to-sign-epas-worries-eac-states.html%201%20June%202013>

5.6 Civil society

In a 2010 report, the **Kenya Human Rights Commission (KHRC)** concluded that ‘Very little has happened under the EAC-EC EPAs negotiations to bring comfort to the EAC partner states in terms of its right to development as the EC seeks to gain maximum advantage in the negotiations process.’ It recommended that Kenya and other EAC partner states should conduct a thorough human rights impact assessment of EPAs before making commitments that have the potential to violate human rights implications.

Furthermore, any EPA should contain specific provisions on extending assistance to the establishment of capacities in the area of food safety and SPS compliance, and rules of origin should be simple and provide for regional cumulation. Singapore issues as well as other trade-related issues are to be excluded from EPA negotiations.¹⁰⁴

The KHRC also indicated a preference for an enhanced GSP mechanism or the GSP+ as an alternative to EPAs. Though these mechanisms would be unilateral, it is non-reciprocal and thus does not require commitment on the part of developing states on issues like government procurement, competition policy and investment.

KHRC considers that the potential net loss of EPAs could be much higher than what could be experienced under the GSP+ mechanism given the reciprocity aspect of the EPA regime leading to increased imports. This includes import surges of subsidised EU agricultural products into the EAC and neighbouring regions that would negatively affect local agricultural production and lead to trade diversion for the EAC.

One downside of the GSP+, according to KHRC, is that the EU could unilaterally withdraw or suspend it like in the case of Sri Lanka. It points out that the EU has not been consistent. A country such as Colombia where trade union officials are killed indiscriminately has a worse human rights track record than countries such as Kenya, but continues trading under the GSP+ mechanism. Also, the KHRC considers that whilst inserting human right obligations in trade agreements might prevent some practices such as trade in ‘blood diamonds’, indiscriminate logging at the expense of future generations and pollution of water bodies, it is not clear that trade sanctions are the right tool to achieve this.

In November 2012, the **KHRC and a farmer’s umbrella network drawn from seven counties from the Rift Valley region (NGOMA, Ngombe na Mahindi Foundation)** opposed the EPA in a statement and strongly advised the government of Kenya, and other members of the EAC to reject the EPA.

They highlight the following legitimate concerns raised by the local producers regarding the EPA: (i) the opening up of the EAC markets would adversely affect the competitiveness of local industries; (ii) EPAs would lead to unfair competition as well as the dumping of goods from the more advanced economies of Europe to Africa leading to the decimation of small producers and infant industries within the EAC; (iii) subsidies offered by the EU countries to their farmers distort competition with EAC farmers who do not get any such subsidies and introduction of free trade would result in African farmers being subject to unfair competition; (iv) Stakeholders (producers) have not been consulted in the negotiation process; (v) Food production is significant to Kenya’s economy and livelihood and the EPA jeopardizes the right to food, which is a basic human right essential for survival; (vi) the EPA would flood the local market with products from industrialized nations thereby undermining Kenya’s infant industries; (vii) The EU

¹⁰⁴ Trading our lives with Europe – Possible impact on human rights by the Framework for the Economic Partnership Agreements (EPAs) between the East African Community (Kenya) and the European Union, 2010, Kenya Human Rights Commission, http://www.khrc.or.ke/resources/publications/doc_download/5-trading-our-lives-with-europe.html

safety standards and measures exclude Kenyan exports due to its low local technological and infrastructural standards and the abuse of such standards by Europe is detrimental for Kenyan exporters; (viii) A large number of other obstacles abound even where market access is granted to the EAC ('Sirikwa Resolutions', 13 November 2012).

These farmers groups, together with a number of other African as well as European CSOs strongly urged EAC governments to seriously pursue alternatives to EPAs which include (i) Prioritization of deeper African regional integration; (ii) Consideration of regional mechanisms to compensate for the loss of EU trade preferences to non-LDCs within a region, for example a solidarity fund as adopted by ECOWAS trade ministers in December 2011; (iii) Enhancement of Everything But Arms (EBA) in line with the AU trade preferences proposal adopted by African trade ministers in December 2011; and iv opting for EU GSP+ (Nairobi Statement on EPAs, November 2012).

Jane Nalunga of the Southern and Eastern African Trade Information and Negotiation Institute (SEATINI), who heads the Uganda office, said EPAs can only be signed as a block. 'Kenya can't sign alone. We are negotiating as a block if it does then it is breaching the reasons for regional integration,' she said. Nalunga noted that Kenya was pushing hard to sign EPAs because of its flower and fish exports to Europe.

'We are talking about market access, but market access doesn't necessarily mean entry. Europe still heavily subsidizes its agriculture meaning their agricultural products can't compete with the Ugandan ones,' she said. She called for harmonization of policies in the region to advance issues of addressing unemployment.¹⁰⁵

Furthermore, Nalunga said 10 years of negotiations makes everybody tired but urged for consistency so that the signing of EPAs benefits Uganda. 'The EPA policies are very broad and does not address the challenges such as high unemployment rates facing the country at the moment,' she said. Nalunga pointed out that the EPAs are about liberalizing the African markets. 'Let's only sign once we know it will benefit the grassroots woman in Luwero,' she said.¹⁰⁶

Agnes Kirabo, the PELUM Uganda Board chairperson and Coordinator Food Rights Alliance said it was pointless signing and negotiating later. 'We shall not be hurried to sign as Kenya suggests. It is like snapping and focusing later. We are discussing trade, so you are either buying or selling,' said Kirabo.¹⁰⁷

Ms Karungi from the **Advocates Coalition for Development and Environment**, based in Uganda argued that 'we need to conclude the agreement on trade in goods first because 'we cannot have negotiations for trade in goods and then services, competition, investment, environment and labour all in one EPA agreement. All these issues are too broad to be concluded in one package. The new issues bear significant political and socio-economic consequences and can be counterproductive to development if not carefully handled.'¹⁰⁸

¹⁰⁵ Jaramogi, P., 'Kenya's move to sign EPAs worries EAC states', New Vision Uganda, 1 June 2013,

<http://www.newvision.co.ug/news/643459-kenya-s-move-to-sign-epas-worries-eac-states.html%201%20June%202013>

¹⁰⁶ Jaramogi, P., 'Uganda moving to sign EPAs', New Vision, 24 February 2013, <http://www.newvision.co.ug/news/640103-uganda-moving-to-sign-epas.html>

¹⁰⁷ Jaramogi, P., 'Kenya's move to sign EPAs worries EAC states', New Vision Uganda, 1 June 2013,

<http://www.newvision.co.ug/news/643459-kenya-s-move-to-sign-epas-worries-eac-states.html%201%20June%202013>

¹⁰⁸ EAC not to blame for stalled trade talks with the European Union, commentary by Susan Karungi, 12 June 2013, <http://www.monitor.co.ug/OpEd/Commentary/EAC-not-to-blame-for-stalled-trade-talks/-/689364/1879584/-/wmp9pyz/-/index.html>

5.7 Private sector

In 2013, the **East African Business Council (EABC)** published a background paper detailing their views on the EAC-EU EPA negotiations. They noted that EAC partner states and the EU were expected to come to an agreement on the contentious issues as well as to continue with negotiations toward the conclusion of a full Economic Partnership Agreements (EPAs), but that most contentious issues have remained outstanding to some extent.

EABC considers the EAC market offer to EU as contained in the interim EPA to be acceptable as it excludes sensitive products which are important for rural development; employment; livelihood sustainability; food security; as well as infant industries; and contribution to government revenues. Rules of Origin should be simple, flexible and asymmetrical. On the MFN clause, the EAC private sector position is that the MFN clause should not be used to discourage EAC Partner States to enter into more favourable trade agreement with other parties. Concerning domestic supports and export subsidies offered by EU to its agricultural sector, EABC considers that these make EAC products uncompetitive in the EU market and thus should be eliminated to provide a more even playing field. Currently, the EPA text only allows new export taxes when the European Commission also agrees. In EACB's view, EAC states should be allowed to impose export taxes for industrialization purposes, and only be required to notify the European Commission.

The EACB does not agree to the EU introducing new issues in the negotiations (good governance in the tax area and the obligation to negotiate FTAs with countries that are in a customs union with EU, i.e. Turkey) because this unnecessarily delays the conclusion of the negotiations. The Chapters on Trade, Environment and Sustainable Development, other trade-related issues as well as services should be negotiated at a later stage of the negotiations.

On Market Access Regulation 1528/2007, the EABC'S position in 2013 was that EU needed to maintain EAC Regulation 1528 until the full EPA has been concluded, signed and implemented given the workload of the negotiations and the processes involved pertaining to ratification.¹⁰⁹

The **Kenya Flower Council (KFC)** expressed concerns over the deadline of October 2014. CEO Jane Ngige said that the sector would be most affected if the region failed to conclude the talks. "The EU has given us a deadline of October 1, 2014 to have an EPA in place, failure to which our flowers will be slapped with an import duty of between 8 and 12 per cent dealing a devastating blow to an industry that has thrived on duty-free access to our biggest market", she said.

She pointed that Kenya's flower production has flattened and earnings have slowed after growing rapidly over the past two decades, a feature that is expected to define the behavior of the sector in the global scene going forward. 'The flower sector seems to have flattened at 120,000 tons over the past four years, and our greatest focus now is sustainability', she said, adding that with the EPA close to being signed, investors can concentrate on issues of sustainability/competitiveness to craft 'brand Kenya flower', that will be marketed as having been sustainably grown.

According to Mrs Ngige, the anxiety over the EPAs is one of the reasons the sector has slowed down. 'No investor is willing to put money into an export-oriented business whose future is not guaranteed due to lack of a trade pact', she told reporters in Nairobi.¹¹⁰

Kenya is the lead exporter of rose cut flowers to the European Union, with a market share of about 38 per cent. Approximately 65 per cent of exported flowers are sold through Dutch auctions for re-export,

¹⁰⁹ EABC position paper on EPAs, 2013

¹¹⁰ See <http://www.kenyaflowercouncil.org/blog/?p=4827>

with the United Kingdom market buying 25 per cent of the produce and other segments, including Japan, US, Russia, France and Germany, taking up the rest. 'Over 25 per cent of exported flowers are delivered directly to these multiples, providing an opportunity for value addition at source through sleeving (packaging), labelling and bouquet production,' Ngige said in a recent interview.¹¹¹

According to the **Kenya Small Scale Farmers Forum (KSSFF)**, the EPA, if signed is likely to affect the producers, smallholder farmers and the consumers through imported cheap products from the European markets, kill local infant industries, lead to loss of revenues, lead to unemployment and food insecurity for citizens.

On 24 October 2007, the KSSFF and other stakeholders supported by the Kenya Human Rights Commission (KHRC) brought a complaint to the High Court of Kenya in which they challenged the EPA and sought to stop the government from signing the EPAs until the contentious issues are resolved and structures put in place for participatory and informed negotiations of the EPAs. The petition was brought under Section 84(1) of the Repealed Constitution and it relates generally to a State's obligation in facilitating public involvement in public governance, formulation of public policy, legislative processes and in the present context, the formulation and conclusion of international agreements and treaties.¹¹²

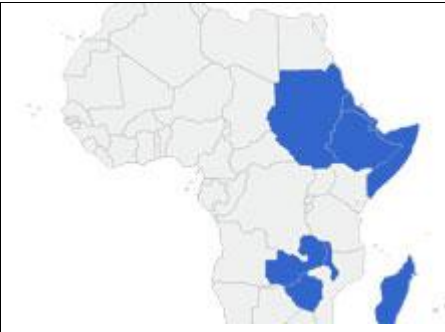
The High Court of Kenya delivered its judgment on 31 October 2013. It could not rule on the expected impact of the EPAs regarding the infringement to fundamental rights, because it was dealing with a much narrower issue (public participation and access to information). They ruled that 'the appropriate relief in our view is one that will allow for the executive to proceed with its task to conclude the agreements while at the same time allowing the Petitioners to have full access to the information relating to the negotiations so as to make appropriate contributions if they so wish in fulfilment of Article 4 of the Cotonou Protocol.' It demanded that the Kenya government puts in place mechanisms to facilitate participation of the stakeholders in the EPA negotiation process.

¹¹¹ State urged to sign pact to safeguard EU market, The People, 5 December 2013, <http://www.thepeople.co.ke/36265/state-urged-to-sign-pact-to-safeguard-eu-market/>

¹¹² Kenya law, <http://www.kenyalaw.org/caselaw/cases/view/91805/>

6. EASTERN AND SOUTHERN AFRICA (ESA) EPA

6.1 Basic characteristics of the region

	<p><u>Countries in the ESA EPA configuration:</u> Thirteen (13) Member countries of the Common Market for Eastern and Southern Africa (COMESA). Six other COMESA member countries are in other EPA configurations – Burundi, Kenya and Uganda in EAC, DR Congo in Central Africa – or in a separate FTA (negotiation) (Egypt, Libya)</p> <p><u>Regional negotiator for ESA EPA configuration:</u> COMESA Secretariat based in Lusaka, Zambia</p>		
Country in ESA EPA configuration	Current EU preferential trade regime(s)	Development status	
Djibouti, Eritrea, Ethiopia, Somalia, Sudan, Malawi.	EBA	LDC	
Comoros, Zambia	EBA and MAR 1528/2007	LDC	
Zambia	EBA, Interim ESA EPA (provisional application by EU) and MAR 1528/2007	LDC	
Madagascar, Zimbabwe	Interim ESA EPA (provisional application by EU) ¹¹³ and MAR 1528/2007	Low income	
Mauritius, Seychelles	Interim ESA EPA (provisional application by EU) and MAR 1528/2007	Upper-middle-income	

© European Commission (map)

6.2 State of play

Eastern and Southern Africa (ESA) is a diverse group, including Indian Ocean islands (Comoros, Madagascar, Mauritius and Seychelles), countries from the Horn of Africa (Djibouti, Ethiopia, Eritrea and Sudan) and some Southern African countries (Malawi, Zambia and Zimbabwe). The COMESA (Common Market for Eastern and Southern Africa) secretariat facilitates negotiations for the ESA EPA group.

An 'interim' EPA was initialled by 5 ESA countries, namely Comoros, Mauritius, Madagascar, Seychelles, Zimbabwe in December 2007 and later by Zambia. It was signed on 29 August 2009 by Mauritius, Madagascar, Seychelles and Zimbabwe and the Agreement entered into force in May 2012.

All ESA states are negotiating a 'comprehensive'/'full' EPA. In November 2012, the 17th ESA Council held in Kampala reaffirmed ESA's commitment to successfully negotiate and conclude a full and inclusive EPA by 2016, the year ministers anticipated the removal of Market Access Regulation 1528/07. Council underscored the need for sustained continuous and robust engagement with EU at all levels so that EPA negotiations that support regional integration and development are concluded timeously.

The **COMESA Secretariat** considers the main challenges facing the negotiations for an agreement in trade in goods as follows: the absence of binding commitments on development (provision of

¹¹³ Council Decision of 13 July 2009 (2012/196/EC) on the signing and provisional application of the Interim Agreement establishing a framework for an Economic Partnership Agreement between the Eastern and Southern Africa States, on the one part, and the European Community and its Member States, on the other part. Zimbabwe ratified the EPA, not yet ratified)

adequate resources on a predictable basis), the insistence of EU to limit ESA countries' policy space to use export taxes, the extent of liberalisation especially in the case of LDC ESA EPA states, products excluded from cumulation with South Africa and the issue of special safeguards for agriculture to address the effects of EU export subsidies.

While there has been progress on negotiations in services with a draft joint text in place, there are many technical issues outstanding and the EU made new proposals on telecommunications and e-commerce. On trade-related issues – competition policy, intellectual property rights, public procurement and good governance on tax matters - the ESA Group has agreed to prioritize and focus on the first two issues whilst the rest will be part of the rendezvous clause. In terms of content regarding competition policy and intellectual property issues, ESA's focus is on capacity building and development cooperation whilst the EU is seeking substantial commitments that would advance their own interests. Recently the EU proposed introduction of new issues namely personal data protection, geographical indications (GI) and capital movements.¹¹⁴

6.3 Summary of stakeholders views

Four ESA countries, notably Mauritius, Madagascar, Seychelles and Zimbabwe are implementing the 'interim' ESA EPA which they had signed in 2009. These countries have highlighted negative and positive elements of the EPA. In their view, negative aspects include preference erosion due to the EU concluding free trade agreements with third parties, tariff revenue losses, difficulties to cumulate with other countries in the region that have not signed the EPA, the high SPS and TBT standards of the EU hindering exporters from taking advantage of the market access offered under the EPA especially in agriculture products. The positive impact of EPAs for these countries include an expansion of the scope of preferential access on the EU market, an automatic derogation for canned tuna and tuna loins and the development chapter aimed at providing support to ESA countries to build supply capacity and improve competitiveness.

Other countries in the ESA configuration – all LDCs - have not acceded to the interim ESA EPA and they are officially negotiating with a view to conclude a full EPA that goes beyond trade in goods. Several are not likely to sign EPAs in the near term (countries in the Horn of Africa). This is because they do not have clear benefits emanating from the EPAs. Others have been discouraged by conditionalities in the EPAs impacting on areas that are important for their domestic priorities – for example, the issue of export taxes in relation to Zambia. The COMESA Secretariat considers that there is a need for a joint ESA and EU reality-check at the ministerial level to see what can be and cannot be included/covered in an EPA especially regarding the outstanding issues.

Parliamentarians in the countries that are negotiating EPAs have raised primarily concerns with the market access offer and its impact on productive capacities and tariff revenues, as well as the need to counteract agricultural subsidies provided by the EU. These issues have yet not been addressed in the EPA negotiations.

Furthermore, civil society in the region is highly critical of the EPA, and some are of the view that the EPA perpetuates the unequal trading relationship with Europe. Adverse effects on regional integration, the elusiveness of adequate development aid and the impact of liberalisation are often cited as major concerns.

The private sector in ESA EPA countries argue that even with the EPA, non-tariff barriers will continue to hinder access to the EU market. They opined that the capacity of business in ESA countries is not

¹¹⁴ State of play of ESA-EU EPA negotiations, September 2013

strong enough to face the reality of opening the market. Hence, if there is some level of market opening, there is a need for much better safeguards.

Lastly, the Eastern and Southern Africa Small Scale Farmers Forum (ESAFF) has urged the EU to find alternatives to the EPA 'as part of the current review process and as provided for in the Cotonou Agreement.'

6.4 COMESA Secretariat

The COMESA Secretariat considers that there is a need for a joint ESA and EU reality-check at the ministerial level to see what can be and cannot be included/covered in an EPA especially regarding the outstanding issues. Other issues can be negotiated later on. Furthermore, the COMESA Secretariat recalls that Ministers have reconfirmed the principle of variable geometry which allows some ESA countries to join the EPA earlier and some later, depending on readiness, whilst ensuring it does not undermine COMESA's regional integration.¹¹⁵

6.5 ESA EPA Governments

6.5.1 ESA EPA governments that continue negotiations for full EPA

Malawian President Bingu wa Mutharika, who died in April 2012, had refused to sign the EPA, demanding that rural roads, health and education facilities be taken care of before signing an EPA. Mutharika, a former U.N. trade expert, believed that the EPA would reinforce Malawi's position as an exporter of low-value agriculture commodities, deprive the government of policy space to use tariffs to protect livelihoods and grow the manufacturing sector.

In October 2012, Malawi entered negotiations on the EPA with the EU that might see President Joyce Banda's administration change the status quo and sign the free trade agreement. 'We have opened up negotiations and consultations on EPAs. We can't ignore the issue any more like the previous administration, and President Banda will pay attention to this,' said the country's **trade minister John Bande. Geoff Mkandawire, chairman of the National Working Group on Trade Policy**, believes the EPA would be good for the sugar industry. 'Malawi is generally a lower-cost producer of agriculture products and goods, and access to EU markets would create a basis for further investments in the sugar industry,' Mkandawire said.¹¹⁶ However, this statement did not factor in the dismantling of the EU sugar protocol as well as the fact that the 'comprehensive' EPA includes more issues than trade in goods.

Countries in the Horn of Africa (Djibouti, Ethiopia, Eritrea and Sudan) are not likely to sign EPAs in the near term because they are all LDCs having duty free and quota free access to the EU market. Furthermore, countries in this region are currently focusing more on consolidating domestic policy reforms. Ethiopia is involved to some extent in the EPA negotiations which might be related to the fact that the country is actively negotiating its entry into the WTO.

At present, the **Zambian government** does not seem to have a clear position on EPA – the status quo remains, i.e. non-ratification of the interim EPA and continuation of negotiations for a 'full' EPA which should address the contentious issues of the interim EPA.¹¹⁷ **Zambia's former Ambassador to Switzerland, Love Mtesa**, alleged that the EU was forcing ACP countries into EPA negotiations when the EU was fully aware that the developing countries were not ready: 'Ideally the EU should have waited

¹¹⁵ State of play of ESA-EU EPA negotiations, September 2013

¹¹⁶ 'Malawi Considers Controversial EU Trade Deal', Inter Press Service, October 17 2012, <http://www.ipsnews.net/2012/10/malawi-considers-controversial-eu-trade-deal/>

¹¹⁷ Correspondence with government official

for the WTO to finish its work because the EPA is a just small part but at WTO level, there is a discussion on issues of capacity building and creating assistance to developing countries without attached conditions like free trade areas. And how do we open markets to developed countries like the EU which will result in killing our infant industries because under EPAs, the EU is asking us to make commitments they know we cannot fulfil and if we fulfil then all the recent economic gains will be destroyed completely.' Ambassador Mtesa argues that Zambia still needs preferential treatment as an LDC and advises the government to insist on getting a deal that would take into account the country's inadequacies until such time that the country is ready to compete effectively.¹¹⁸

6.5.2 ESA EPA governments that started implementing the ESA interim EPA

In May 2013, the countries that started implementing the ESA interim EPA (Mauritius, Madagascar, Seychelles and Zimbabwe) stated their strong displeasure regarding preference erosion due to EU free trade agreements (FTAs) with third parties.¹¹⁹

In response to a question from parliament, the **Mauritian Minister of Foreign Affairs, Regional Integration and International Trade** stated in 2010 that Mauritius is far better off with the IEPA in terms of access to the EU market than it was under the previous trade regime because (i) the scope of preferential access on the EU market has been expanded to cover all products. Under the Lomé Conventions and the Cotonou trade provisions many agricultural and agro-processed products were excluded from preferential access; (ii) the Rules of Origin for garments, canned tuna and several agricultural products, including wheat flour have been significantly relaxed; (iii) the canned tuna producers in the ESA group which comprise of Mauritius, Madagascar and Seychelles have obtained an automatic derogation for canned tuna and tuna loins to the tune of 10,000 tonnes, which is equivalent to what the whole of the ACP obtained under the Cotonou Agreement; (iv) the IEPA contains a development chapter aimed at providing support to ESA countries to build supply capacity and improve competitiveness.¹²⁰

Madagascar begins its tariff phase down in 2014. **Vola Razafindramiandra, Director General of Customs**, stated that 'the customs administration has been more cautious in setting revenue forecasts. The goal in 2014 was revised down, knowing that with the entry into force of the interim iEPA we anticipate a shortfall of 50.7 billion Ariary (16 million euro)'.¹²¹

Seychelles ratified the IEPA in 2012 especially to protect and secure its market in tuna, a commodity that has many competitors in the EU market. The major challenges for Seychelles are the EPA rules that do not allow cumulation with countries that have not signed the EPA as well as the autonomous quota system granted to third party countries on tuna exports to the EU. The country is also concerned with the loss in government income due to the tariff phasedown and is studying its impact.¹²² The EU approved a bilateral deal with Seychelles on its WTO accession in October 2013.

Zimbabwe, signed the IEPA in order to avoid trade disruption, but so far it is facing challenges with its implementation, the major one being that Zimbabwe made its offers based on an older version of the Harmonized Commodity Description and Coding System (HS2002) which needs to be transposed to a newer version (HS2012). Furthermore, COMESA's common external tariff (CET) which so far has not

¹¹⁸ Trade Union and NGOs Response to EPAs - The Case of Zambia, http://www.solidar.org/IMG/pdf/b8_trade_union_and_ngos_response_to_epas_zambia.pdf

¹¹⁹ Report on the ESA-EU iEPA Implementation Committee Meeting that was held in Balaclava, Mauritius, 13-15 MAY 2013

¹²⁰ Parliamentary Debate, Republic of Mauritius, 30 November 2010, <http://mauritiusassembly.gov.mu/English/hansard/Documents/2010/hansardsec2110.pdf>

¹²¹ Un gap d'Ar 50,7 milliards en 2014, L'Express de Madagascar, 9 December 2013

¹²² Country presentation during AU/REC meeting on EPAs in Libreville, July 2013

been operationalised has also not yet been domesticated in Zimbabwe. The country is also having challenges with its planned tariff phase down, given its current economic conditions. The other challenge concerns the EU's Sanitary and Phyto-sanitary (SPS) and TBT standards that are quite high and are hindering Zimbabwean exporters from taking advantage of the market access offered under the EPA especially in agriculture products.¹²³

6.6 Parliaments

In 2007, the **Zambian Parliamentary Committee on Economic Affairs and Labour** observed that the signing of the EPA would 'entail opening up Zambia's markets to the European Union. With an inherent weak industrial base, Zambia's industries would not be able to compete favourably. Since Zambia would still enjoy duty and quota free access to the European market under Everything But Arms (EBA) initiative'. The Committee therefore urged the Committee not to sign the EPA.¹²⁴

In 2013, the same Committee observed that the EPA 'has been met with significant resistance due to the implications for local industries that would have to compete with the advanced technologies and capacities of EU countries. Furthermore, this move may result in reductions in tax revenue and increased instances of trade diversion with little or no trade created for Zambia. In addition, the Committee heard that cheap imports from the EU and other advanced economies have continued to threaten the existence of the agricultural sector in Zambia. Notably, the dairy, wheat, soya beans and livestock sectors in Zambia are without any form of protection which have remained vulnerable to rising imports from advanced economies, threatening the livelihood of farmers as well as contributing to rampant unemployment due to declining farm incomes'.¹²⁵

6.7 Civil society

Some within the **Mauritian civil society** have pointed out that the EPA perpetuates the unequal trading relationship with Europe, in particular in the fish industry. Mauritius has one of the biggest maritime zones in the world with an exclusive economic zone of more than 2.3 million square kilometres but cannot ensure its food security through fishing. Mauritius signed fishing agreements with the EU that allow vessels from the EU to fish for tuna in Mauritian waters at 4.56 rupees (€1 = 38 rupees) per kilo, while Mauritians buy a kilo of tuna for about 200 rupees. The country's fishing policy gives this right to European vessels, which fish in subsidized conditions and then sell the tuna to Mauritian processing industries which pay workers a very low monthly minimum wage of €200 for processing tuna.¹²⁶

Ambassador Irumba, Chief Executive Director of SEATINI (based in Uganda and Zimbabwe) noted that at the start of the negotiations, the EU was strong on calling for civil society participation in the EPA process, however, as it became more obvious that civil society was highly critical of the EPA process, the EU stood a 'back seat' in supporting civil society participation.¹²⁷ **Thomas Deve from SEATINI** believes that the EPAs largely have an anti-development agenda. "All MDG targets are negatively affected by

¹²³ Country presentation during AU/REC meeting on EPAs in Libreville, July 2013

¹²⁴ Report of the Committee on Economic Affairs and Labour for the First Session Of The Tenth National Assembly Appointed On 8th November 2006, http://www.parliament.gov.zm/index.php?option=com_docman&task=doc_view&gid=249

¹²⁵ Report of the Committee On Economic Affairs, Energy and Labour for the Second Session of the Eleventh National Assembly appointed on Wednesday, 26th September, 2012, http://www.parliament.gov.zm/index.php?option=com_docman&task=doc_download&gid=1117

¹²⁶ "The dynamic of the victorious struggle of the workers in the sugar industry has spread to other areas...", Interview with Ashok Subron, 10 January 2013, <http://www.internationalviewpoint.org/spip.php?article2858>

¹²⁷ Report of the SADC Council of Non-Governmental Organisations (SADC-CNGO) Multi-stakeholder Dialogue on WTO and EPAs held on the 25th – 26th September 2013, Protea Hotel, Lusaka, Zambia

macro-economic fundamentals that promote indiscriminate and externally induced liberalisation and privatisation, a key feature of the EPAs that the European Union (EU) is imposing on the ACP.' EPAs are being imposed by Europe on its former colonial territories in the ACP. The agreements will join these regions' economies in a free trade area with Europe and give European big business a monopoly, which in itself is anti-development. Deve believes agriculture and industry will be destroyed. He argued that EPAs will give Europe power over economic policies to govern the ACP region and turn its governments into mere local managers of European corporate interests and profits. 'It will kill off any ambitions for regional integration within and across Africa and South-South relations with other developing regions,' Deve added. 'Already, they have split all of Africa's regions. In West Africa, for example, Ghana and Cote d'Ivoire have broken ranks and endangered regional unity by going ahead to agree to interim EPAs with Europe'.¹²⁸

In Zambia, CSOs and ordinary citizens have urged the government not to sign the EPA if the EU continues to ignore the development requirements, trade inadequacies and other related supply-side constraints of the country. The **Jesuit Centre for Theological Reflection (JCTR)**, based in Lusaka, considers the EPAs a 'formidable barrier for trade justice'.¹²⁹ **Zambian trade unions** have not developed a national position on EPAs, their only involvement in national processes relating to the EPAs were EU organized EPA's information and progress seminars.

In 2007, **Malawian civil society** pleaded with the government not 'to fall into the EPA trap.' In this regard the **Centre for Social Concern** also thanked the government for saying it will not sign the EPAs. The Centre also points out that it is a good thing that the European Union has clarified the position of the European Development Fund (EDF) where it is reported that even if countries do not sign the EPAs they will still receive money from the EDF.¹³⁰ Several local civil society groups believe the EPA would have negative effects on Malawi's trade with other countries in the region and undermine the regional integration processes.¹³¹ The **Malawi Congress of Trade Unions** declared that 'EPAs carry little promise for developing countries and pose to be a stumbling block to socio-economic development in Malawi and Africa at large. The EPAs are nothing but a European Union (EU) strategy to advance neo-liberalism and foster interests of Transnational Corporations (TNCs) in Europe at the expense of Africa's critical developmental needs at hand'.¹³²

6.8 Private sector

The Malagasy private sector, especially exporters of agricultural products, soap and carpentry, have underlined that the integration of Madagascar to the various trade agreements has not benefited Malagasy operators so far, because of non-tariff barriers that block access to products of Malagasy origin.¹³³

Raveloson Stéphane, President of the Union of Industries of Madagascar has said that there is an existing internal market but due to unfair competition for various reasons, the domestic private sector

¹²⁸ Kwenda, S., 'EPAs Will Prevent African States From Achieving MDGs', Inter Press Service, 11 April 2009, <http://www.ipsnews.net/2009/04/trade-Isquolsquoepas-will-prevent-african-states-from-achieving-mdgsrsquo/>

¹²⁹ 'Economic Partnership Agreements: a challenge for trade justice', Jesuit Centre for Theological Reflection, http://www.jctr.org.zm/index.php?option=com_joomdoc&task=doc_download&gid=13&Itemid=76

¹³⁰ Centre for social concern, April 2008, <http://www.africamission-mafr.org/kanengoavril08.htm>

¹³¹ Banda, M., 'Malawi considers controversial EU trade deal', Inter Press Service, October 17 2012, <http://www.ipsnews.net/2012/10/malawi-considers-controversial-eu-trade-deal/>

¹³² 'Economic partnership agreements-an update', Action for South Africa, <http://www.actsa.org/Pictures/Uplimages/pdfs/EPAs%20Update%20-%20May%202010.pdf>

¹³³ Atelier de présentation de l'étude intitulée « L'IMPACT DE L'APEI sur MADAGASCAR : Une analyse empirique des effets commerciaux et budgétaires, utilisant le logiciel WITS », 7 March 2013, <http://www.cream.mg/pdf/atelier%20APEI.pdf>

cannot sustain itself so it is forced to export and exploit external markets. In this context, the Malagasy private sector also seeks the support of the government to protect Malagasy industries, in order not to suffocate operators in the country. This would require the adoption of strategies to cope with competition including applying trade remedies to imports.¹³⁴

The **Malawi Confederation of Chambers of Commerce and Industry (MCCCI)**, a grouping of the local private sector, does not see the EPAs in their current form as benefiting Malawi: 'EPAs are an important agent for development for ACP countries that leverage on trade with the EU. The downside is that the capacity of business in ACP countries is not strong enough to face the reality of opening the markets,' said Chancellor Kaferapanjira, CEO for MCCCI. He said the negotiations should recognise the differences in capacity with regard to trade, as well as the assistance needed to enable ACP countries to effectively trade with the EU.¹³⁵ In 2008, the MCCCI recommended the initialling of the interim ESA EPA - safeguarding development aid and their sugar exports to the EU were mentioned as important reasons. It has yet to update its 2008 negotiation position even though Malawi is now formally negotiating a 'full' EPA.

In 2010, the President of the **Confederation of Zimbabwe Industries (CZI)**, Joseph Kanyekanye, urged the Zimbabwean government to postpone the date of its Economic Partnership Agreement (EPA) with the EU. CZI claims Zimbabwe's industry is still fragile and is unlikely to have recovered sufficiently to compete with European goods by 2013, the planned date of implementation of the interim EPA signed in 2008.¹³⁶

In 2011, the **Eastern and Southern Africa Small Scale Farmers Forum (ESAFF)** issued a declaration demanding that the ESA EPA negotiations in their current form must be stopped. Negotiations between the EU and ESA on agriculture must be based on the interests of the region's small scale farmers and allow for the protection of their markets, livelihoods and local food production.

ESAFF demands that trade negotiations between the EU and ESA must not go beyond what was agreed at the WTO. Investment, government procurement and competition policy should not be on the agenda in regional negotiations between EU and ESA, since these issues have been dropped from the Doha Work Programme in the WTO. The ESAFF urged the EU to find alternatives to EPAs as part of the current review process and as provided for in the Cotonou Agreement, founded on an approach that (i) is based on the principle of non-reciprocity; (ii) allows protection of the region's (ESA) producers' domestic markets; (iii) reverses the pressure for trade and investment liberalisation and (iv) allows the necessary policy space for ESA and supports ESA to pursue its own development strategies.¹³⁷

¹³⁴ Les APE intérimaires entrent en vigueur, L'Express de Madagascar, 2 January 2014, <http://www.lexpressmada.com/commerce-exterieur-madagascar/49263-les-ape-interimaires-entrent-en-vigueur.html>

¹³⁵ Banda, M., 'Malawi Considers Controversial EU Trade Deal', Inter Press Service, 17 October 2012, <http://www.ipsnews.net/2012/10/malawi-considers-controversial-eu-trade-deal/>

¹³⁶ Zimbabwe urged to renegotiate EPA, Agence Centre Afrique Presse, reproduced at <http://www.eurostep.org/wcm/archive-eurostep-weekly/910-zimbabwe-urged-to-renegotiate-epa.html>

¹³⁷ EPAs will destroy small scale farmers' livelihoods, statement from Eastern and Southern Africa small scale Farmers Forum (ESAFF), 11 January 2011, http://www.esaff.org/esaff_details_view.php?news_ID=65

7. SOUTHERN AFRICA DEVELOPMENT COMMUNITY (SADC) EPA

7.1 Basic characteristics of the region

A map of the Southern African Development Community (SADC) region, highlighting member states in blue. The highlighted countries include Botswana, Lesotho, Namibia, Swaziland, South Africa, Angola, and Mozambique. The map also shows the outlines of neighboring regions like West and Central Africa.

Countries in the SADC EPA configuration: Members of the Southern African Customs Union (SACU) – Botswana, Lesotho, Namibia, Swaziland and South Africa, as well as Angola and Mozambique. All are members of the broader Southern Africa Development Community (SADC)

Regional facilitators for SADC EPA configuration: Secretariats of the SADC (based in Gaborone, Botswana) and SACU (based in Windhoek, Namibia).

Country in SADC EPA configuration	Current EU preferential trade regime(s)	Development status
Namibia, Botswana	MAR 1528/2007 (MFN after October 2014)	Upper middle income
Swaziland	MAR 1528/2007 and GSP	Lower middle income
Lesotho, Mozambique	EBA and MAR 1528/2007	LDC
Angola	EBA	LDC
South Africa	Trade, Development and Cooperation Agreement (TDCA)	Upper middle income

7.2 State of play

The Southern African Development Community (SADC) consists of 15 members. The SADC secretariat assists the SADC EPA group in negotiations.

Seven SADC member states are negotiating an EPA with the EU as the SADC EPA Group: Angola, Mozambique and members of the Southern African Customs Union (SACU) – Botswana, Lesotho, Namibia, Swaziland (BNLS) and South Africa. South Africa initially participated as an observer due to the existing TDCA arrangement with the EU but joined the SADC EPA negotiations as a full member in 2007. Botswana, Lesotho, Swaziland and Mozambique signed the interim EPA in June 2009 but none of them have implemented it.

In 2010 interim EPA signatory countries suspended the process of ratification of the agreement, pending the conclusion of comprehensive regional negotiations. The EU and SADC member states sides have agreed to continue negotiations for a comprehensive regional EPA covering services, investment and trade-related rules. .¹³⁸

As of February 2014, the last Technical Working Group (TWG) and Senior Official Meeting (SOM) took place in November 2013 in South Africa. It addressed many matters including: market access, textual unresolved issues, rules of origin and trade related issues. Agricultural market access remains a key

¹³⁸ 'Factsheet on interim Economic Partnership Agreements, SADC EPA Group', November 2011

issue. The next round of meetings of the TWG and SOM has been scheduled for the first week of March 2014.¹³⁹

7.3 Summary of stakeholders views

The possible negative impact of a SADC EPA on regional integration has been a major theme holding back the SADC EPA negotiating countries. Not all SADC members have shared the same level of interest in the EPA, with for instance Namibia and Angola being particularly cautious about its possible negative implications. If only some countries sign, this would break up SADC's own regional integration plans. In fact, the SADC EPA configuration does not even conform with SADC's own configuration.

Even within the SACU (comprising of South Africa, Lesotho, Namibia, Swaziland and Botswana), the oldest customs union, the differences of views on the EPA are stark. Lesotho, Swaziland and Botswana have signed the EPA, however, Namibia whilst having initialled, has not signed the EPA. Botswana is concerned about its beef exports to the EU, and Swaziland its sugar preferences. Whilst Namibia also has beef and grapes at stake if an EPA is not signed, they, like South Africa, are worried about the broader implications of the EPA. This has led to the EPA in the SADC region being stalled for some time as the contentious issues individual countries are worried about have not been satisfactorily resolved in the negotiations.

SACU member countries intend to sign an EPA as a region, not to sign an individual FTA like the Trade, Development and Cooperation Agreement (TDCA) between EU and South Africa. South Africa has no immediate need for an EPA. Its main interest if it agrees to the EPA is increased market access for (processed) agricultural products, and to delay some of its market access commitments under the TDCA. An EPA in the SADC region would mean that the region would have to 'pay' in the form of increased protection of Geographical Indications, as well as liberalisation primarily by SACU Members other than South-Africa.

SACU governments, in particular Namibia, consider the TDCA a historical inequity allowing EU free access to the markets of all SACU members and not only South Africa. This should be acknowledged and considered by EU.

Some of the key unresolved issues in the SADC EPA are the use of export taxes in support of industrialization, bilateral and agricultural safeguards, how the Most Favoured Nation Clause could be specified without undermining both the common external tariff of SACU and prospects for increased South-South co-operation and trade; and various aspects of the Rules of Origin, including that fish would be able to obtain originating status when caught in Namibia's Exclusive Economic Zone instead of when caught by a ship sailing the flag of parties to the SADC EPA.

SADC EPA parliamentarians have primarily have raised concerns over about regional integration, the fact that the interim EPA was signed under duress, prohibition of export taxes, agricultural safeguards and the MFN Clause. They also consider that the SPS/TBT chapters of the SADC EPA do not appear to have much additional market access or fail to provide resources and support for necessary adjustments by SADC EPA members in the areas of SPS and TBT.

Civil society in the region is generally opposed to the EPA. Trade unions in the SADC EPA region object to EPAs on the basis that it seeks to entrench colonialism and imperialism perpetuating the dependence of African countries on the West. Reasons for objections are the unequal bargaining

¹³⁹ 'EU updates on state of play: overview of EPA negotiations', 7 February 2014, http://trade.ec.europa.eu/doclib/docs/2009/september/tradoc_144912.2.14.pdf

position between EU and ACP countries, negative impact on regional integration, the commitment of countries that sign EPAs to negotiate other non-trade/Singapore issues such as investment, competition and government procurement, weak safeguards in the EPA while EU subsidises its industries, and the loss of revenue. Other civil society organisations raise objections against the MFN clause, prohibition of export taxes, non-binding cooperation clauses, free circulation of goods, dispute settlement mechanism, impact on infant industries, stringent rules of origin, rendezvous clauses, non-execution clause and the standstill clause.

The private sector and civil society have complained that their government does not inform them about the EPA.

The private sector, especially on the regional and South-African level formulated positions on the EPAs in the beginning of the negotiations, but is unable to track or unaware to what extent these positions are actually reflected in the final text.

The private sector believes that LDCs should be treated more favourably than non-LDCs, and be able to liberalise less. Resources for EPA implementation have to be agreed upon as the EPA would entail substantial restructuring and engender adjustment costs. Clauses on the prohibition of export taxes should be excluded from the EPA, as they are essential for enhancing value addition and industrialization as well as allowing policy space to address supply-side issues. In addition, EU export subsidies should be disciplined in the EPA. Rules of Origin should reflect the realities of the SADC private sector; in particular with regards to garments.

The SADC private sector stressed the need to address non-tariff barriers in the EPA, in the areas of standards, technical regulations and conformity assessment procedures, and supports the inclusion of a dispute settlement mechanism comparable to the EU-Chile FTA. The agricultural sector would like to see the EPA to discipline the distortionary impacts of the EU's Common Agricultural Policy (CAP) as well as to have a specific and effective agricultural safeguard clause.

7.4 Southern African Customs Union (SACU) governments

In a letter dated 11 February 2010, the SACU trade ministers informed the EU Trade Commissioner Karel de Gucht that they did not intend to sign nor did they intend to provisionally apply the IEPA. Instead, they asked for negotiating and agreeing to an inclusive and comprehensive agreement with the whole group 'without any country being worse off or being forced to sign an agreement that does not serve their best interests'. They expressed trust 'that there will shortly be an opportunity to meet and jointly guide the successful finalization of the EPA negotiations'.¹⁴⁰

7.4.1 South Africa

Speaking prior to the Sixth South Africa-EU Summit that took place in July 2013, the **South African trade minister, Rob Davies**, said that the EPA would not affect South Africa to the extent it would affect its neighbours in SACU. He was concerned about the consequences of any unilateral withdrawal of market access because it was very difficult to meet the deadline of October 2014, as there were still matters that needed to be solved. He would have preferred a deadline of 1 January 2016 as suggested by some in the European Parliament, instead of 2014. He also noted that, while the EU remains South

¹⁴⁰ Quoted from the letter sent by the SACU Secretariat, dated 11 February 2010, Ref: 15/2/2, pages 2 and 3.

Africa's largest trading partners as a bloc, South African exports to the EU have been impacted by the economic crisis.¹⁴¹

In 2013, **Deputy Director-General Xavier Carim from the Department of Trade and Industry** pointed out that if the EPA was not finalised by the October 2014 deadline, there would be significant declines in exports to the EU from Namibia, Botswana and Swaziland, which would hold serious socioeconomic consequences for these countries. He said that the October 2014 deadline is placing a lot of pressure on the negotiations. 'One could see a perverse outcome from this. If we are not able to conclude the negotiations in time for it to enter into force on October 1, next year, we could find a situation where these countries could lose preferential access to the EU, while they would still be providing preferential access to the EU imports through the Trade Development and Cooperation Agreement (TDCA), because Botswana, Swaziland and Namibia are part of the customs union,' Carim said.¹⁴² The TDCA is the free trade agreement that is in force between the EU and South Africa.

7.4.2 Namibia

The Namibian government has stressed that the EU is 'free-riding', saying that more than 90% of EU goods enter the Namibian market duty free under the TDCA and via the Southern African Customs Union's (SACU) borders.¹⁴³ It never endorsed the TDCA between EU and South Africa, but they wanted to avoid the collapse of SACU, a treaty which provides real benefits to them.

Carl Schlettwein, Minister of Trade and Industry of Namibia, referring to the withdrawal of market access under MAR 1528/2007, has expressed dissatisfaction with 'a negotiating partner taking precipitous unilateral economic action against a more vulnerable side whilst being in the process of negotiations.' He does not consider such an action in the spirit of partnership, fair play or equity, 'rendering the concept of partnership in the EPA negotiations hardly worth anything at all.' In 2010, the **Prime Minister Hage Geingob** called upon Europe 'not to abandon us and to work with us towards a lasting solution. After all, the EPA is about partnership towards the shared goals of poverty alleviation and economic development. Let's not use bully tactics or old colonial arrogance. Let's be partners who are equal in sovereignty'. In January 2014, the prime minister maintained that 'If you can sit in Brussels and decide alone – excluding me – and come and impose the deadlines, it is not partnership.' Furthermore, he would never sign the EPA in its current form adding that Namibia continues looking for alternative outlets for its exports. 'With America we only have two steps to go and they will allow our beef to go there.'¹⁴⁴

The new EU GSP scheme, effective from 1 January 2014 and which was approved by the European Parliament, excludes upper middle income countries from availing of it. Namibia is considered an upper middle income country, mainly due to its diamond industry. Without EPA, the country will have the least favourable access in the EU market (i.e. it would trade under most favoured nation or MFN terms)

¹⁴¹ Esterhuizen, I., 'EPA negotiations to be focus point at SA-EU summit', Polity organization, 16 July 2013, <http://www.polity.org.za/article/epa-negotiations-to-be-focus-point-at-saeu-summit-davies-2013-07-16>

¹⁴² Ibid

¹⁴³ 'An update on the EPA negotiations and unilateral measures considered by the European Commission to force the end of the negotiations', Ministerial Statement made by the Hon. Carl H.G. Schlettwein, Minister of Trade and Industry in the National Assembly, 4 April 2013, [http://www.mti.gov.na/downloads/speeches/Ministerial%20statement%20on%20EPA%20April%202013%20\(version%203%20April%202013\).pdf](http://www.mti.gov.na/downloads/speeches/Ministerial%20statement%20on%20EPA%20April%202013%20(version%203%20April%202013).pdf)

¹⁴⁴ 'Investors must add value to our industries - Namibian PM', The Africa Report, 9 January 2014, <http://www.theafricareport.com/Southern-Africa/investors-must-add-value-to-our-industries-namibian-pm.html>

and this would threaten exports of beef and grapes as well as the future of the Namibian fishing industry which employs over 15,000 people.¹⁴⁵

The Namibian government has argued that the current format of the EPAs is not in the country's interest. Some of the key unresolved issues most pertinent to Namibia are the use of export taxes in support of industrialization, bilateral and agricultural safeguards, how the Most Favoured Nation Clause could be specified without undermining both the common external tariff of SACU and prospects for increased South-South co-operation and trade; and various aspects of the Rules of Origin, including that fish would be able to obtain originating status when caught in Namibia's Exclusive Economic Zone instead of when caught by a ship sailing the flag of parties to the SADC EPA.

7.4.3 Botswana

Botswana enjoys duty-free quota-free access for essentially all her products into the EU market. Losing current preferences for beef is likely to stop Botswana from exporting its only agricultural export commodity to the EU immediately. **Trade minister, Dorcus Makgato-Malesu** has stated that: 'Botswana has signed EPAs and will ratify.' For Botswana, market access for beef is the most important reason for the intention to sign, although other sticky issues such as infant industry protection and safeguard measures remain.

Nevertheless, great uncertainty remains whether the beef sector would be sustainable even with the EPA. In 2010, exports reached an all-time high of P868 million, but fell drastically the following year to P460 million as a result of the recurring Foot and Mouth Disease and the challenges associated with the management of the national abattoir. During the months of July and September in 2012, trade between Botswana and the EU barely exceeded P9 million as beef exports faltered. Nonetheless, according to the trade minister, Botswana does not have a choice, 'Development partners are in control.'¹⁴⁶

7.4.4 Lesotho

Speaking at a workshop in February 2011, **Tlohang Aumane from the Ministry of Trade and Industry** said that Lesotho was interested in the opportunities that the interim EPA Rules of Origin offered their textile and clothing exports to the EU. According to Aumane, EPAs are unlikely to have any additional or direct revenue impacts on Lesotho.¹⁴⁷ Government officials interviewed during January 2014 observed that the EU is currently an insignificant market for Lesotho and it is unclear whether the EPA would boost the country's exports to this highly fragmented market.

7.5 Parliamentarians

Speaker in the House of Assembly of Swaziland, Prince Guduza has said in April 2011 that Swaziland and Lesotho signed the interim Economic Partnership Agreement with the European Union under duress. He said both countries signed the agreement because they had certain export quotas to the EU. He noted that the EPA sowed a seed of confusion in the region.¹⁴⁸

¹⁴⁵ Konopo, J., 'EPA talks: The endless EU trivia', Botswana Guardian, 26 July 2013, <http://www.botswanaguardian.co.bw/latest-news/203-epa-talks-the-endless-eu-trivia.html>

¹⁴⁶ 'EPA talks: The endless EU trivia', Botswana Guardian, 26 July 2013, <http://www.botswanaguardian.co.bw/latest-news/203-epa-talks-the-endless-eu-trivia.html>. 868 million Botswanan Pula is around EUR 70.5 million at January 2014 exchange rates.

¹⁴⁷ Lesotho, Regional Trade and Economic Partnership Agreements (EPAs), Seminar Four Report, http://www.lcn.org.ls/cotonou/Seminar4_Report_Final.pdf

¹⁴⁸ 'Swaziland, Lesotho signed EPA under duress – Guduza', The Swazi Observer, 6 April 2011

Many **Namibian parliamentarians** support the positions of trade minister Schlettwein (see above) and have urged him to ensure that Namibia is not coerced into signing any agreement that disadvantages the country.¹⁴⁹

According to a report of **South Africa's Parliamentary Portfolio Committee on Trade and Industry** presented on 13 November 2013, South Africa has encountered several challenges with the implementation of the TDCA, the main being the standstill clause, an ineffective agricultural safeguard clause and protection of infant industries. Furthermore, the introduction of new non-tariff barriers is an area of concern to South African exporters into the EU market, a recent example being the risk of EU market closure for South African citrus fruit due to sanitary and phytosanitary (SPS) measures related to the black spot. Efforts are being made to address these issues in the SADC EPA negotiations.¹⁵⁰

In the view of the Committee, the decision to terminate duty and quota free access to the EU market by 1 October 2014 places undue pressure on the negotiations, particularly on those members of the SADC EPA group dependent on preferential access to the EU, given the amount of technical and policy work that remains outstanding. The SADC EPA might compromise the operation of SACU, violate the SACU arrangement, unduly restrict or impede regional development, industrial policy space and trade diversification efforts. Efforts are being made to address this before the SADC EPA enters into force, *inter alia* to preserve the common external tariffs and harmonize varying rules of origin in order to preserve SACU's identity and to address legal provisions in the EPA that are problematic. The conclusion of the EPA would require a meaningful degree of asymmetry in favour of the smaller economies and ensure that the outcome does not undermine regional integration.

The Parliamentary Committee on Trade and Industry noted that outstanding issues that require resolution pertain to export taxes, agricultural safeguards as well as the MFN Clause which could undermine the Tripartite FTA through trade deflection and limit the expected benefits of increased intra-African trade.¹⁵¹

Some **parliamentarians in Lesotho** have raised concerns about the developmental impact of including 'new generation issues' including investment, competition policy, government procurement, intellectual property, environment and trade in services in the EPA, issues where the EU is seeking reciprocity even though LDCs do not have to take such commitments at the WTO. Furthermore, there is a feeling that the SPS/TBT chapters of the SADC EPA do not offer much to Lesotho. Proposals for improvement include (i) allowing longer time frames for Lesotho to adjust and comply with EU regulations which are constantly changing, complex and costly to implement and (ii) provision of resources and support for necessary adjustments by SADC EPA members in the areas of SPS and TBT.¹⁵²

¹⁴⁹ 'Namibia fumes at Europe's bullying tactics', Namibian Sun Report, 5 April 2013 <http://www.namibiansun.com/content/national-news/namibia-fumes-europe%E2%80%99s-bullying-tactics>

¹⁵⁰ Report of the Portfolio Committee on Trade and Industry on its Oversight on Regional Integration Efforts, Intra-African and Global Trade from 2009 to 2013, dated 13 November 2013 http://www.parliament.gov.za/live/commonrepository/Processed/20131118/555207_1.pdf

¹⁵¹ Report of the parliament of the Republic of South Africa, 14 November 2013, http://www.parliament.gov.za/live/commonrepository/Processed/20131118/555207_1.pdf

¹⁵² ACP-EU Joint Parliamentary Assembly 10th session - Edinburgh (United Kingdom) - 21 to 24 November 2005, Oral Questions to the Commission (by Mothejoa Metsin), http://www.europarl.europa.eu/intcoop/acp/60_10/pdf/commission_en.pdf

7.6 Civil society

7.6.1 Trade unions

The regional body of the unions in the SADC region is the **Southern African Trade Union Coordination Council (SATUCC)**. In 2009, the unions represented by the SATUCC considered EPAs as a threat to regional integration and an attempt to divide the organised working class as there were different negotiations with South Africa, some SADC countries and the ESA EPA group to which some SADC countries belong. The fear is that trade liberalisation will result in a flood of cheap imports, thereby destroying 'infant' local industries and creating mass unemployment. SATUCC called for the suspension of the EPA negotiations. For those countries that signed EPAs, they should only enact (ratify) the EPA if trade unions are involved. Furthermore, EPAs should only cover trade in goods and no other issues as they are still contentious at the WTO.¹⁵³

South Africa's largest trade union, the **Congress of South African Trade Unions (COSATU)** has been most critical of the interim SADC EPA. They are of the opinion that the main purpose of the agreement is to capture the SADC market for narrow European interests. Their main concern is that SADC countries, South Africa included, are not ready to compete on an equal basis with foreign industries. Indeed, research has shown that several existing SADC sectors that are trading regionally could be compromised by the EPA as the EU is more competitive in several products vis-à-vis SADC, including for products such as processed oil products (e.g. light petroleum distillates), chemical products (e.g. fertilizers, soaps), intermediate industrial products (e.g. structures & parts of structures, copper wire, tubes and pipes, cartons, boxes and cases), parts of machines, vehicles, Portland cement, processed agricultural products (e.g. cigarettes, sunflower oil, mineral water), medicines and certain textile and clothing items.

Furthermore, **COSATU** argues that the EPA undermines the rights of workers and the poor, fragments efforts towards regional and continental integration, removes policy space for countries to pursue industrial development and potentially worsens the impact of the economic crisis. COSATU has also pointed out that civil society and labour unions have not been involved in the negotiations and these negotiations have not been transparent.¹⁵⁴

As of 2014, COSATU continues to object to the EPAs on the basis that it seeks to entrench colonialism and imperialism perpetuating the dependence of African countries on the West. Reasons for objections are the unequal bargaining position between EU and ACP countries, negative impact on regional integration, the commitment of countries that sign EPAs to negotiate other non-trade/Singapore issues such as investment, competition and government procurement, weak safeguards in the EPA while EU subsidises its industries, and the loss of revenue.¹⁵⁵

7.6.2 Other civil society

ACTSA (Action for Southern Africa), the successor to the Anti-Apartheid Movement (AAM), argues that (1) the trade balance between Europe and Africa will worsen further, to the detriment of Africa, due to an increase in subsidised European imports, (2) Unemployment will soar as small producers and infant industries attempt to compete with European goods, (3) The zero-tariff or low-tariff regime will

¹⁵³ Interview with Mr. Gerd Botterweck, Director of Friedrich Ebert Stiftung's Trade Union Competence Centre for Sub Sahara Africa.

¹⁵⁴ COSATU Calls For Rejection Of EU-SADC Interim Economic Partnership Agreement, 30 April 2009. <http://www.cosatu.org.za/docs/pr/2009/pr0430.html>

¹⁵⁵ COSATU perspective on the EPA's, policy brief received 27 January 2014

weaken domestic industries and farms, making it difficult for them to survive or to develop as they attempt to compete against European goods, (4) Regional integration and established intra-Africa trade will be undermined by the new regional trading blocs, established as a requirement of EPAs, (5) . The cut in tariffs will cause a significant fall in government revenue, depriving African countries of vital income which would assist in development, (6) The pressure to liberalise financial services and introduce new financial instruments will increase the financial vulnerability of countries and lead to a highly deregulated banking sector and (7) Liberalising investment in the agricultural sector could result in countries handing over rights to foreign corporations to exploit forests, fisheries and agriculture with a negative impact on subsistence farming and food security as well as on the environment.¹⁵⁶

Several CSOs have observed that the negotiation of EPAs is being carried out in secrecy and is not open for public comments. They say that the South African government and other negotiating states have provided little information to their citizens about discussions taking place. This has stifled responses from civil society, and they have had to rely on news reports rather than information obtained directly from government, despite repeated requests.¹⁵⁷

Percy F. Makombe from the **Economic Justice Network of FOCCISA**, the Fellowship of Christian Councils in Southern Africa, has said developing countries should not be hurried through trade agreements without deep reflection of the full implications of signing these agreements, including issues such as tariff revenue losses, the MFN clause, export taxes, non-binding cooperation clauses, free circulation of goods, dispute settlement mechanism, impact on infant industries, stringent rules of origin, rendezvous clauses, non-execution clause, standstill clause and the increasing importance of intra-regional trade. According to Makombe, countries can only enter into reciprocal trade relations when asymmetries have been eradicated, otherwise 'the dream of equal relationships will remain just a dream'.¹⁵⁸

Liepollo Lebohang Phoko, policy and advocate director at the Johannesburg-based **The Trade Collective – Four Rivers**, is of the opinion that EPAs 'will be a devastating assault on women's health. They are not going to help us develop in any way. They are evil, bad and must be stopped'.¹⁵⁹

7.7 Private sector

The **Association of SADC Chambers of Commerce and Industry (ASCCI)** has pointed out that LDCs should be treated more favourably than non-LDCs, and be able to liberalise less. The EPA would entail substantial restructuring and engender adjustment costs. Therefore, resources for EPA implementation have to be agreed upon. Clauses on the prohibition of export taxes should be excluded from the EPA, as they are essential for enhancing value addition and industrialization as well as allowing policy space to address supply side issues. In addition, EU export subsidies should be disciplined in the EPA.¹⁶⁰

¹⁵⁶ 'Economic Partnership Agreements: an update', ACTSA briefing paper, 2010 <http://www.actsa.org/Pictures/Uplimages/pdfs/EPAs%20Update%20-%20May%202010.pdf>

¹⁵⁷ SADC-EU Economic Partnership Agreement – Civil Society calls for greater transparency, <http://donttradeourlivesaway.wordpress.com/2011/06/24/sadc-eu-economic-partnership-agreement-%E2%80%93-civil-society-calls-for-greater-transparency/>

¹⁵⁸ Makombe, P. F., 'Economic Partnership Agreement and SADC: the controversy continues', Economic Justice Network, 27 September 2010, <http://www.ejn.org.za/index.php/ejn-on-the-move/ejn-on-the-move-views/445-economic-partnership-agreement-and-sadc-the-controversy-continues>

¹⁵⁹ "EPAs Will Prevent African States From Achieving MDGs", IPS, 11 April 2009, <http://www.ipsnews.net/2009/04/trade-Isquoepas-will-prevent-african-states-from-achieving-mdgsrsquo/>

¹⁶⁰ 'Private sector views of EPA negotiations', East African Business Council, 17-18 May 2012, http://ti.au.int/en/sites/default/files/May%2017%2018%202012%20Private%20Sector%20Views%20on%20EPAs%20F_0.pdf

The **SADC private sector** came out with a series of position papers in 2008.¹⁶¹ They sent a letter to the Gareth Thomas, the then Under Secretary of State for Trade and Development, summarizing the views of the private sector in the SADC region, including the SADC Employers Group, ASCCI and Southern African Chamber of Agricultural Unions.¹⁶²

On market access, business in the region highlights the need for Rules of Origin to reflect the realities of the SADC private sector; in particular with regards to garments. Concerning standards, technical regulations and conformity assessment procedures, the SADC private sector supports the development of a SADC-GAP and the inclusion of a dispute settlement mechanism comparable to the EU-Chile FTA. The EPA should also ensure greater participation by SADC in standard setting. Furthermore, the SADC private sector attaches great importance to a monitoring and implementation mechanism in order to ensure action from the responsible parties.

South Africa's agricultural sector was hoping that the EPA negotiations would support the beneficated agricultural industry. Lobby groups such as **Agri South Africa (AgriSA)** and the **Agricultural Business Chamber (Agbiz)** have argued that, in terms of the TDCA with the EU, there is an imbalance in trade in beneficated agriculture, for example canned fruit, and that this should be corrected.¹⁶³

According to **AgriSA**, progress at the level of SACU was made in meeting EU's demands, in response to South Africa's request for improved access to the EU on 21 agricultural products, of which the EU made an offer on 17 products. One of the major outstanding areas in the EPA negotiations for them is a specific agricultural safeguard clause, a request that predates the surge in poultry imports from the EU. The TDCA's agricultural safeguard is more flexible than the SADC EPA safeguard. Other areas that remain open include rules of origin, export taxes and the MFN clause.¹⁶⁴

The **Agricultural Business Chamber (Agbiz)** opined that the objectives in the SADC EPA negotiations are to ensure more favourable market access for South African agricultural products, both processed and unprocessed, as well as to limit 'mass' imports from Europe that undermine the vulnerable and local markets in the region. Agbiz also wants to address the distortionary impacts of the EU's Common Agricultural Policy (CAP) which, despite recent reforms, continue.

Whether the SADC EPA represents a balance is difficult to say for Agbiz, as they are not privy to detailed negotiation positions and cannot thus develop a detailed position. A major frustration is that the South African government generally keeps the private sector 'pretty much in the dark' about trade negotiations, according to Agbiz. In the view of Agbiz, South Africa has made considerable and significant concessions on the issue of Geographic Indications (GIs), whilst South Africa seeks robust safeguards on a number of products imported from the EU. This has been quite a sticky point in the negotiations.

¹⁶¹ http://www.sadcmemployers.org/resources/Projects/SEG_EPA_Project/SADC%20EPA%20Position%20papers.pdf

¹⁶² Letter to the under-secretary of state for trade and development, United Kingdom, Business Unity South Africa, 15 October 2008, http://www.sadcmemployers.org/resources/Projects/SEG_EPA_Project/Final%20PDF%20letter%20to%20UK%20Min.pdf,

¹⁶³ Radebe, H., "Do not sacrifice' other farm sectors for sugar", Business Day, 6 August 2012, <http://www.bdlive.co.za/articles/2010/12/30/do-not-sacrifice-other-farm-sectors-for-sugar>

¹⁶⁴ Impact of trade agreements on the agricultural sector, Elaine Alexander, Chairperson: Agri SA Commercial Policy Committee, <http://www.thedti.gov.za/parliament/AgriSA.pdf>. **Agri South Africa is a federal organisation which promotes, on behalf of its members, the sustainability, profitability and stability of commercial agricultural through its involvement and input on national and international level. It represents commercial and emerging farmers through 9 provincial unions and 24 commodity organisations.**

The impression of Agbiz remains that the EU, given its tight economic situation, has become more 'protectionist', consequently South Africa is increasingly expanding its trade with the rest of Africa and Asia specifically, while trade with Europe is declining in real terms.¹⁶⁵

Mr. Sikhumbuzo Dlamini from the **Swaziland Sugar Association** has stated that continued preferential market access to the EU was a push factor towards the EPAs for Swaziland. Swaziland, he argued, needed SACU as well as the EU: SACU is the main source of the government's revenue in Swaziland and it imports a large portion of what Swaziland produces, whilst on the other hand the EU consumes about half the sugar exports of Swaziland. He asserted that it is important to always negotiate in good faith, and concluded by saying that whilst there was rationale and pressure to sign the IEPA, a more cautious and well-informed approach would have been worthwhile.¹⁶⁶

Some private sectors stakeholders in SADC have stressed that non-tariff barriers also matter for trade relations with the EU. As an illustration, **Vekuui Rukoro, Chief Executive Officer (CEO) of Meatco**, the largest exporter of prime beef in Namibia, has raised the issue of the implementation of the EU regulation 206/2010 for beef exports, specifically the 40-day-rule, which is applicable to countries where there is regular movement of animals between different veterinary zones.¹⁶⁷ In Namibia, movement of cattle from a zone with lower veterinary status to a green zone is not permissible by law, and prohibited by a physical barrier. This means that all animals in the green zone are effectively healthy animals and the 40-day regulation is not applicable to the Namibian situation. But despite this, Namibia is required to comply with this regulation.¹⁶⁸

7.8 Non-SACU SADC EPA countries (Angola and Mozambique)

The **Angolan Minister of Commerce, Rosa Pacavira** has said that Angola will not sign the EPA, because the country is in a stage of restructuring its industry and agriculture, and opening up would inhibit this process. Even if Angola would obtain market access, it could not enter the European market because it is not competitive compared with other African countries.¹⁶⁹ The issue does seem to have been discussed by the Angolan Parliament (*Assembleia Nacional*).¹⁷⁰

Angola's strategy is to keep their tariffs so that they can over time build their manufacturing and agricultural capacities. Some sources note that Angola has already begun bilateral discussions with other SADC EPA markets to offer them market access over the short to medium term, as an alternative to the EU market, as the country has a big market and is importing a lot of agricultural and industrial products.

Mozambique's **Minister of Industry and Trade, Armando Inroga** thinks that the EPA could help the country diversify its exports.¹⁷¹ One of the most important issues for Mozambique is the possibility to

¹⁶⁵ Correspondence with Agbiz

¹⁶⁶ Lesotho, Regional Trade and Economic Partnership Agreements (EPAs), Seminar Four Report, http://www.lcn.org.ls/cotonou/Seminar4_Report_Final.pdf

¹⁶⁷ Official journal of the European Union, Commission Regulation (EU) No 206/2010 of 12 March 2010, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:073:0001:0121:EN:PDF>

¹⁶⁸ 'European Union Members of Parliament visit Meatco', Namibia Economist, 1 November 2013, <http://www.economist.com.na/2011-12-07-11-05-31/agriculture/4276-european-union-members-of-parliament-visit-meatco>

¹⁶⁹ Rádio Nacional de Angola, 14 October 2013, <http://www.rna.ao/canalA/noticias.cgi?ID=79536>

¹⁷⁰ Angola's National Assembly, www.parlamento.ao

¹⁷¹ 'País busca facilidades no comércio com UE', Portal of the government of Mozambique, 30 October 2013, http://www.portaldogoverno.gov.mz/noticias/news_folder_econom_neg/outubro-de-2013/pais-busca-facilidades-no-comercio-com-ue/, Mozambique plans to abolish fees on exports to the European Union, Macao magazine, 31 October

maintain export taxes (e.g. on cashew nuts) as well as adequate protection for the agricultural sector (e.g. safeguards, maintaining import-surcharges on sugar). However, some commentators have noted that Mozambique remains 'free of European Union sanctions in 2014' (referring to the withdrawal of market access under 1528/2007)¹⁷² and that almost all sugar produced in Mozambique is exported duty-free to the European Union under the 'Everything But Arms' initiative.¹⁷³ The Ministry of Industry and Trade previously had some interest in the services negotiations.¹⁷⁴

The Mozambique Parliament (*Assembleia da República de Moçambique*) does not seem to have pronounced on the EPAs. Given that SACU Member states have been most active in the SADC EPA negotiations and this agreement does not provide additional market access for Mozambique (either in goods or services), it is unclear whether Mozambique would ratify the interim EPA, join the SADC EPA or join a future EPA that includes more trade-related issues. Estimates from 2008 put the level of liberalisation in Mozambique's interim EPA at between 62.2% and 66.5%, one of the lowest of any EPA that has been signed.¹⁷⁵

2013, <http://www.macauhub.com.mo/pt/2013/10/31/mocambique-pretende-suprimir-taxas-nas-exportacoes-para-a-uniao-europeia/>

¹⁷² 'Moçambique livre de sanções da União Europeia em 2014', Verdade, <http://www.verdade.co.mz/economia/32956-mocambique-livre-de-sancoes-da-uniao-europeia-em-2014>

¹⁷³ 'Açúcar acelera economia', O País, 12 July 2013, <http://opais.sapo.mz/index.php/economia/38-economia/26216-acucar-acelera-economia.html>

¹⁷⁴ See for example this project financed by Switzerland – <http://www.ideascentre.ch/competencies-projects/regional-integration/mozambique/>

¹⁷⁵ Stevens, C., Meyn, M., Kennan, J. (ODI) and Bilal, S., Braun-Munzinger, C., Jerosch, F., Makhan, D. and F. Rampa (ECDPM). 2008. The new EPAs: comparative analysis of their content and the challenges for 2008 (Policy Management Report 14). Maastricht: ECDPM, http://www.ecdpm.org/Web_ECDPM/Web/Content/Navigation.nsf/index2?readform&http://www.ecdpm.org/Web_ECDPM/Web/Content/Content.nsf/0/0E4FD1DDEACB8E2DC12574180056C942?OpenDocument

8. PACIFIC ACP (PACP) EPA

8.1 Basic characteristics of the region



Countries in the Pacific EPA configuration: All member countries of the Pacific Island Forum (except Australia and New Zealand) – Cook Islands, East Timor, Fiji, Kiribati, the Marshall Islands, Micronesia, Nauru, Niue, Palau, Papua New Guinea, Samoa, the Solomon Islands, Tonga, Tuvalu, and Vanuatu.

Regional facilitator for Pacific EPA configuration: Pacific Islands Forum Secretariat (PIFS) based in Suva, Fiji.

Country in Pacific EPA configuration	Current EU preferential trade regime(s)	Development status
Papua New Guinea	MAR 1528/2007 and GSP	Lower middle income
Fiji	MAR 1528/2007 and GSP	Upper middle income
Marshall Islands, Palau, Tonga	GSP	Upper middle income
Micronesia	GSP	Lower middle income
Timor-Leste, Kiribati, Samoa, Solomon Islands, Tuvalu, Vanuatu.	EBA	LDC
Cook Islands, Nauru, Niue	GSP	Unknown (not assessed by World Bank)

8.2 State of play

The EPA negotiations between the 14 Pacific ACP states (PACP) and the EU commenced in September 2004. Papua New Guinea (PNG) and Fiji initialled the interim EPA in 2007 and signed the agreement in 2009 to avoid market access disruption for canned tuna and sugar. The EU and PNG ratified the interim EPA in January and May 2011 respectively.¹⁷⁶

Since 2008, negotiations toward a regional EPA have continued. However parties did not meet for formal negotiations between September 2009 and September 2012. PACP trade ministers met on 16-17 May 2013 to review the progress of the negotiations. When Papua New Guinea later withdrew from the regional EPA negotiations, the European Commission suspended the negotiations in October 2013. Following this, the European Commission and PACP trade ministers met in December 2013 with Trade Commissioner de Gucht.

In October 2013, the **Pacific Islands Forum Secretariat (PIFS)** reported that outstanding issues in the Pacific EPA negotiations are the lack of a development chapter in the interim EPA, treatment of kava in the EU market, export taxes, circulation of goods, MFN clause, infant industry, non-execution clause, good governance in the tax area, tax exceptions, non-execution clause and fisheries.

PIFS has noted that fisheries are key to concluding the negotiations as the fisheries sector is one of the few sectors that have the potential to contribute to sustainable economic growth and development for most PACP EPA states. A major potential benefit for PACP countries are the global sourcing provisions of the EPA. These provisions (in the form of a derogation from general rules) enable countries that lack fisheries resources or which do not have their own vessels to source fish from approved sources,

¹⁷⁶ Update on the Pacific ACP EPA negotiations, Pacific Islands Forum Secretariat, 2013

including EU vessels fishing in Pacific waters to process the fish in their country and export it to the EU. At the moment, the EU has agreed to grant global sourcing for canned fish from the Pacific in the EPAs signed by Papua New Guinea and Fiji. In the full EPA, the Pacific states are seeking extension of these rules to fresh, frozen and chilled fish.¹⁷⁷

8.3 Summary of stakeholders views

Pacific governments want to adopt a variable geometry approach – those countries that want to have an EPA should sign and those that do not, should not sign.

Papua New Guinea has signed and is implementing the interim EPA. It withdrew from the regional EPA negotiations in 2013. The reasons for withdrawal were the European Commission's insistence to water down the global sourcing provisions in the comprehensive EPA compared to what it had already secured in the interim EPA, as well as EU's wish to link these provisions in the EPA to the conclusion of fisheries agreements. The EU's fishery access agreements in the region are not without controversy.

Most governments are concerned about the EPA and the ramifications on policy space, sovereignty and development. Pacific Network on Globalisation (PANG), the most prominent civil society organisation in this area, has advised governments to walk away from the EPAs because they do not allow the Pacific the economic self-determination that it deserves.

The main body for the private sector is the Pacific Islands Private Sector Organisation (PIPSO). It has not issued any statements regarding EPAs. Similarly, parliamentarians do not appear to have been very vocal on the EPA issue.

8.4 Governments

Papua New Guinea withdrew from the EPA negotiations in 2013. The main reasons for its withdrawal were the European Commission's insistence to water down the global sourcing provisions in the comprehensive EPA compared to what it already had secured in the interim EPA, as well as EU's wish to link these provisions in the EPA to the conclusion of fisheries agreements.

In June 2013, The EU Ambassador for the Pacific, Andrew Jacobs, asserted that the EU faces 'political opposition' to the inclusion of global sourcing provisions in the EPA. Ambassador Jacobs warned the islands that the global sourcing concession offered under its interim EPA with PNG, does not mean the same concession would remain in a comprehensive EPA. 'Global sourcing led to a significant controversy during the ratification of the interim EPA in the European Parliament. It is by no means certain that the European parliament will accept or extend the clause in the permanent EPA¹⁷⁸ Realistically, the political opposition to global sourcing which the EU faces domestically obliges the EU to consider a clause where the product coverage will be much narrower than the current clause in the current EPA.'

Jacobs has also suggested that the EU links the EPA with fish access agreements. He accused the Pacific region of being too 'inflexible' in negotiations over fishing access and said that 'the EU also doubts the fish conservation measures advocated by the Western and Central Pacific Fisheries Commission (WCPFC) in the form of Vessel Day Scheme (VDS). Because of this, the EU will be unable to provide fresh proposals on fresh and frozen fish.'

¹⁷⁷ Update on the Pacific ACP – EU negotiations, brief by Pacific Islands Forum Secretariat, October 2013

¹⁷⁸ Pareti, S., 'EU reveals its EPA cards', Islands Business, June 2013, <http://www.islandsbusiness.com/2013/6/trade/eu-reveals-its-epa-cards/>

However, the EU fishery access agreements in the region are not without controversy. In 2013, it signed a deal with Kiribati allowing the EU to deploy four purse seiner and six long line vessels in Kiribati's waters. According to Dr Aqorau, **CEO of the Parties to Nauru Agreement (PNA)**, this agreement is a risk since 'the EU seeks at every turn to undermine PNA's sub-regional measures, which are often much more conservation-minded than those advanced through WCPFC. Furthermore, 'the EU has consistently failed to adhere to WCPFC measures by exceeding high seas days and failed to adhere to the VDS.' What is worse is that the EU vessels catch significantly more fish per day and fish on Fish Aggregation Devices, with no selectivity on pre-adult tunas.¹⁷⁹

According to the **lead negotiator for the PACP, Robert Sisilo** (who is also Solomon Islands' trade negotiations envoy), de Gucht said that signing the IEPA is a stepping stone to a comprehensive EPA. Sisilo is very disappointed in this position, since it was understood that all remaining contentious issues would be negotiated in the context of a comprehensive EPA. 'In fact, when PNG and Fiji initialled the IEPA in December 2007, the remaining PACPs—which did not initial it because there was nothing much in the IEPA for them—were told in no uncertain terms by the EC that all remaining contentious issues will be negotiated in the context of a comprehensive EPA. That was the process the PACPs and the EC agreed to in December 2007. So by signing the IEPA as the Trade Commissioner was suggesting, PACPs will by definition agree to these issues hands down and lose their leverage in negotiating a comprehensive EPA, if this is still going to be negotiated at all,' Sisilo stated in January 2014.

The Pacific is expected to maintain a 'variable geometry' stand in the EPA negotiations. 'Variable geometry basically allows those PACPs willing to go ahead and conclude a comprehensive EPA with the EU to do so and others to sign later or sign up to the Interim EPA, or just walk away,' Robert Sisilo said.¹⁸⁰ This is a fundamental principle that we have already agreed to and it is also provided for in Article 37(3) of the Cotonou Partnership Agreement. As a diverse region with different needs, variable geometry is the only practical way forward."

Speaking as **Solomon Islands**, Sisilo said, 'My calculated guess is that if all, or just one or two of the bigger PACPs sign the IEPA, then it's game over and the IEPA will become the comprehensive EPA,' 'No wonder the EC is pushing us towards the IEPA, which will not be a 'stepping stone' but a dead end road. The EC has always told the Solomon Islands to go down that road but we have stood our ground, fully aware that this is just not about canned fish and cooked loins. It is also about export taxes, development cooperation, protection of infant industry, etc.'

On 10 December 2013, **Prime Minister Gordon Darcy Lilo from Solomon Islands**, when opening the Special Joint Pacific ACP Trade and Fisheries ministers meeting in Honiara, emphasized that Pacific countries 'as hosts for the world's biggest fisheries resources, ... must continue to set eyes on getting an equitable value for the resources instead of trading our resources based on volume'. He considers that PACP countries can make commitments in the EPA regarding conservation and management of fisheries resources because they are already doing some (something the Pacific already indicated in the past).

Mr. Lilo said conservation and management is paramount, to which Pacific leaders had a vision agreed upon from the Auckland Declaration of April 2004. 'Leaders have reiterated the need for sustainable management of natural resources and the Pacific region is already leading in this area. We do not need the EU to tell us how to manage our fisheries resources, we can cooperate with them if they want to

¹⁷⁹ Matau, R., 'Kiribati's new tuna deal with the EU', Islands Business, May 2013, <http://www.islandsbusiness.com/2013/5/business/kiribatis-new-tuna-deal-with-the-eu/>

¹⁸⁰ Tabureguci, D., 'PACPs firm on variable geometry stand', Islands Business, January 2014, <http://www.islandsbusiness.com/2014/1/business/pacps-firm-on-variable-geometry-stand/>

assist, but we will be in the driving seat.' 'The EPA should be development friendly and beneficial to all parties including small island developing states, and must not backtrack from the commitments made in the EPA and foster regional integration' he added.¹⁸¹

Malielegaoi, the Prime Minister and Minister of Foreign Affairs and Trade of Samoa, has stated that 'there is no doubt that we are keen to reach agreement with the EU on all the outstanding issues. But we would also like to see flexible accommodation from both sides to address and meet the respective interests of the ACP and the EU in equal measure,'¹⁸².

Fiji has refused to ratify the interim EPA on the grounds that it is riddled with contentious issues detrimental to development in the Pacific.¹⁸³ It prefers a united PACP stand on the full EPA. Nonetheless, the **Fijian trade minister, Aiyaz Sayed-Khaiyum**, stated that 'The reality is that the comprehensive EPA in its current form to say the obvious has enormous ramifications on our policy space, our sovereignty and our development. It also constraints our ability to deliver basic socio-economic rights to our citizens if not negotiated properly. For example under the Fiji's new constitution, the constitution provides unprecedented socio-economic rights including the right to housing, education, health, food and the right to economic participation'. 'We cannot, as a sovereign state, allow any trade agreement to prevent Fiji from providing these basic necessities to our citizens', he said. Fiji remains committed to a comprehensive EPA but one that is favourable to all parties, has development at its core and receives benefits for all their citizens. 'To negotiate a comprehensive EPA with EU [...] we (the PACP countries) must come together over a good period of time and conclude all our discussion and all our position.'¹⁸⁴

Besides Papua New Guinea, Fiji is the only other PACP country that signed the Interim EPA with the EU. It has not, however, yet submitted a notification to the EU to utilise the 'global sourcing' derogation. Fiji is host to a tuna loin processing facility (PAFCO). The reason why PAFCO appears to be commercially uninterested in utilising the derogation is because it is currently a contract processor of tuna loins to the Bumble Bee cannery in Sante Fe Springs, USA. This relationship is unlikely to change unless the Sante Fe Springs cannery is closed. In addition, PAFCO currently focuses on the processing of albacore loins, which is not in high demand in the EU.¹⁸⁵

Sugar is an important consideration for Fiji in the EPA negotiations. While the contribution of sugar to the country's GDP has been estimated at only around 4 percent,¹⁸⁶ over 90 percent of Fiji's exports to the EU is sugar. The government-owned Fiji Sugar Corporation (FSC) has a monopoly producing raw sugar in Fiji. It is also the largest public enterprise in the country employing nearly 3,000 people, while another 200,000 or more depend on it for their livelihood in the rural sugar cane belts of Fiji.¹⁸⁷ The largest export consumer has been UK-based Tate & Lyle for around 35 years. In 2008, FSC signed a new long-term agreement with that company to supply up to 300,000 tonnes of raw cane sugar annually

¹⁸¹ 'PM: We want a better EPA', Solomon Star, 11 December 2013, <http://www.solomonstarnews.com/news/national/20512-pm-we-want-a-better-epa>

¹⁸² 'Zimbabwe: ACP urged to move with the times', the Herald, 12 December 2013, <http://allafrica.com/stories/201312120113.html>

¹⁸³ 'EU reveals its EPA cards', Islands Business, June 2013, <http://www.islandsbusiness.com/2013/6/trade/eu-reveals-its-epa-cards/>

¹⁸⁴ Theonomi, B., 'Fiji pulls out of ACP-EU meeting', Solomon Star, 11 December 2013, <http://www.solomonstarnews.com/news/national/20513-fiji-pulls-out-of-ACP-EU-meeting>

¹⁸⁵ Hamilton, A., Lewis, A., Campling, L., 'Report on the implementation of the derogation to the standard rules of origin granted to the Pacific ACP States in the framework of the interim EPAs', December 2011, http://trade.ec.europa.eu/doclib/docs/2012/february/tradoc_149137.pdf

¹⁸⁶ 'An analysis of the sugar industry and its global competitiveness – the case of Fiji', Linnæus University, 2010, <http://www.diva-portal.org/smash/get/diva2:327332/FULLTEXT02>

¹⁸⁷ Fiji Sugar Corporation, http://en.wikipedia.org/wiki/Fiji_Sugar_Corporation

until 30 September 2015.¹⁸⁸ Tate & Lyle has faced problems with its sugar business and reduced sugar refinery output. The company's vice president, Gerald Mason, blamed these problems on the Common Agricultural Policy (CAP) that gives preferences to beet sugar over cane sugar.¹⁸⁹ On 1 July 2010, its iconic sugar refining and golden syrup business was sold to American Sugar Refining (ASR).

Fiji would be able to find alternative outlets for its sugar. The **Sugar Ministry's Permanent Secretary** Manasa Vaniqi has indicated that markets like Egypt, Japan, Bangladesh and countries in the Middle East have indicated an interest in buying Fiji's sugar.¹⁹⁰ ASR has sugar refineries in North-America. Also, in January 2014, the Sugar Ministry considered an offer from Chinese investors to buy 100,000 tonnes of Fiji's sugar annually, in the context of the non-ratification of Fiji's EPA.¹⁹¹

According to **Fiji's Permanent Secretary for Industry and Trade, Shaheen Ali**, global sourcing provisions on fresh, frozen and chilled fish, if granted under the comprehensive EPA, would accrue tangible and significant benefits. 'This would be in terms of investment, employment and growth in PACP states and will enhance their exporting capacity to the EU,' he said. 'It will provide the single major incentive for PACP states to enter into the EPA.'¹⁹² In 2012, the Fijian trade minister said that Fiji has strongly pushed for the inclusion of 'global sourcing' provisions that would also apply to fresh, frozen and chilled fish.¹⁹³ Mr Ali pointed out that the Fijian fishing industry's main export markets, traditionally, had been United States and Japan.

Mr Ali said global sourcing provisions under the EPA could overcome the inherent disadvantages of small island states and least developed countries (LDCs), such as lack of scale, infrastructure and expertise, and incentivize co-operation and partnership (including joint ventures) amongst PACP states. 'For example, Fiji has the infrastructure, the technical know-how and the conducive investment environment, however, it lacks fisheries resources,' he said. 'Whilst other Pacific states may have abundant resources and excess labour supply but may lack processing capacity.' Mr Ali used the example of co-operation between Fiji and Kiribati to highlight the tangible economic and social benefits the global sourcing framework would have on PACP countries. This is where the derogation from normal rules or the global sourcing rules will assist the Fijian fisheries industry to source fish from neighbouring islands and export to the EU as qualifying products for duty-free entry.

8.5 Parliamentarians

In the Pacific, parliaments do not seem to have pronounced themselves on the EPA negotiations.

¹⁸⁸ Fiji Embassy in Washington DC, Tate & Lyle Enters Into Long-Term Agreement on the Supply of Raw Sugar with Fiji Sugar Corporation LTD, <http://www.fijiembassydc.com/default.asp?contentID=794>

¹⁸⁹ Gilligan, A., 'The EU's sugar ruling that's left a bitter taste at Tate & Lyle', the Telegraph, 2 March 2013, <http://www.telegraph.co.uk/news/worldnews/europe/eu/9904266/The-EUs-sugar-ruling-thats-left-a-bitter-taste-at-Tate-and-Lyle.html>

¹⁹⁰ Tabureguci, D. & Matau, R., 'Red alert on Fiji's Fish, Sugar', Islands Business, December 2012, <http://www.islandsbusiness.com/2012/12/fiji/red-alert-on-fijis-fish-sugar/>

¹⁹¹ 'Chinese investors have shown interest in buying Sugar annually', Fiji Village, 3 January 2014, <http://www.fjivillage.com/?mod=story&id=030114cf9a353171a6a6fc3da32eb0#>

¹⁹² 'EU, Pacific meet in Brussels to seal deal', Republic of Fiji, Ministry of Trade and Industry, <http://www.mit.gov.fj/index.php/news/166-eu-pacific-meet-in-brussels-to-seal-deal>

¹⁹³ 'AG: EPA potentially beneficial for all Pacific ACP countries', Fiji Times Online, 17 June 2012, <http://www.fjitime.com/story.aspx?id=204125>

8.6 Civil society

Pacific Network on Globalisation (PANG) based in Fiji appears to be the main, if only CSO, actively focusing on the EPA talks. PANG has advised Pacific governments to walk away from the EPA because, in their view, EPAs do not allow the Pacific the economic self-determination that it deserves.¹⁹⁴

Several trade unions were contacted for this study but they did not have a public position on the EPAs.

8.7 Private Sector

The main body for the private sector is the Pacific Islands Private Sector Organisation (PIPSO). PIPSO has organised trainings and workshops on trade issues including on EPAs, but they have not issued any statements regarding EPAs.

¹⁹⁴ Author's interview with Pacific Network on Globalisation

9. CONCLUSIONS AND RECOMMENDATIONS

9.1 Conclusions

This Study brought together a selection of positions from key stakeholders in African and Pacific countries. Based on the views of stakeholders, we can conclude the following:

- **The withdrawal of market access by October 2014 has cornered particularly African countries that are still dependent on the EU market for their narrow range of exports. Many governments are caught between their short term and longer term goals. The short-term goal of not wanting to disrupt their existing market accesses to the EU and the industries and employment dependent on this access – hence the allure of the EPA. Yet they also recognise that in the long-term, the EPAs will constrain their own industrial and agricultural capacities by limiting their trade and other policy flexibilities.** Many stakeholders believe that the EU coerced or forced ACP countries to sign interim EPAs, and similar views are held with respect to the EPAs being negotiated in the face of the removal of countries from Market Access Regulation 1528/2007. As the Namibian prime minister put it, “If you can sit in Brussels and decide alone – excluding me – and come and impose the deadlines, it is not partnership.”
- **The unfortunate conclusion that common customs arrangements are paramount to regional integration is driving some African countries towards signing regional EPAs.** The threat that having different trade relations with the EU within a customs union would break-down these unions, such as SACU, ECOWAS and EAC, is real. This explains why countries party to these regional arrangements are strongly compelled to sign an EPA for the sake of preserving the market access to the EU of the non-LDCs in the union, even though at an individual country level, it might not be in their interest. Nevertheless, this has come up against the longer-term view that if these customs unions integrate with the EU, the principal aim of building a customs union – to allow domestic industries to capture a bigger regional market and therefore to be able to grow – is likely to be jeopardised.
- **Most stakeholders consider that the EPA is imbalanced and does not take into account the concerns of ACP countries.** In fact, in most ACP countries, the EPAs have been met with significant resistance due to the implications for local industries as well as agriculture, job losses, reductions in tax revenue, trade diversion and regional integration.
- **A lot of energy has been spent on (re)negotiating the contentious issues towards finalising negotiations on the ‘full’/‘comprehensive’ EPA after a number of ACP countries signed the interim EPA.** The exact content differs per negotiating region, but they include the following:
 - Market access offer – liberalisation puts locally produced products including those that are regionally traded at risk, leading possibly to a deteriorated food security situation, firm closures, unemployment triggering social crises and has long term implications regarding countries’ ability to industrialise. Also, governments dependent on tariff revenue have less money to spend on infrastructure and social services. The West Africa market access offer of 75% in terms of tariff lines still liberalizes 82% for the entire West-Africa, almost 85-86% for Senegal and Nigeria (major importers) and more than 90% for Togo, an LDC.
 - Prohibition of export taxes – a tool to incentivize domestic value addition.
 - MFN clause – extending better tariff preferences provided by ACP to third countries also to the EU. MFN provisions jeopardise ACP countries’ ability to build partnerships with others, including South-South partnerships.

- Agricultural subsidies – despite reforms, the EU's Common Agricultural Policy has trade-distorting impacts on ACP countries. The EU has refused to deal with this issue claiming that it is being dealt with in the WTO context, even though the WTO negotiations have not led to any meaningful or effective disciplines.
- Better agricultural safeguards that deal with import surges, in particular in SADC EPA
- Customs union clause – commitment to commence negotiations with countries in a customs union with EU, in particular Turkey. This has been raised in the EAC by the private sector and was a 'persistent divergent' issue in the ECOWAS negotiations.
- Non-execution clause – possibility of trade sanctions if an ACP state commits a purported human rights violation. This concern has been mostly raised mainly by governments.
- Development aid, including the amount, additionality, modalities/management, and its binding character.
- Rules of origin, including asymmetry between EU and ACP, cumulation, tolerance values, origin rules for fish.
- Despite the best attempts by African countries, the negotiations in the EPAs have continued to be very difficult. Although the **European Commission has said that they are flexible, this has not been the perception of many of the stakeholders for instance in Africa**. Instead there is fairly strong sentiment that Europe continues to ask for issues which are simply inappropriate for partners that are at a much lower level of development, and which go beyond the WTO requirements for a free trade agreement.
- **Tariff revenue loss** is a major problem for countries if and when the EPA is signed. Some governments have considered this and are therefore hesitating. This is an issue for the ESA countries that are implementing the EPA – with Seychelles and Madagascar having already raised this as a major concern. The losses are set to increase given the ever increasing EU imports by ACP countries. Countries considering signing/ratifying and implementing the EPAs must give this issue much greater consideration.
- **Some constituencies within ACP countries have argued for other elements that could be included to make the agreement more balanced.** These include
 - Issues surrounding non-tariff barriers such as veterinary requirements, an improved SPS Chapter along the lines of the EU-Chile FTA, mechanisms that ensure greater participation of ACP countries in standard setting, etc.
 - Business visas.
 - Mechanisms that deal with preference erosion.
- **Alternatives to EPA have been proposed.** Many stakeholders have mentioned GSP+ as an alternative (e.g. Kenya Human Rights Commission in EAC, domestic private sector in West Africa). Trade ministers have suggested the provision of non-reciprocal treatment to non-LDCs in LDCs (advanced among others by African Union, ACP, and Tanzania in the EAC). This would be most beneficial for regions where regional integration is already advancing (e.g. ECOWAS, EAC and SACU) as well as other regions that would like to advance regional integration. A Fund for Supporting Regional Integration has been proposed by some prominent West African civil society groups. If such a Fund can be established, the idea is that the sub-region would not need the EPA.
- **Several countries are unlikely to sign an EPA by the October 2014 deadline.** LDCs in configurations where regional integration is not as advanced as in other regions do not have an

- incentive to sign onto EPAs, such as those LDCs in the ESA and Central Africa EPA configurations. Also Non-LDCs where the additional tariffs under alternative trade regimes are minimal, such as Gabon or Congo (Brazzaville) in Central Africa seem unlikely to sign.
- **Non-state actors have a lack of information on EPAs and the EPA negotiation process.** Many parliamentarians as well as non-state actors have expressed frustration about the lack of possibilities to get involved as well as lack of information about the EPA negotiations themselves. For instance, the Kenya High Court ordered the government to involve stakeholders better and make more information available. In South Africa, trade unions, private sector and other civil society have complained about the lack of information. One finding from this study is that parliamentarians that have been involved in ACP–EU JPA processes have often been active on the national level discussing EPAs. They are not necessarily the ones that are in favour of EPA but have triggered debates in their parliaments on the contents and impacts of EPAs, contributing to more awareness of EPA amongst non-state actors.
 - **The scope of the ‘full’ EPA differs by region.** For instance, services market access is not part of the West African or Pacific EPA whereas in the ESA and Central Africa EPAs this is (formally) still a negotiation item.
 - In the Pacific, Papua New Guinea withdrew from the comprehensive EPA negotiations mainly because of the **European Commission’s insistence to water down the global sourcing provisions in the comprehensive EPA** compared to what it had already secured in the interim EPA, as well as the **linking of the provisions in the comprehensive EPA to the conclusion of fisheries agreements.**
 - In Southern Africa, **TDCA allowed the EU to ‘free ride’, accessing markets of other Members of the Southern African Customs Union (SACU).** This is considered a historical imbalance which stakeholders believe should be compensated by the EU, or at least considered.
 - **The views of the private sector differ between regions.** In West Africa as well as Central Africa, the private sector is not clamouring for the EPA, with the exception of the pineapple and banana growers that have organized themselves in an association. In Nigeria the export-oriented sectors are not very vocal in pushing the country to sign an EPA. In East Africa there appears to be two main camps: export-oriented business sectors that are relatively well-organized with considerable influence on local policy makers (e.g. Kenya Flower Council) and other businesses in EAC that are more regionally oriented such as small farmers which are adamantly opposed to the EPA.

9.2 Policy recommendations to the DEVE Committee

We would make the following recommendations to the DEVE committee and the European Parliament:

9.2.1 Recommendations to provide alternative to EPA

Most ACP countries view the EPAs as currently conceived being contrary to their countries’ development objectives – the level of liberalisation demanded; the prohibition of new export taxes; the MFN clause; standstill clause; the other issues outside of market access, such as services, investment, competition, government procurement; the negative impact on regional integration or even if regions sign the EPA en bloc, the jeopardising of the real goals of regional integration – the building of regional production capacities.

The positions of Europe are perplexing given that Europe has provided much more lenient preferential arrangements to other countries e.g. the waivers in the WTO providing preferences to Moldova and the Western Balkan countries. Europe had asked for these waivers because of the fragility of these economies. Why not Africa? In the EU’s request for an extension of the waiver for the application of

autonomous preferential treatment to the Western Balkans, the EU argued that 'Terminating the trade preferences would have a negative impact on the overall economic performance of the Western Balkans, with consequent negative repercussions on their domestic reform and transition processes. Moreover, given the current worldwide economic slowdown, the Western Balkans' economic recovery could be seriously jeopardized'.¹⁹⁵ Likewise, in making the case for the extension of preferences for Moldova, the EU argued that 'the Republic of Moldova is the poorest country on the European continent and that it was necessary to offer to the Republic of Moldova an improved access to the EU's market to support the development of its economy through increased export performance...'.¹⁹⁶

Indeed, if Europe can provide preferences to Pakistan, Moldova and the Western Balkan countries, surely it can do the same for sub-Saharan Africa, its former colonies? The US too provides preferential treatment through AGOA to sub-Saharan Africa (SSA). This AGOA arrangement recognises the much less developed status of the SSA countries compared to the US, and also does not jeopardise regional integration in SSA.

Europe is therefore urged to:

- (i) Recognise and support ACP countries' regional integration efforts and the problems and contradictions posed by the EPAs.
- (ii) Recognise the importance of tariffs and other trade policy instruments needed by ACP countries, particularly in Africa in order to develop its industries, agriculture and services sectors.
- (iii) Acknowledge the importance of tariff revenues for ACP countries especially Africa, and the impact the EPAs would have on tariff revenue. Alternative sources of revenue such as income and valued added taxes have not proven to be as effective given the large informal sectors in developing countries.
- (iv) Support ACP countries particularly Africa and the Pacific in a meaningful manner by finding the political will to provide preferential trade arrangements that are WTO-Compatible, as the EU is already providing to Syria (the EU-Syria FTA has been notified in the WTO as a regional trade agreement under GATT Article XXIV even though the EU liberalises fully and Syria does not), Moldova, Western Balkans and Pakistan by way of WTO waivers.
- (v) One solution that is WTO-compatible is the AU Proposal for a Common and Enhanced Trade Preference System for LDCs and Low Income Countries (LICs) which has been endorsed by African trade ministers.

The proposal is an appeal for LDC Regions or Customs Unions to be treated as one in order to support regional integration of these countries. The EU can provide LDC treatment to regions where half or more than half of the countries are LDCs. This would apply to the following RECs / sub-regions – EAC; SADC; COMESA; CEMAC; ECCAS; ECOWAS.

This can be done in a way that is WTO-compatible, either through a waiver in the WTO or a slight improvement and enhancement to the EU's GSP scheme. The technical solutions can be found. More important is the political willingness of Europe to provide preferential, non-reciprocal trade arrangements, recognising that SSA remains the poorest continent today.

A second best alternative is that Europe should positively consider a request from ACP countries that wish to benefit from GSP+ and actively facilitate their access to GSP+, including providing them time to

¹⁹⁵ Minutes of the WTO's Council for Trade in Goods meeting, 7 November 2011 (WTO, G/C/M/108, 31 January 2012)

¹⁹⁶ WTO, WT/L/861, 10 July 2012, 'EU-Application of Autonomous Preferential Treatment to the Republic of Moldova, Report of the European Union under the Decision of 7 May 2008'.

ratify the required conventions for GSP+ and also making the conditions of access to GSP+ more lenient and better tailored to the needs of the ACP countries.

9.2.2 Recommendations related to EPA negotiations

The following are recommendations that can make the EPAs less damaging. However, they are simply band-aids and will still not rectify the most problematic and destructive elements of implementing an EPA unless the EPA is based on very carefully crafted development benchmarks (see the final point):

- The principle that the most favourable provision in any one EPA configuration would be extended to the others should be reaffirmed (as adopted by AU trade ministers in October 2013). I.e. this would mean for example that **EAC should be allowed to renegotiate its market access offer** that has remained unchanged since 2007, because its liberalisation in terms of tariff lines is higher than 75%.
- **Regional EPA negotiations that are still going on should be limited to goods.** This has been suggested by, for example, the ACP and COMESA Secretariats. In other words, regional EPA negotiations should not deal with issues such as services, investment, competition, government procurement, labour, environment, intellectual property issues, tax governance issues.
- **EPAs should not contain export tax provisions constraining the use of export taxes.**
- **EPAs should not contain an MFN provision** (which is the case in many EU FTAs), and if they do, the EU should not ask ACP countries that have already signed an EPA with an MFN clause to liberalize even further through the ‘customs union clause’ that obliges ACP countries to enter into an FTA with Turkey.
- **Rendezvous clauses (existing or those under negotiation) should not contain issues that have never been inserted in the WTO agenda** - e.g. investment, competition, government procurement, labour, environment, higher than WTO levels of intellectual property protection, tax governance issues.
- **Prioritisation of ACP issues.** Issues mentioned by stakeholders across the different regions such as addressing non-tariff barriers that the EU puts on ACP products, SPS/TBT, mechanisms to mitigate preference erosion for ACP states and provisions that discipline the distortionary nature of EU’s Common Agricultural Policy (CAP) should be dealt with.
- **Link the phasing in of liberalisation commitments to development benchmarks.** The idea is that countries can only take on additional liberalisation commitments if they have graduated out of a certain level of vulnerability or development. A similar concept was also embedded in former EU GSP schemes which graduated countries once they reached a certain level of development. This idea was promoted by NGOs and several countries in the SADC and ESA EPA regions around 2007-2010, but ACP stakeholders have not publicly advocated the idea in more recent years (the focus of this study).¹⁹⁷

9.2.3 Recommendations for specific EPA negotiating regions

¹⁹⁷ See for example ‘Benchmarking EPA negotiations between EU and SADC’, ICTSD / Tralac / Aprodev, July 2007, [http://aprodev.eu/files/Trade/BM%20SADC%20Benchmarking%20EPA%20McCarthy%20et%20al%20Final%20\(2\).pdf](http://aprodev.eu/files/Trade/BM%20SADC%20Benchmarking%20EPA%20McCarthy%20et%20al%20Final%20(2).pdf), ‘Business Unusual: Benchmarking for Pro-Development Monitoring of the Negotiation and Implementation of an ESA-EU Economic Partnership Agreements’, Report on Workshop organized by: CUTS NRC, ECDPM & FES in Cooperation with APRODEV, April 2007, http://www.acp-eu-trade.org/library/files/CUTS-ECDPM-FES-APPRODEV_EN_240407_EPA-Workshop-Report.pdf. In 2009, South Centre proposed specific language for insertion into EPAs – South Centre Analytical Note SC/AN/TDP/EPA/20, ‘EPAs and Benchmarking Development’, http://www.southcentre.int/wp-content/uploads/2013/08/AN_EPA20_EPAs-and-Benchmarking-Development_EN.pdf

As for the above section, the following are recommendations that can make the EPAs less damaging, although the recommendations that still demand deep liberalisation will not rectify the most problematic and even destructive elements of implementing an EPA:

- For the **ESA EPA**, the countries that did not sign the goods-only interim-EPA are LDCs which can avail of the Everything But Arms (EBA) scheme. The LDCs should not have to sign an EPA and any ESA EPA country that does not want to enter EPAs should be able to leave the regional EPA negotiations if they so wish – such as a variable geometry stance as has been advocated by the COMESA Secretariat. This, however, will create difficulties for the sub-region in terms of disrupting internal regional integration plans. Another alternative is to tie the phasing in of liberalisation commitments to development benchmarks. The best alternative is for all ESA EPA countries not to sign an EPA.
- In the **SADC EPA** region, the Southern African Customs Union (SACU) is under tremendous pressure to sign the EPA because Botswana and Namibia will fall back to the least-preferable trading regime with EU, due to the EU GSP reform (i.e. the most favoured nation (MFN) treatment). At the same time, Botswana and Namibia already partially opened the market through the Trade, Development and Cooperation Agreement (TDCA). For example, for goods coming through South African ports rather than the Walvis Bay Port in Namibia – this 15 year-long historical inequity should be recognized or compensated for. A special GSP treatment for Namibia and Botswana could be considered (which is for example done by Norway). For instance, the EU could provide preferences on a few products such as a unilaterally granted beef quota.
- For the **EAC EPA**, 4 out of 5 member countries negotiating the EPAs are LDCs. Kenya is the only non-LDC, but it has characteristics of an LDC (see also Section 2.2 above). GSP+ remains a viable and robust option for the country, as suggested by several stakeholders in Kenya. Alternatively, Kenya could be given LDC treatment for a temporary period until the moment when it convincingly meets the graduation criteria set by UN that apply to LDCs. The phasing in of liberalisation commitments could (additionally) be tied to development benchmarks. Finally, EAC should be allowed to renegotiate its market access offer based on the principle that the most favourable provision in any one EPA configuration would be extended to the others. Nevertheless, even liberalising 75% of trade instead of 80% will not address the fundamental problems of the EAC competing with Europe in an effectively open market.
- With respect to the **Pacific**, the regional EPA must include `global sourcing` provisions that also apply to fresh, frozen and chilled fish (not only canned fish). The EU should also not link these provisions or the EPA itself to the conclusion of fisheries agreements - the impact of EU fisheries agreements on sustainable development are a separate issue which would seem to require closer scrutiny as pointed out by stakeholders in the region.

BIBLIOGRAPHY¹⁹⁸

- Banda, M., 'Malawi considers controversial EU trade deal', Inter Press Service, 2012.
- Cheboi, S., 'Africa: Trade Liberalisation a Downturn to Economy, Says Unions', Daily Nation (Kenya), 2008.
- Esterhuizen, I., 'EPA negotiations to be focus point at SA-EU summit', Polity organization, 2013.
- Fuhnwi, J., 'EU Pressurizes Gov't To Ratify Economic Partnership Agreement', Cameroon Web News, 2013.
- Gilligan, A., 'The EU's sugar ruling that's left a bitter taste at Tate & Lyle', the Telegraph, 2013.
- Hamilton, A. et al., 'Report on the implementation of the derogation to the standard rules of origin granted to the Pacific ACP States in the framework of the interim EPAs', 2011.
- Jaramogi, P., 'Kenya's move to sign EPAs worries EAC states', New Vision Uganda, 2013.
- Jaramogi, P., 'Uganda moving to sign EPAs', New Vision, 2013.
- Konopo, J., 'EPA talks: The endless EU trivia', Botswana Guardian, 2013.
- Kwenda, S., 'EPAs Will Prevent African States From Achieving MDGs', Inter Press Service, 2009.
- Ligaiula, P., 'ACP needs to work on boldness, urgency to conclude EPA: SG Mumuni', Pacific Network on Globalisation, 2013.
- Makombe, P. F., 'Economic Partnership Agreement and SADC: the controversy continues', Economic Justice Network, 2010.
- Malabo, R. T., 'CARICOM to launch EPA review as ACP countries continue to express reservations', Daily Observer Antigua, 2012.
- Matau, R., 'Kiribati's new tuna deal with the EU', Islands Business, 2013.
- Mbedey, C.E., 'Defis des Negociations des APE pour le Cameroun', Douala, 2013.
- Mbom, S., 'Anger rages as Biya wants to unilaterally sign the EPA', Cameroon Journal, 2013.
- Official journal of the European Union, Commission Regulation (EU) No 206/2010, 2010.
- Omondi, G., 'Parliament halts talks with Europe on trade treaties', Business Daily, 2013.
- Osagie, C., 'Firms Fret Over Plot to Kill Cocoa Processing Industry', This Day, 2013.
- Pareti, S., 'EU reveals its EPA cards', Islands Business, 2013.
- Radebe, H., 'Do not sacrifice' other farm sectors for sugar', Business Day, 2012.
- Report of the SADC Council of Non-Governmental Organisations (SADC-CNGO) Multi-stakeholder Dialogue on WTO and EPAs held on the 25th – 26th September 2013, Protea Hotel, Lusaka, Zambia

¹⁹⁸ This is a non-exhaustive list. This paper is mostly based on grey literature.

- Stevens, C. et al., 'The new EPAs: comparative analysis of their content and the challenges for 2008', Policy Management Report 14, ECDPM, Maastricht, 2008.
- Tabureguci, D., 'PACPs firm on variable geometry stand', Islands Business, 2014.
- Tabureguci, D. et al., 'Red alert on Fiji's Fish, Sugar', Islands Business, 2012.
- Theonomi, B., 'Fiji pulls out of ACP-EU meeting', Solomon Star, 2013.
- Ulrike, L., 'David vs. David vs. Goliath? South (ern) African civil society actors in the SADC-EU EPA negotiations', Stellenbosch, 2011.

Unauthored Web Documents

- 'AG: EPA potentially beneficial for all Pacific ACP countries', Fiji Times Online, 2012.
- 'Cape Verde secures access to EU markets and boosts its development', European Commission, Press release, Brussels, 2011.
- 'East Africa close to a trade agreement with Europe', Kenya Flower Council, 2013.
- 'Economic Partnership Agreements: an update', ACTSA briefing paper, 2010.
- 'Economic partnership agreements-an update', Action for South Africa, 2010.
- 'EPA best for Ghana in the absence of superior strategy', Ghana web, 2013.
- 'EPAs must be made more flexible, says ACP-EU JPA', EU-ACP Joint Parliamentary Assembly, Press Release No. 5, 2009.
- 'EU pressures Botswana to sign trade agreement', Sunday Standard, 2013.
- 'EU updates on state of play: overview of EPA negotiations', European Commission, 2014.
- 'EU, Pacific meet in Brussels to seal deal', Republic of Fiji, Ministry of Trade and Industry, 2012.
- 'EU/ACP countries' Economic Partnership Agreements: exclusion of certain countries from trade preferences; Commission delegated powers', European Parliament/Legislative Observatory, 2011.
- 'Final Communiqué, 31st Annual Plenary Meeting', Interaction Council, Manama, 2013.
- 'Final Report of the Committee on Communications, Trade and investments on the Consultative workshop between EALA, civil society and the private sector on the Economic Partnership Agreements (EPAs)', Nairobi, 2012.
- 'Ghana to finalise decision on EPA by end of October', Joy online, 2013.
- 'L'Accord de partenariat économique en voie d'être ratifié par le Cameroun', Journal du Cameroun, 2013.
- 'Message de Nouvel an de l'Union des Populations du Cameroun', Journal du Cameroun, 2014.

- 'NANTS position on the EPA and the EU's rejection of Nigeria's GSP+ application', Press release, 2008.
- 'Parliamentary Debate', Republic of Mauritius, 2010.
- 'Resolution of the Assembly urging the EAC Partner States to halt the signing of the EU-EAC EPAs until revisions are made to the framework', Mombasa, 2010.
- 'Resolution of the East African Legislative Assembly on EPAs', Arusha, 2012.
- 'State urged to sign pact to safeguard EU market', The People, 2013.
- 'Swaziland, Lesotho signed EPA under duress – Guduza', The Swazi Observer, 2011.
- 'The future of the ACP group in a changing world: challenges and opportunities', ACP document 0ACP/28/065/12 [Final], 7th Summit of ACP Heads of State and Government, Sipopo, 2012.

DIRECTORATE-GENERAL FOR EXTERNAL POLICIES

POLICY DEPARTMENT

Role

Policy departments are research units that provide specialised advice to committees, inter-parliamentary delegations and other parliamentary bodies.

Policy Areas

Foreign Affairs

Human Rights

Security and Defence

Development

International Trade

Documents

Visit the European Parliament website: <http://www.europarl.europa.eu/studies>



PHOTO CREDIT: iStock International, Inc.

ISBN: 978-92-823-5667-8
doi: 10.2861/60923