



Economic Partnership Agreements (EPAs) between the EU & African, Caribbean & Pacific countries

Standard Note: SN/EP/3370
Last updated: 13 March 2009
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Section: Economic Policy & Statistics

The European Union and African, Caribbean and Pacific (ACP) countries have been renegotiating their relationship. The original aim was Economic Partnership Agreements (EPAs), free trade areas between the EU and six ACP regions, covering goods, services and other trade-related issues, with added development support and political dialogue.

The negotiations were, and continue to be, controversial. Some ACP governments voiced objections, while NGOs campaigned vocally against EPAs. Concerns include the possible damage to ACP economies from opening them to free trade with the EU. Other criticisms are outlined in this note.

With a WTO-imposed deadline for the expiration of preferences previously offered by the EU to these countries' goods exports towards the end of 2007, the EU adopted a new 'two-stage' approach. It would look to sign comprehensive EPAs, along the originally proposed lines, with any region that felt able to do so. However, in those regions that were not ready or willing to do so, the EU would sign interim EPAs – covering goods only – with regions, or individual countries or groups of countries within them. Other matters would be negotiated later. Countries choosing not to sign would lose their existing trade preferences.

In the event, only the Caribbean region agreed a comprehensive EPA. Those countries that were most likely to be affected agreed interim EPAs. These were primarily more developed ACP countries, as the 'Least Developed Countries' (around 50 of the poorest in the world) in the ACP could benefit from similar preferences under Everything But Arms, part of the EU's GSP scheme (see note [SN/EP/3369](#)), and so many chose not to sign. While a number of non-LDC ACP countries did lose their preferences at the end of 2007, many did not have significant trade with the EU and so were largely unaffected.

As the various agreements that had been reached have gradually been formally signed, and supporting legislation introduced by EU institutions, NGO opposition has continued.

Related standard notes include *EU Trade Policy and the UK* ([SN/EP/1423](#)) and *The EU's Generalised Scheme of Preferences (GSP)*, [SN/EP/3369](#).

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1 Introduction

European Union Member States have historical trading relationships with African, Caribbean and Pacific (ACP) countries, most recently governed by the EU-ACP Cotonou Agreement. Unilateral trade preferences for ACP exports were one of three pillars (alongside political and development).

A key reason for the Economic Partnership Agreement (EPA) talks was a need to ensure that ACP-EU trade relations were compatible with WTO rules. The WTO had rules existing arrangements to be discriminatory, but granted a waiver until the end of 2007, with new arrangements to be in place from the start of 2008. The six ACP regions' EPAs would

include WTO-compatible reciprocal free trade agreements with the EU. ACP-wide talks began in September 2002, and by September 2004 talks had begun in all six regions.

The EU also argued that pre-existing trade preferences for the ACP have not had the desired development effect, recognising that capacity building ('aid for trade') would be needed to ensure full benefit from new arrangements. The EU sees EPAs as development tools akin to existing bilateral free trade agreements with Chile, Mexico and South Africa (the latter country being included in the EPA negotiations).

However, NGOs, notably those in the Trade Justice Movement coalition, have continued to argue that EPAs are not truly pro-development. While trade is widely seen as a critical tool for development, the move to reciprocal trade raised concerns that ACP economies – which include many of the world's poorest countries (the Least Developed Countries, LDCs) – could be flooded by cheap EU exports through premature market opening with insufficient safeguards.

NGOs have highlighted the inherent **inequality** of the ACP-EU relationship; the dangers of **reciprocal** trade with powerful EU companies; the **lack of alternatives** for ACP countries who reject the EPA model; the introduction of '**WTO+**' **issues** beyond goods and services trade, such a procurement and investment rules; in common with other EU trade talks, a **lack of scrutiny** of and **transparency** in the negotiations; the implications for public service provision of the loss of **tariff revenue**; and the loss of economic development '**policy space**' and ability to sustain 'infant industries' in ACP countries.

As multilateral WTO Doha 'Development' Round of trade talks have progressed slowly (see [RP06/43](#)) the development dimension of EPAs is potentially even more important for ACPs.

2 Background to the negotiations

2.1 EU-ACP relations: Lomé Convention to Cotonou Agreement

There is a long history of preferential trading relations between the European Union and certain developing countries, dating back to the Treaty of Rome (1957) (article 131).

From 1975 the Lomé Convention provided a framework for trade, aid and political relations between the countries in the African, Caribbean and Pacific (ACPs) grouping and the EU.¹ While Lomé was more than a trade agreement it offered ACPs preferential and non-reciprocal market access to EU markets for their exports of all industrial products and most agricultural and mineral products.² Signed by 68 ACPs in 1989 and lasting for ten years, the Fourth Lomé Convention (Lomé IV) was extended by a year and was then due to expire at the end of February 2000.³

¹ "A 'Regime of Association' was devised in 1957 and endowed with resources from the first European Development Fund (EDF). In 1963 and 1969 18 African States and their six European counterparts signed the First and Second Yaoundé Conventions, supported by resources from the 2nd and 3rd EDF respectively." (from ACP Secretariat FAQ; www.acpsec.org/en/faq.htm)

² Preferences subject to specified rules of origin (ROOs), while protocols to the Lomé Convention gave quota-based access for bananas, beef, sugar and rum. 46 countries signed Lomé I (1975), 58 signed Lomé II (1980) and 65 signed Lomé III (1985). Each convention was accompanied by the 4th, 5th and 6th EDFs (from *ibid.*).

³ See European Commission [Cotonou Agreement](#) (with ACP maps and agreement text) and [Lomé](#) pages.

Lomé was replaced with the ACP-EU Partnership Agreement or *Cotonou Agreement*, was signed by the EU and 77 ACPs in Cotonou, Benin on 23 June 2000.⁴ The Agreement is due to last 20 years, from March 2000 to February 2020, and can be revised every five years. Renegotiation was concluded in February 2005, and saw some changes regarding “the political dimension, development strategies, Investment Facility and implementation and management procedures”.⁵

Cotonou aims to reduce ACP poverty (article 1) and end marginalisation in the global economy by increasing integration both with it and between ACP countries on a regional basis. As with previous agreements, a new European Development Fund (EDF) – the ninth – ended Lomé instruments and streamlined the Fund.⁶ The EU committed €13.5 billion over five years to ACPs to finance economic development projects and help them adjust to new market conditions through the European Development Bank.

2.2 The WTO compatibility of EU preferences for ACPs

Central to EPA negotiations is that the trade aspects of their new relationship are WTO-compatible. The EU sees regional trading arrangements (RTAs) with the six ACP regions as the best means of maintain WTO-compatible trade arrangements with the ACPs. There is also a belief that existing preferences have not had the desired positive impact on development.⁷

Non-discrimination between members is a fundamental principle of the World Trade Organisation (WTO) and the General Agreement on Tariffs and Trade (GATT) which preceded it. However, a November 1979 agreement allowed permanent “generalized, non-reciprocal and non-discriminatory” treatment for developing countries within the GATT/WTO framework. This decision is also known as the ‘enabling clause’.⁸

The trade aspects of Lomé have never been declared WTO-incompatible. However, the banana protocol of Lomé IV was successfully challenged at the WTO, and found incompatible as it discriminated between developing countries in the ACP group and other (non-ACP) developing countries, particularly those in Latin America.⁹ The ACP grouping straddles ‘developing’ and ‘LDC’ categories, including both LDC and developing countries, but, critically, not all of the countries in either of these categories (see table in appendix A). ACP countries were being given preferences that non-ACP developing countries in the same category were not.

⁴ South Africa joined Lomé in 1997, but had a limited, political membership. It is also a party to the of Cotonou agreement in a reduced capacity, being excluded from most trade and aid elements. The EU has a bilateral trade agreement with South Africa (see [SN/EP/3747](#)).

⁵ See [ec.europa.eu/comm/development/body/cotonou/pdf/negociation_20050407_en.pdf#zoom=100](#)

⁶ Stabex for agriculture and Sysmin for the mining industry. The EDF is separate from the EU budget (see [europa.eu.int/scadplus/leg/en/lvb/r12102.htm](#)).

⁷ As noted in [www.dfid.gov.uk/aboutdfid/organisation/rough-guide-epas.pdf](#). Also: “Only a handful of ACP countries – 10 at the most – have had the know-how or have been able to profit from these advantages. The overall share of the ACP countries in total EU imports has systematically fallen – from 6.7 per cent in 1976 to 2.8 per cent in 1999. Although they are at the top of the pyramid of advantages offered by the EU to its development partners, paradoxically, the ACP countries are bottom of the list when it comes to exports to European markets. Furthermore, a significant part of ACP exports to the EU, approximately 60 per cent, consists of only nine products.” (from European Commission DG, *The Courier ACP-EU* 195 Nov-Dec 2002; p21; [europa.eu.int/comm/development/body/publications/courier/courier195/en/en_021_ni.pdf](#))

⁸ [http://www.wto.org/english/docs_e/legal_e/enabling1979_e.htm](#)

⁹ Also known as the decision on ‘Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries’. For a discussion of legal aspects see Huber, J. “The Past, Present and Future ACP-EC Trade Regime and the WTO”, *Economic Journal of International Law* 11:2 (2000), p429-430; [www.ejil.org/journal/Vol11/No2/110427.pdf](#)

Generally, preferences offered under the enabling clause should apply to all developing countries,¹⁰ although certain specific sub-groups can benefit from special schemes, such as Least Developed Countries (LDCs) that are defined by specific UN criteria. The EU offers non-reciprocal preferences to developing countries in general through its Generalised Scheme of Preferences (GSP), while LDCs can benefit from the 'Everything But Arms' initiative within the GSP, which grants duty- and quota-free access for LDC exports apart from armaments (see [SN/EP/3369](#)).

At the Doha Ministerial meeting in November 2001, WTO members granted a waiver. This allowed the pre-existing EU-ACP preferences to continue until the end of 2007, allowing six years to arrive at a WTO-compatible system,¹¹ which had to be in place by 1 January 2008.

The European Commission considered that this waiver was unlikely to be renewed ("It is clear that the waiver granted will not be extended beyond 2007"¹²). This would require the consent of the countries that had originally challenged the Lomé banana protocol, which led to these preferences being found to be WTO compatible in the first place.

The means to ensure WTO compatibility was to create, through the EPA talks, regional trade agreements between the EU and the six EPA regions. WTO rules allow for some differentiation in tariffs between its members where those members are part of a regional trade agreement (RTA), subject to GATT Article XXIV (for goods trade) rules. RTAs between the EU on one hand and the ACP regions on the other would allow the EU to continue to give preferential terms to the ACP countries, Least Developed Countries (LDCs) and non-LDCs alike.

However, the GATT requires that RTAs must be reciprocal and cover 'substantially all the trade' between its signatories. This represented a major change from the previous system based on unilateral and non-contractual preferences offered by the EU to the ACPs, which did not need to offer anything in return. This move to reciprocity has attracted sustained criticism from campaigning organisations, as it would see ACP markets opened up to competition with EU exports (see part 6.3).

2.3 The ACP & ACP regions

The African, Caribbean and Pacific (ACP) group was created by the Georgetown Agreement in 1975, initially to co-ordinate relations with the EU under the Lomé Convention (signed that same year). Since then the ACP has developed roles in other fora, such as the WTO.

The ACP has 79 members, signatories to either the Georgetown Agreement or the Cotonou Agreement:¹³

- 48 Sub-Saharan Africa countries (South Africa is a Cotonou signatory, but its trade relationship with the EU is governed by a bilateral free trade agreement);
- 16 Caribbean countries (Cuba joined in 2000, but is not a Cotonou signatory); and
- 15 Pacific countries (East Timor joined the ACP and Cotonou in 2003).

¹⁰ As noted in www.dfid.gov.uk/news/files/fair-trade-2006/economic-partnership-agreements.asp.

¹¹ See WTO page: www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_acp_ec_agre_e.htm.

¹² EC, EPAs: Means and Objectives; trade-info.cec.eu.int/doclib/docs/2003/december/tradoc_115007.pdf

¹³ See ACP Secretariat website for [list of ACPs](#); and European commission [ACP list](#).

The EPA talks have taken place between the EU and six ACP regional groupings. The Caribbean and Pacific regions are distinct for geographical reasons, with four regions in Africa:

ACP regional sub-groupings in EPA negotiations (number of countries in region)

Least Developed Countries shown in **bold**

West Africa (16) <i>ECOWAS (a) + Mauritania</i>	Central Africa (8) <i>CEMAC (b) + Sao Tome</i>	East Central Africa (15)	Southern Africa (7) <i>SADC group (c)</i>	Caribbean (15) <i>CARIFORUM (d)</i>	Pacific (7)
Benin	Cameroon	Burundi	Angola	Antigua & Barbuda	Cook Islands
Burkina Faso	Central Africa Republic	Comoros	Botswana	Bahamas	Micronesia (FS)
Cape Verde	Chad	Djibouti	Lesotho	Barbados	Fiji
Gambia	Congo	Eritrea	Mozambique	Belize	Kiribati
Ghana	Congo (Dem. Rep.)	Ethiopia	Namibia	Dominica	Marshall Is.
Guinea	Equatorial Guinea	Kenya	Swaziland	Dominican Rep.	Nauru
Guinea-Bissau	Gabon	Malawi	Tanzania	Grenada	Niue
Ivory Coast	Sao Tome & Principe	Mauritius		Guyana	Palau
Liberia		Madagascar		Haiti	Papua NG
Mali		Rwanda		Jamaica	Samoa
Mauritania		Seychelles		St Lucia	Solomon Is.
Niger		Sudan		St Vincent	Tonga
Nigeria		Uganda		St. Kitts & Nevis	Tuvalu
Senegal		Zambia		Surinam	Vanuatu
Sierra Leone		Zimbabwe		Trinidad & Tobago	
Togo					

Notes: (a) ECOWAS = Economic Community of West Africa (b) CEMAC = Communauté Economique et Monétaire de l'Afrique Centrale (Economic & Monetary Community of Central Africa); (c) Southern African Development Community (South Africa as observer); (d) Caribbean Forum of ACP states (CARIFORUM), 14 Caribbean Community (CARICOM) countries ACP plus the Dominican Republic

Source: Preliminary list from European Commission website, dated 26 August 2006

3 What happened around the end of 2007?

As the end-2007 deadline neared, the European Commission accepted that there was insufficient time to reach 'comprehensive' EPAs in all ACP regions, which it had previously maintained would be needed to maintain preferential tariffs.

It would instead work to conclude goods-only 'interim EPAs' with those ACP regions, sub-regions or individual countries able to agree them. This was possible because in order to meet the WTO imposed end-2007 deadline, only goods trade needed to be brought into compatibility with WTO rules. The Commission proposed a 'two-stage' approach that would see these interim EPAs followed by further negotiations towards comprehensive EPAs as originally envisaged. The interim agreements would in the meantime give duty-free access to the EU for almost all ACP exports, with transition arrangements for rice and sugar (respectively duty-free from 2010 and 2015).

On 10 December 2007, the EU's Council of Ministers (General Affairs and External Relations Council) agreed by qualified majority vote the Economic Partnership Agreement Regulation which "formalises the market access offer of 100% duty free quota free market access to the European Union with improved rules of origin for African, Caribbean and Pacific (ACP) countries that have signed WTO-compatible agreements".¹⁴

¹⁴ "EPAs update", BERR website (accessed 10 January 2008), see "Proposal for a Council Regulation applying the arrangements for goods originating in certain states which are part of the ACP provided for in agreements establishing, or leading to the establishment of EPAs", European Commission, 13 November 2007, and Annex 2 (on Rules of Origin); from www.register.consilium.europa.eu

The Regulation was formally adopted on 20 December,¹⁵ and would be effective from 1 January 2008, ensuring that those ACP countries initialising an interim EPA with the EU would not see their exports disrupted as the WTO waiver expired. The regulation also allowed for more generous EPA 'rules of origin', that is the conditions that must be met for a product to be considered as originating from a particular country and so being eligible for preferential tariffs. These primarily affect agriculture, textiles and fisheries products. However, some interim EPAs included specific rules of origin, while other maintained pre-existing rules of origin ahead of the conclusion of full EPAs.

Any ACP country not signing such an agreement would find themselves losing their preferences. The Least Developed Countries (LDCs) could switch to similar preferences those offered by the EPA Regulation under 'Everything But Arms', part of the separate EU Generalised System of Preferences (GSP) (see note [SN/EP/3369](#)). However, non-LDC countries would be forced onto the less generous 'standard GSP'.

Apart from allegations from NGOs of extreme pressure from the EU on ACP countries to agree interim EPAs by the deadline, NGOs were highly critical of the EU for not offering any viable alternative to these interim EPAs, particularly to those non-Least Development Countries not entitled to other preferences, and how these countries would fare.

NGOs insisted that the EU had other options: it "could seek an extension of the WTO waiver or fine-tune its GSP scheme to avoid raising tariffs in the middle of negotiations. The Commission insists that a waiver extension would not be granted".¹⁶ While the EPA Regulation was being negotiated, the UK, the Netherlands, Denmark and Ireland issued a joint declaration outlining their concerns for non-Least Developed Countries that had not yet initialled an interim EPA, which would then be faced with higher tariffs from January 2008. This said that they "continue to urge the Commission to show flexibility in reaching agreements on goods market access by the end of 2007, and to avoid ACP countries being made worse off from the 1st January."¹⁷

3.1 EPA signatories so far

Only one ACP region, the Caribbean, signed up to a 'comprehensive' EPA, covering goods as well as services, trade-related rules and development cooperation.

In the other five ACP regions, 36 countries have signed up to an EPA (made up of 26 non-LDCs and 10 LDCs). A further 31 LDCs have switched to trading with the EU through 'Everything But Arms', while 10 non-LDCs are now trading with the EU on a GSP-only basis. Of this latter category, the Commission states that the seven Pacific region countries "have minimal goods trade with the EU", while of the remaining three, all in Africa, "Nigeria and Congo (Brazzaville) declined to negotiate interim agreements" (the third, Gabon, is not mentioned). Also, South Africa already had a bilateral free trade agreement with the EU and bilateral trade has continued on this basis.

On a regional basis:¹⁸

¹⁵ Council Regulation 1528/2007;
http://eur-lex.europa.eu/LexUriServ/site/en/oj/2007/l_348/l_34820071231en00010154.pdf

¹⁶ "EU Offers ACP Interim Trade Deals to Meet EPA Deadline", *ICTSD BRIDGES Monthly* Nov-Dec 2007 11:7

¹⁷ See full text: [BERR, *Economic Partnership Agreements – Update*](#) (undated),

¹⁸ From European Commission, "[Fact sheet on the interim Economic Partnership Agreements: Overview](#)", table on p6

Central Africa: Cameroon has signed a regional agreement, but the other 7 countries did not sign up. Of these, 5 are LDCs and the remaining two non-LDCs are Gabon and Congo (Brazzaville);

Southern Africa (SADC): Botswana, Lesotho, Swaziland, Mozambique and Namibia have signed a regional agreement, Angola (an LDC) and South Africa did not;

West Africa: Individual agreements signed with Ghana and Ivory Coast, 14 countries did not (including 13 LDCs, plus non-LDC Nigeria);

Eastern & Southern Africa: Regional agreement signed with the East African Community (EAC), including Kenya, Uganda, Tanzania, Rwanda and Burundi, and also with Comoros, Madagascar, Mauritius, Seychelles, Zambia and Zimbabwe (although tariff schedules within this are on an individual country basis). 6 countries, all LDCs, did not sign up.

Pacific: A regional agreement was reached with Papua New Guinea and Fiji (although on an individual country basis). Of the remaining 13 countries in the region, 6 are LDCs and 7 non-LDCs.¹⁹

While structurally similar, the various interim EPAs are quite different in content. An analysis of the emerging African regional deals by the Overseas Development Institute stated that:²⁰

The interim EPAs were finalised in a rush to beat the end 2007 deadline – and it shows. All of the African EPAs are different and in only one region does more than one country have the same commitments as the others: this is the East African Community (EAC). At the other extreme is West Africa, where the only two EPA countries have initialled significantly different texts with different liberalisation commitments.

No clear pattern can be identified that the poorer countries have longer to adjust than the richer ones or of the EPAs being tailored to development needs (however defined). Some of the richer countries among the list have to adjust quickly – but so do some of the poorest.

The picture that emerges is entirely consistent with the hypothesis that countries have a deal that reflects their negotiating skills: that countries able to negotiate hard, knowing their interests, have obtained a better deal than those lacking these characteristics.

The table below shows the current signatories and non-signatories by ACP region (non-LDC countries are in **bold**):

¹⁹ Cook Islands, Tonga, Marshall Islands, Niue, Micronesia, Palau, Nauru.

²⁰ ODI, [The new EPAs: comparative analysis of their content and the challenges for 2008: Final Report](#), March 2008, pxii

ACP region	EPA signatories (non-LDCs in bold)	EBA only (all LDCs)	Non-signing non-LDCs
Caribbean	14 countries: Antigua & Barbuda, The Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St Kitts & Nevis, St Vincent & the Grenadines, Suriname, Trinidad & Tobago		
Central Africa	Cameroon	<u>EBA only</u> : Central African Republic, DR Congo, Chad, Equatorial Guinea, São Tome	Gabon, Republic of Congo
East African Community	Kenya, Tanzania, Uganda, Rwanda, Burundi		
East & Southern Africa	Zimbabwe, Seychelles, Mauritius, Comoros, Madagascar, Zambia	<u>EBA only</u> : Djibouti, Eritrea, Ethiopia, Malawi, Somalia, Sudan	
Pacific	Papua New Guinea, Fiji	<u>EBA only</u> : East Timor, Kiribati, Samoa, Solomon Islands, Tuvalu, Vanuatu	7: Cook Islands, Tonga, Marshall Islands, Niue, Micronesia, Palau, Nauru
Southern African Development Community	Botswana, Mozambique, Swaziland, Lesotho, Namibia	<u>EBA only</u> : Angola	0: South Africa continues to trade with the EU under their bilateral TDCA
West Africa	Ivory Coast, Ghana	<u>EBA only</u> : Benin, Burkina Faso, Cape Verde, Gambia, Guinea, Guinea Bissau, Liberia, Mali, Mauritania, Niger, Senegal, Sierra Leone, Togo	1: Nigeria

The European Commission said that it intended “to maintain the momentum achieved in 2008, turning interim agreements into comprehensive economic partnership agreements.” It would aim in 2008 to transform sub-regional deals into regional agreements (in the Pacific,

West, Central and Eastern Africa regions), and interim EPAs into comprehensive EPAs “with the greatest possible coverage on issues like services and rules”.²¹

While ultimately only four non-LDC ACPs (outside of the Pacific region) did not sign EPAs, NGOs were extremely critical of the way negotiations were carried out and the level of pressure allegedly exerted on those developing countries that did reach agreements.

None of these countries have market access under GSP+, the more generous scheme within the Generalised System of Preferences, which requires adoption and implementation of a series of international agreements (see [SN/EP/3369](#) for details). GSP+ had been advocated by NGOs as an alternative to EPAs. Both Nigeria and Gabon had applied for GSP+, but reportedly their requests were not granted because neither country had ratified some of the treaties and conventions required under that scheme.²² As *Trade Negotiations Insights* noted:²³

Nigeria had not ratified one (genocide) and Gabon two (child labour and hazardous waste trade). The Commission rejected the accusation from the National Association of Nigerian Traders that the decision was not “purely legal” but another tool to force Nigeria into signing an EPA.

However, the new EU GSP Regulation for 2009-2012 gives countries an opportunity to apply for GSP+ again in mid-2010.

4 Current situation (by ACP region)

In the event, the EPA agenda in 2008 was mostly preoccupied with gaining formal signatures of those ACP countries that had reached interim EPAs, and for the comprehensive Caribbean EPA (which had originally been initialled at the end of 2007). The Caribbean signed in October 2008, Ivory Coast and Ghana in November 2008, and Cameroon in January 2009. Nevertheless, EPA negotiations continued in all regions during 2008. The remaining initialled EPAs are to be signed in 2009, with EU Trade Commissioner, Catherine Ashton, stating she hoped “to be able to sign all initialled interim EPAs by early 2009 and to conclude and sign a (sic) fully-fledged EPAs later in 2009.”²⁴

This section draws on a set of European Commission fact sheets published in January 2009 outlining the ‘state of play’ and main features of the various interim EPAs, and expected future developments.²⁵ In general, the “aim remains to conclude full regional EPAs”, with talks on full EPAs “currently ongoing with all African and Pacific regions” covering “a wider range of topics, including any issues set out in the interim agreements which partners want to re-examine.”²⁶ An ECDPM briefing, [State of EPA Negotiations in January 2009](#), is also available. Details on future regional EPA negotiation meetings can be found in ICTSD’s monthly [Trade Negotiations Insights](#).

²¹ [“European Union cements market access for ACP countries: takes important step in EPA negotiations”](#), *European Commission release*, 20 December 2007

²² According to the *acp-eu-trade* newsletter, see two [commission decisions](#) regarding [Nigeria](#) and [Gabon](#) (both dated 9 December 2008) (note that neither document is from the Commission website).

²³ “EU decision on GSP+ applications”, ICTSD [Trade Negotiations Insights 8:1](#), February 2009, p2

²⁴ [Letter from the EU Trade Commissioner Catherine Ashton](#), January 2009

²⁵ See http://ec.europa.eu/trade/issues/bilateral/regions/acp/pr270109_en.htm.

²⁶ European Commission, [“Fact sheet on the interim Economic Partnership Agreements: Overview”](#), p1

While there does not seem to be a European Commission page bringing together in full the texts of all the interim agreements so far, the ACP-EU-Trade website lists these by EPA region at www.acp-eu-trade.org/index.php?loc=epa/agreements.php.

4.1 Caribbean

The comprehensive EPA between the EU and the Caribbean was signed in October 2008, with Guyana signing slightly later than the others and Haiti, an LDC, initialled the original EPA but declined to sign up. It took provisional effect from 29 December 2008.²⁷ The EPA covers goods and services trade, and has chapters covering competition, intellectual property, public procurement, the environment, social aspects, and data protection. It also includes dispute settlement procedures, with a Declaration on Development Cooperation attached to the Agreement.

Once the EPA had been signed, it could then be referred to the European Parliament for its approval, under the assent procedure given the breadth of the agreement. The European Parliament's trade committee adopted a draft decision to approve the EPA on 23 February, subject to undertakings on review arrangements and aid for trade.²⁸ This is to be debated in plenary by the EP in March.

4.2 Pacific²⁹

Papua New Guinea and Fiji signed an interim EPA, and full regional EPA negotiations continue. An agreement is "expected to cover the same areas as the interim EPA plus development cooperation provisions, a fisheries chapter, social and environmental issues and competition." Apparently the question of including services and other areas, such as intellectual property and procurement "remains open and requires further discussions."

4.3 West Africa³⁰

Ivory Coast and Ghana agreed interim EPAs, while these agreements are "mostly identical" they are country-specific, and negotiations towards a full regional West Africa EPA which would supersede these interim agreements. Talks are also ongoing, covering trade in services, investment, competition and government procurement, and rules of origin (Ivory Coast and Ghana are using generic EPA Regulation rules in the meantime), and development co-operation. Also, the "EU is re-examining any difficult issues in these negotiations in which West Africa partners may wish to reconsider in the context of the full EPA." Remaining "points of divergence" include export taxes, regional levies and the MFN clause, and the region is opposed to including "chapters on social issues, environment or public procurement."

4.4 South Africa (SADC)³¹

This group covers the seven countries in the Southern African Development Community countries (SADC) EPA group, with the remaining eight SADC members negotiating in other EPA groups. Of the seven in the EPA group, two (South Africa and Angola, an LDC) did not

²⁷ European Commission, "[Cariforum - EC EPA](#)", 15 October 2008, with links to several fact sheets on the EPA

²⁸ http://www.europarl.europa.eu/news/expert/infopress_page/026-50191-054-02-09-903-20090223IPR50189-23-02-2009-2009-false/default_en.htm

²⁹ European Commission, "[Fact sheet on the interim Economic Partnership Agreements: The Pacific: Fiji And Papua New Guinea](#)", January 2009

³⁰ European Commission, "[Fact sheet on the interim Economic Partnership Agreements: West Africa: Ivory Coast and Ghana](#)", January 2009

³¹ European Commission, "[Fact sheet on the interim Economic Partnership Agreements: SADC Group](#)", January 2009

conclude an interim EPA, which included a development chapter. Negotiations towards a comprehensive EPA covering “services, investment and trade-related rules” continue, although Namibia and South Africa have opted out of services commitments. Talks on competition and government procurement “will only be envisaged once adequate regional capacity has been built”. No intellectual property talks are currently envisaged.

These talks are complicated by the relative strength of the South African economy: while the EU has offered a “substantial improvement” in market (particularly for agricultural products) it would not be granted duty-free/quota-free market access like the rest of the ACP. A further complication is the memberships of multiple regional groupings of the SADC countries.

4.5 East Africa/East & Southern Africa³²

Until mid-2007, the East African Community (EAC) and Common Market for Eastern and Southern Africa (COMESA) countries were negotiating together on an EPA. However, the EAC decided to reach a separate EPA based on their fledgling customs union.

The five EAC countries agreed a regional interim EPA which covers goods trade and fisheries, as well as commitments to further talks on areas including services, investment, agriculture, rules of origin, customs and trade facilitation, towards a comprehensive EPA.

Six of the Eastern and Southern Africa (ESA) countries agreed an interim EPA, which is open for the remaining countries to join. The agreement covers goods trade, fisheries and development cooperation. Each country has a separate goods liberalisation schedule. Talks towards a comprehensive regional EPA are ongoing, covering trade facilitation, services trade, investment, intellectual property, government procurement, sustainable development and competition. Some contentious issues that the group wished to re-open in these talks include the trade coverage of the agreement, the non-discrimination (or Most-Favoured Nation, MFN) clause, export taxes, safeguards and rules of origin.

4.6 Central Africa³³

Only Cameroon agreed an interim EPA, full regional EPA negotiations continue. The region has tabled a goods market access offer, which negotiations are being based on. Talks of services trade are “now reasonably close to completion”. Talks are also ongoing on rules of origin (Cameroon is using the generic EPA Regulation rules in the meantime), and development co-operation.

5 UK Parliamentary process

The Parliamentary processes dealing with EU trade agreements depends on their scope, specifically whether they fall within the competence of the Community, or competence is mixed, i.e. shared between the Community and its Member States (see [SN/EP/1423](#) for details). The latter form of agreement requires European Parliament assent for full implementation, and also ratification by individual Member States.

The interim EPA in the Pacific region (Papua New Guinea and Fiji) is primarily focused on goods trade and related issues only, containing minimal development provisions. Hence

³² European Commission, “Fact sheets on the interim Economic Partnership Agreements: [Eastern and Southern Africa \(ESA\)](#) and [East African Community \(EAC\)](#)”, January 2009

³³ European Commission, “[Fact sheet on the interim Economic Partnership Agreements: Central Africa: Cameroon](#)”, January 2009

while the European Parliament will be consulted on this EPA, its assent will not be required, and it will not require ratification by Member States.³⁴

However, the other interim EPAs and the comprehensive Caribbean EPA cover matters that are not exclusive community competences, and for these procedures are different.

For example, in the case of the interim EPA with the Eastern and Southern African (ESA) region, development co-operation is a mixed competence.³⁵ It can be provisionally applied by the Council of Ministers, although this only implements those aspects of the agreement in the exclusive Community competence, while formal conclusion will require the assent of the European Parliament. Also, as the House of Commons European Security Committee noted:

Member States will separately sign and ratify the EPA themselves. In the United Kingdom, therefore, there will subsequently be separate consideration of the EPA for the purpose of UK ratification, which will require an affirmative Statutory Instrument.

When reached, any future comprehensive EPAs (covering areas of mixed competence) will also require European Parliament assent and Member State ratification.

6 Criticisms of EPAs

EPAs have a number of detractors, particularly NGOs in the Trade Justice Movement coalition,³⁶ with campaigns to either stop EPAs completely, or demanding their radical review, throughout the talks. NGOs were critical of EPAs before they were signed, and they have continued to be critical since (see, for example, www.epa2007.org website). Most recently, attention has turned to Members of the European Parliament in their roles in approving EPAs agreed so far.³⁷

Some the issues in the negotiations raised by NGOs are outlined below, including: the inherent imbalance between the EU and ACP countries; lack of alternatives to EPAs, unclear WTO rules on regional trade agreements; and the inclusion of non-trade issues (including the so-called 'Singapore issues', of investment, competition policy, government procurement and trade facilitation).

A September 2006 Oxfam report covers many of these, while also arguing that EPAs could splinter rather than assist regionalism (in Africa in particular), a declared aim of the EU, and that EU development aid may be insufficient to enable ACPs to benefit from freer trade resulting from EPAs.³⁸ Some further criticisms have also been noted:

- **Loss of tariff revenue:** this could reduce developing countries' ability to provide public services, and so hinder development. An Institute for Development Studies report³⁹ found that $\frac{3}{4}$ of ACPs could lose over 40% of their tariff revenue from EU

³⁴ See European Scrutiny Committee, [Seventh Report of session 2008-09](#), paras 9.15-9.19

³⁵ European Scrutiny Committee, [Seventh Report of session 2008-09](#), para 8.12

³⁶ "European campaigners call on MEPs to use their powers to reject unfair trade deals with ACP countries", *Trade Justice Movement news release*, 23 September 2008; <http://www.tjm.org.uk/news/trade220908.shtml>

³⁷ See EPA2007 coalition of NGOs letter to MEPs on interim EPAs; <http://www.epa2007.org/main.asp?id=537>

³⁸ www.oxfam.co.uk/what_we_do/issues/trade/bn_epa.htm

³⁹ "EU-ACP Economic Partnership Agreements: The Effects of Reciprocity", *Institute for Develop Studies Briefing Paper*, May 2005 and "New IDS research shows EPAs will harm regional integration, but won't liberalise ACP trade", IDS press release, 20 May 2005 ([on DFID website](#))

imports. Oxfam note that in sub-Saharan Africa tariff revenues average 7-10% of government revenue, up to 20% in Gambia and Cape Verde.⁴⁰

- **Potential negative effect on multilateralism:** a general criticism of regional trade agreements, although support for WTO membership for all ACP countries is an element of the EPA negotiations. The EU also argues that regional integration will aid development. It would give industries in those countries greater economies of scale, allowing them to compete outside of their region. Critics argue that premature reciprocal opening will have negative effects.

6.1 Power imbalance

Some critics of EPAs claim that the process is being run by an over-powerful EU for its own benefit, with an excessively mercantilist approach: rather than focusing on development of the ACP, the EU is attempting to economically dominate the ACP countries and improve access for EU producers to their markets.

The EU has vastly greater negotiating resources compared with ACPs, and concern for their capacity to participate effectively in both EPA negotiations and the Doha Round of WTO talks led to calls for EPA negotiations to be postponed until the Doha Round could be completed.⁴¹ That negotiations are taking place between the six ACP regions, rather than pan-ACP, has also been seen by some as 'divide and rule' tactics. For some the inclusion of the Singapore Issues (see part 6.4) is evidence of EU 'bullying' of less powerful countries.

Oxfam's September 2006 briefing, *Unequal Partners*, notes the imbalance between the EU on the one side of the negotiations, and the six EPA regions on the other:⁴² the smallest ACP region's economy, the Pacific, is 1/1,400th the size of the EU's, while the largest (West Africa) is less than 1/80th. It also notes that while the EU is very important for ACP trade, trade with ACP countries is relatively minor for the EU. EU trade with the ACP countries in 2007 amounted to €80 billion, with trade in each direction valued at around €40 billion. The EU is the main trading partner for most ACP countries, and almost all ACPs in Africa, but ACP is "marginal for the EU." The ACP accounted for 4.3% of EU imports in 2007 and 4.9% of EU exports, with total bilateral trade with the whole ACP on a par with Japan.⁴³

As a Tearfund briefing noted:⁴⁴

The dependence of most ACP countries on the EU for market access and development assistance makes it difficult for ACP countries to resist issues against their interests in the EPA negotiations, let alone be able to promote their own interests.

In addition, ACP trade negotiators and regional secretariats are already overstretched and have very limited capacity to deal with multiple negotiations, both with regard to EPAs and also at the WTO. Many civil society groups are concerned that their governments lack the analysis and understanding of potential impacts and the capacity to effectively negotiate. On the EU side, despite the [European Commission's] claims that EPAs are development instrument, it is the EC's Directorate General for Trade (DG Trade) rather than Directorate General Development that is leading talks on EPAs, with little substantive policy input from DG Development. This is a point of major concern in terms of process.

⁴⁰ Oxfam, *op. cit.*, p4

⁴¹ [HC Deb 2 December 2004 c21WH](#)

⁴² www.oxfam.co.uk/what_we_do/issues/trade/bn_epa.htm

⁴³ European Commission, [Bilateral Statistics: ACP](#)

6.2 EPA alternatives?

The Cotonou Agreement allowed for ACPs to be offered, if requested, an alternative relationship with the EU which should give an ACP country no worse market access than under present arrangements. This concern reached fever-pitch in the run up to the end of 2007 when it became clear that no alternative to an interim EPA, other than Everything But Arms for LDCs and the standard Generalised System of Preferences (GSP) scheme for non-LDCs, was on offer.

Many NGOs proposed adapting the GSP, which is permitted under the WTO's enabling clause, intended to help developing countries, and so WTO-compatible.⁴⁵ Attention focused on the 'GSP+' for countries meeting various governance criteria (see [SN/EP/3369](#)).

An ActionAid International report, *The trade escape: WTO rules and alternatives to free trade economic partnership agreements*, examined the various options.⁴⁶ Also report from the Institute of Development Studies for the DfID looked at a reformed GSP as an option for a possible Cotonou successor.⁴⁷

As ActionAid noted: "The challenge is to design a scheme that would be available to all such countries whilst excluding the larger and more successful developing countries (such as Brazil and China) in sectors where they are already competitive."⁴⁸ Also, the GSP is a non-contractual arrangement, and as such is subject to withdrawal at any time (unlike contractual relations under Cotonou or RTAs-based preferences such as under any future EPAs). The current GSP is expected to be revised after 2008.

There are differences between the schemes, for example product coverage, with some excluded entirely and 'sensitive products' being subject to more limited preferences in the GSP (for LDCs, EBA has wider product coverage than Cotonou).⁴⁹

The Rules of Origin, the criteria that determine the origin of a good for tariff purposes, in GSP/EBA are stricter than the Cotonou rules. Overly restrictive origin rules prevent countries from exploiting the preferences they are offered, particularly when they source inputs from third countries. Cotonou effectively allows ACP countries to treat the entire ACP grouping as the place of origin for their products. A review of EU rules of origin is ongoing, but the interim EPA regulation did include new, generic EPA-specific rules of origin, although negotiations continue in the ongoing EPA talks.

Another alternative that was floated prior to its expiry was the renewal of the WTO waiver for the existing Cotonou arrangements. However, it was noted that this would require the consent of those WTO members' that had successfully challenged the Lomé banana protocol in the first place that established their WTO-incompatibility, and so could be considered unlikely.

⁴⁴ Tearfund, [Economic Partnership Agreements: A Tearfund policy briefing](#), 2006, p2

⁴⁵ So far at least: the ActionAid report cited in this section notes that the new GSP+ scheme is open to challenge as WTO-incompatible (see p23).

⁴⁶ www.actionaid.org.uk/content/documents/The%20Trade%20Escape.pdf

⁴⁷ Stevens, C. & Kennan, J. [GSP Reform: a longer-term strategy \(with special reference to the ACP\)](#), Report for the Department for International Development, February 2005, p7-11;

⁴⁸ Actionaid, *op. cit.*, p25

⁴⁹ The ActionAid report notes Kenyan fresh/chilled peas which are duty free under Cotonou, but face a 10.1% tariff under GSP arrangements (*ibid.*, p23).

6.3 Reciprocity & WTO rules on regional trade agreements (RTAs)

Some consider the WTO rules on regional trade agreements (RTAs) to be ill-defined at best, or at worst harmful to development focused RTAs between the developed North and the developing South. This has prompted calls for new, explicit special and differential treatment for developing countries for such agreements.

RTAs were chosen as the means to overcome the incompatibility of Cotonou non-reciprocal trade arrangements with WTO rules, with the consequence that ACPs would have to open their markets to an extent to the EU in order to adhere to WTO RTA rules. While these allow for asymmetry, slower implementation and fewer tariffs lowered on one side than the other, the room for manoeuvre is limited.

WTO rules on RTAs are outlined in Article XXIV of the General Agreement on Tariffs and Trade (GATT), and a subsequent understanding between WTO members. RTAs must be reciprocal, covering 'substantially all trade' between its signatories, and the agreement must take full effect within a reasonable time period.⁵⁰ However, the exact level of trade constituting "substantially all" is not defined. One widely accepted interpretation is around 90% of trade. The EU's free trade agreement with South Africa reflects this, ultimately seeing around 90% of EU-South Africa trade covered, with the EU liberalising more quickly (ten years, 12 for South Africa) and 86% of EU exports covered (95% of South Africa's). On this basis, if EU trade was liberalised 100%, the minimum level of liberalisation needed by ACP towards the EU would be 80%.⁵¹

An implementation period is not defined either: Article XXIV states a "reasonable length of time", with the 1994 *Understanding on the Interpretation of Article XXIV* stating that this "should exceed 10 years only in exceptional cases. In cases where Members parties to an interim agreement believe that 10 years would be insufficient they shall provide a full explanation to the Council for Trade in Goods of the need for a longer period."

Some have observed that existing RTA rules in the GATT were intended to govern arrangements between developed countries, such as the EU or NAFTA, rather than between developed and developing countries. The rules do not allow for special and differential treatment for developing countries beyond that outlined above.⁵² While the UK, the European Commission and others have expressed support for a review of these arrangements, none has so far been forthcoming.

In its absence, extended implementation periods or lower shares of trade are vulnerable to a WTO dispute challenge from parties disadvantaged by such arrangements.

While the exact terms of the various EPAs agreed so far vary, they have generally maintained around 80% as the minimum level of liberalisation on the ACP side thought to be

⁵⁰ www.wto.org/english/docs_e/legal_e/gatt47_02_e.htm#articleXXIV and the *Understanding on the Interpretation of Article XXIV of the GATT 1994* (www.wto.org/english/docs_e/legal_e/10-24_e.htm). Similar rules pertain to services trade (under Article V of the General Agreement on Trade in Services, or GATS)

⁵¹ http://www.oxfam.co.uk/what_we_do/issues/trade/downloads/bn_epa.pdf, p4

⁵² The World Bank's *Global Economic Prospects 2005* called EPAs 'North-South-South' trade agreements which are "the most ambitious attempt to harness trade, development resources, and technical-legal assistance to the cause of integration-led development" (World Bank, *Global Economic Prospects 2005: Trade, Regionalism & Development*, 2005, Box 2.3, p32)

WTO-consistent. This liberalisation is spread over period of up to 25 years, despite the EU's own benchmark of 15 years.⁵³

An Institute for Development Studies briefing, *EU-ACP Economic Partnership Agreements: The Effects of Reciprocity*, examines the issues in reciprocity more fully.⁵⁴ An ECDPM note outlines how special and differential treatment might be implemented as part of the Doha Round.⁵⁵

6.4 The 'Singapore issues'

The new or 'Singapore issues' are named after the WTO Ministerial Conference at which they were originally raised: competition policy; transparency in government procurement; investment; and trade facilitation. In July 2004, three of the Singapore issues were removed from the WTO Doha Round agenda, leaving only trade facilitation.

The EU has consistently argued for the potential of inclusion in trade deals to the benefit of growth and development. In February 2005 the then EC Trade Commissioner Peter Mandelson said he: "would argue that developing countries, no less than developed countries, benefit from transparent procurement rules, a predictable climate for badly needed foreign investment, or effective competition authorities that level the playing field."⁵⁶

However, NGOs regard attempts to include the issues in EPA talks simply as a second attempt to force liberalisation on some of the poorest countries, despite their rejection in the multilateral sphere (where arguably developing countries have more power, given the potential power of veto). The disparity in negotiating power and capacity between the ACPs and the EU has led many to argue that it is more difficult for ACPs to exclude these new issues if they wish to.

Critics also highlight the limited negotiating capacity of ACPs, which would be further stretched by negotiations in these areas. A September 2006 Oxfam report argued that:⁵⁷

The implications for ACP countries of negotiating the Singapore Issues have not been systematically analysed, but there is enough evidence to worry ACP policy makers. A pragmatic concern is the sheer cost of implementation. The costs of implementing new laws on competition would be substantial, and developing countries are still struggling to implement the WTO obligations on customs reform, intellectual property rights, and SPS agreed during the Uruguay Round [at the WTO].

Arguably, the decision to adopt a two-stage approach, of interim EPAs followed by 'comprehensive', EPAs (originally envisaged as covering the Singapore issues) reduced the pressure on ACP countries (apart from the Caribbean) to agree to their inclusion, as the threat of loss of preferences was effectively lifted. However, the interim agreements contain commitments to further negotiations, and these issues are being considered across the ACP as negotiations have continued throughout 2008 and 2009.

⁵³ European Commission, "[Fact sheet on the interim Economic Partnership Agreements: Overview](#)", p3

⁵⁴ "[EU-ACP Economic Partnership Agreements: The Effects of Reciprocity](#)", *Institute for Development Studies Briefing Paper*, May 2005 and "New IDS research shows EPAs will harm regional integration, but won't liberalise ACP trade", IDS press release, 20 May 2005 ([on DFID website](#))

⁵⁵ Onguglo, B. & T. Ito, "[How to make EPAs WTO compatible? Reforming the rules on regional trade agreements](#)", *ECDPM Discussion Paper* 40, September 2003

⁵⁶ [Trade at the Service of Development: An action plan for 2005 for the EU Trade Commissioner](#), Lecture by Peter Mandelson at the London School of Economics, London, 4 February 2005

⁵⁷ http://www.oxfam.co.uk/what_we_do/issues/trade/downloads/bn_epa.pdf, p6

6.5 UK Government position

The UK Government's July 2004 *Trade & Investment White Paper* noted the importance of EPAs for ACPs as the "EU represents the major trading partner for most of them."⁵⁸

The Cotonou Agreement is about more than just trade. It represents a broad-based approach to partnership in development, including political co-operation, technical assistance and trade-related capacity building. We are clear that the focus of the Economic Partnership Agreements must fit within this wider, more holistic approach, and be truly development focused.

The UK Government responded to NGO and civil society concerns by issuing a joint DTI (now BERR) and DFID EPA position paper, *Economic Partnership Agreements: Making EPAs Deliver for Development*, in March 2005.⁵⁹ The Government has pursued the negotiations in this context ever since.

The paper stated that the EU should not pursue 'offensive' interests in EPA talks, that capacity building and infrastructure were vital, and that ACP regions should control the timescales, coverage, etc. of their EPAs. In a written statement, the Trade & Industry Secretary Patricia Hewitt noted concern over EPAs among MPs.⁶⁰

EPAs must be designed to deliver long-term development, economic growth and poverty reduction in ACP countries. To do so, we believe that in its work on EPAs with ACP regional groups, the EU should take a non-mercantilist approach and not pursue any offensive interests.

Developing countries can benefit from liberalisation in the long run, provided they have the economic capacity and infrastructure they need to trade competitively. However, without the capacity or the right conditions, trade liberalisation can be harmful.

Each ACP regional group should make its own decisions on the timing, pace, sequencing, and product coverage of market opening in line with individual countries' national development plans and poverty reduction strategies. Regional groups should have the flexibility to move towards more open markets along a non-linear path if necessary. We will not force trade liberalisation on developing countries either through trade negotiations or aid conditionally.

EPAs must ensure that ACP regional groups have maximum flexibility over their own market opening. The EU should therefore offer all ACP regional groups a period of 20 years or more for market opening, on an unconditional basis. Each regional group should be offered this full period.

Within EPAs, the EU should make an upfront offer of complete duty and quota-free market access to each ACP regional group, with no strings attached. In addition, the EU should further simplify and liberalise rules of origin under EPAs. There should be an effective safeguard mechanism for ACP countries to use if faced with a surge of subsidised EU imports. [...]

Investment, competition and Government procurement should be removed from the negotiations, unless specifically requested by an ACP regional negotiating group. It is for ACP regional groups to judge the development benefits of any agreements on these issues and the EU should not push for them to be discussed. If included, any negotiations on Government procurement should be limited to transparency.

⁵⁸ DTI, [Making Globalisation a Force for Good](#), White Paper, July 2004, p98

⁵⁹ DTI/DFID, [Economic Partnership Agreements: Making EPAs Deliver for Development](#), March 2005

⁶⁰ [HC Deb 22 March 2005 cc62-63WS](#)

The Secretary of State also proposed a review mechanism to ensure “the intended developmental benefits”, and that the EU push for a review of RTA rules in the GATT (Article XXIV) to make them more development-friendly:

Implemented along these lines, Economic Partnership Agreements should provide real development benefits to the ACP countries.

An International Development Committee [report](#) in April 2005 highlighted the lack of scrutiny of EPAs, reciprocity without “special and differential treatment” for developing countries; the central importance of poverty reduction, and that ‘new issues’ (investment, procurement, competition policy) rejected in multilateral trade negotiations should be excluded. The Government’s [response](#) was published in June 2005.

6.6 Recent campaigns

As a June 2006 Overseas Development Institute briefing noted:⁶¹

At present, neither supporters nor opponents of EPAs can demonstrate convincingly that the other is wrong since the negotiations have not yet reached a stage at which key details of any EPA have become clear.

As the interim deals have emerged and further negotiations have continued, NGOs have continued their opposition.

As part of a broader campaign by the Christian Aid is running a campaign against EPAs “essentially free-trade arrangements aimed at opening up the markets of poor countries to European goods”,⁶² focusing on Member of the European Parliament (MEPs).⁶³ Christian Aid states:⁶⁴

Throughout the years of negotiations, ACP governments and campaigners, including Christian Aid's overseas partners, expressed serious concerns that free trade between an established, wealthy trading bloc like the EU and their own poor economies will destroy farmers and industries in their own countries.

Put simply, poor-country producers cannot compete.

It criticises the EU’s “strongarm tactics”, noted that only half of ACP countries “have ‘initialled’ any form of a deal as it was clear they were more focussed on opening markets for European exports than on the needs of developing countries.” It calls on European leaders to “review and improve” EPAs, and specifically for “longer time periods for ACP countries to open their markets” and “safeguards so that ACP countries can protect themselves against surges of European imports that might hurt industries they are trying to get off the ground.”

It cites two examples. It quotes one estimate of the cost of Zambia signing an EPA at \$15.8 million. It also highlights Mozambique’s milling industry, which it believes will suffer if import taxes on European flour are liberalised through an EPA.

⁶¹ www.odi.org.uk/publications/briefing/bp_june06_epa_bp1.pdf, p1

⁶² Christian Aid campaign page: http://www.christianaid.org.uk/ActNow/Opinion/epas_explained.aspx

⁶³ http://www.christianaid.org.uk/ActNow/dosomething/EPA_email_MEPs.aspx

⁶⁴ Christian Aid campaign page: http://www.christianaid.org.uk/ActNow/Opinion/epas_explained.aspx

Friends of the Earth are also running a campaign against EPAs claiming that they will “damage livelihoods, jobs and the environment in ACP countries”, and “Undermine sustainable development and progress towards the Millennium Development Goals”.⁶⁵

An October 2008 report from Friends of the Earth was highly critical of the liberalisation commitments within the interim EPAs, the EU’s determination “to remove export restrictions that countries use to limit or prohibit exports of unprocessed raw materials”, and the inclusion of investment rules in the Caribbean EPA. On the latter point, it states:⁶⁶

Liberalising investment in sectors such as forests and agriculture – both of which are mentioned explicitly in the Caribbean EPA’s investment clauses – could have a dramatic impact on deforestation rates, subsistence farming and food security. Countries agreeing to liberalise investment could have to hand over more rights to foreign corporations to exploit forests, fisheries, agriculture and other natural resources such as oil and gas, and this could in turn lead to even more forests and small farms being cleared to make way for logging, mining and export-oriented agriculture.

More broadly, the Friends of the Earth report states:⁶⁷

The EU’s neo-colonialist approach to the EPA negotiations is completely unacceptable, given that they concern potential agreements with some of the world’s poorest and most vulnerable economies. In the long term, EPAs and similar approaches threaten to diminish Africa’s forests and biodiversity. The overall consequence is that the lives and livelihoods of Africa’s forest-dependent communities are threatened and the risks posed by climate change, which can be mitigated by the presence of forests, especially in the tropics, are increased (FOEI, 2008).

EPAs, like other trade liberalisation agreements, effectively commodify natural resources, relegating them to the status of merchandise, rather than that of a public good that needs to be protected. Fundamentally, trade liberalisation is about opening an increasing number of economic sectors to competition by limiting state intervention. Trade liberalisation agreements such as EPAs lock countries into a virtually irreversible economic model based on the export of raw materials.

The EPA negotiations should be stopped, and those agreements that have already been initialled should be repealed. Instead, the EU and its member states should focus on developing a real, equitable partnership with the ACP, ensuring financial and practical support to ACP countries so that they can develop genuinely fair and sustainable societies.

The European Commission maintains that EPAs are development focused. As the Trade Commissioner recently stated:⁶⁸

EPAs are development-oriented trade agreements that seek to take into account the specific needs of African, Caribbean and Pacific countries. EPAs have the potential to support reform and change and to boost development and economic growth.

In its recent EPA overview fact sheet, the Commission noted that:⁶⁹

⁶⁵ See Friends of the Earth campaign page; www.foe.co.uk/campaigns/global_trade/news/epas_Feb2008.html

⁶⁶ Friends of the Earth, *Undercutting Africa: Economic Partnership Agreements, forests and the European Union’s quest for Africa’s raw materials*, October 2008, piv. A summary by the report’s author can be found in ICTSD *Trade Negotiations Insights* 8:1, February 2009, p10

⁶⁷ *ibid.*, pvii

⁶⁸ [Letter from the EU Trade Commissioner Catherine Ashton](#), January 2009

⁶⁹ European Commission, [“Fact sheet on the interim Economic Partnership Agreements: Overview”](#), p3

(p3) **ACP tariffs on products considered sensitive to EU imports are not being reduced** as the ACP were able to make extensive use of the scope in WTO rules for excluding such products. Typical exclusions cover agricultural products considered key to food security and the income of rural communities, products from industries considered vulnerable and, in some cases, products where import duties provide essential state revenues. Côte d'Ivoire, Ghana, Comoros, Madagascar, Zambia, Zimbabwe and the East African Community countries (Kenya, Tanzania, Uganda, Rwanda, Burundi) all used this flexibility to exclude almost 20% of their EU imports from liberalisation.

Tariffs are reduced over long transition periods. The ACP also made use of the flexibility offered to spread liberalisation over periods up to 25 years to allow their economies to build up competitiveness over the medium and long term. That said, the speed of liberalisation varies. For example Mauritius chose to open up its market to the EU almost completely (95.6%) by 2022 under their own open trade policy although, even then, liberalisation is still gradual with only 53.7% of EU imports liberalised by 2017.

There are variable transition periods for tariff reduction by ACP countries or regions according to the sensitivity of the products concerned. Variations can also result from non-EPA liberalisation commitments made under existing and planned regional markets, free trade areas and customs unions.

Safeguard clauses provide an additional safety net. They allow ACP countries to take measures to protect **infant industries, food security** and rural development or any other production sector in the event of (threats of) market disturbance by imports.

On development co-operation, the Commission noted:⁷⁰

All full regional EPAs will include development cooperation provisions tailored to the needs of the region. Combined with the trade rules of the agreement that have been designed to promote development and regional integration, these provisions form the "development dimension" of the agreements. The coverage of the development cooperation provisions in the interim EPAs varies depending on whether they are single country or regional agreements, how advanced negotiations on these issues were at the time the interim agreement was concluded and the roadmaps to complete the full EPA negotiations.

The development cooperation provisions are part of the EPAs in recognition of the fact that changes to the trade regime will entail certain costs for the ACP in the short to medium term. Costs can be linked to institutional implementation of the new rules as well as to the adjustment of economic operators to the new regulatory framework. The development cooperation provisions are also there to ensure that resources are made available to assist ACP countries in taking advantage of opportunities stemming from implementation of the agreements – access to new markets in particular.

7 Sources of updates

Members and their staff are invited to request updates on this subject from the Library.

However, there are a number of major sources of information on EPAs and ACP-EU relations more generally.

⁷⁰ *ibid.*, p4

- European Commission EPA page;
ec.europa.eu/trade/issues/bilateral/regions/acp/index_en.htm
see also EPA news page
ec.europa.eu/trade/issues/bilateral/regions/acp/news_epa_en.htm
and negotiation dates page
ec.europa.eu/trade/issues/bilateral/regions/acp/epa_calendar_en.htm
- European Commission Regional negotiations page (with negotiation summaries and links to interim EPA texts); ec.europa.eu/trade/issues/bilateral/regions/acp/regneg_en.htm
- ACP-EU-Trade EPA page www.acp-eu-trade.org/index.php?loc=epa/ and EPA section of newsletter www.acp-eu-trade.org/index.php?loc=newsletter/
- ICTSD, Trade Negotiations Insights (monthly) ictsd.net/news/tni/ (note that these also include an 'ACP-EU Events' calendar, which includes future regional EPA negotiation meeting dates).
- Bilaterals.org (www.bilaterals.org) monitors bilateral and regional free trade agreement negotiations, with a section devoted to EPAs with links to articles:
www.bilaterals.org/rubrique.php3?id_rubrique=17