

# **The EU-SADC Economic Partnership Agreement Negotiations: ‘Locking-In’ the Neoliberal Development Model in Southern Africa?**

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# **The EU-SADC Economic Partnership Agreement Negotiations: ‘Locking-In’ the Neoliberal Development Model in Southern Africa?**

## **Abstract**

This article focuses on the negotiation of Economic Partnership Agreements (EPAs) which form the central focus of the commitments made in the Cotonou Agreement, signed in 2000 by the European Union (EU) and the African, Caribbean and Pacific (ACP) states. EPAs are part of a much wider trend witnessed since the creation of the World Trade Organization (WTO) whereby we have seen the proliferation of bilateral free trade agreements. It argues that both the material and ideational interests of the EU need to be considered, together with the historical context of EU-ACP relations. The EU is portrayed as making a concerted effort to ‘lock-in’ neoliberalism across the seven different sub-regions of the ACP group by negotiating EPAs that include both reciprocal trade liberalisation and a raft of ‘trade-related’ issues. It is suggested that in doing so EPAs will go beyond the requirements for WTO-compatibility, resulting in a reduction of the policy space for ACP states to pursue alternative development strategies. The article then considers the potential developmental impact of EPAs with reference to the negotiations with seven of the fifteen member states of the Southern African Development Community (SADC). Here it is argued that the EU is promoting ‘open regionalism’ and it is shown how this poses a threat to the coherence of the regional project in southern Africa.

## **Introduction**

In 2002 the European Union (EU) began negotiating Economic Partnership Agreements (EPAs) with the African, Caribbean and Pacific (ACP) group of states.<sup>1</sup> Since October 2003 the negotiations have been conducted at the regional level with eventually seven ACP regions identified as potential partners.<sup>2</sup> Faber and Orbie suggest that EPAs, which include bilateral free trade agreements (FTAs) with each of the different regions, ‘represent a watershed in Europe’s relations with Africa’.<sup>3</sup> They should be understood within the context of an emerging trend within the politics of international trade that has developed since the creation of the World Trade Organization (WTO) in 1995. This is the proliferation of bilateral FTAs that has seen over 300 regional trade arrangements having been notified to the WTO since 1995, which compares with only 123 during the period 1948-1994.<sup>4</sup>

In this article I focus on the negotiation of EPAs with African members of the ACP group and in particular the Southern African Development Community (SADC). In contrast to the Caribbean region, which at the time of writing is the only region to agree a ‘full EPA’, only interim EPAs have been agreed with the other six regions. The WTO waiver granted for the non-reciprocal trade preferences offered to ACP states was due to expire at the end of 2007. When it became clear that negotiations towards a full EPA would not be achieved in time, to avoid a potential challenge within the WTO, it was decided that interim agreements on just the trade in goods would be signed with a view to completing more comprehensive deals in the future. The EU-SADC interim EPA was signed by four of the seven ‘SADC minus’ states involved in the negotiations in June 2009. The other eight members of the SADC were involved in three other regions for the purposes of the negotiation of EPAs with the EU.

The central argument of this article is that the agreement of a full EPA with SADC will ‘lock-in’ the neoliberal development model and thus advance its hegemonic position within the region. This concerted effort by the EU to assert a neoliberal framework, which includes aspects of the regulatory framework beyond simply trade in goods, is criticised for two main reasons. First, it is tightening the straightjacket that restricts the policy space available to ACP states.<sup>5</sup> Here I adopt a definition of policy space understood as ‘the flexibility under trade rules that provides nation states with adequate room to maneuver to deploy effective policies to spur economic development’.<sup>6</sup> Second, it is complicating the process of regional integration in southern Africa by undermining the coherence of SADC and restricting the ability of these economies to diversify.

In taking this stance the article adopts a neo-Gramscian understanding of EPAs that treats both the material and the ideational interests of the EU as significant and inter-related.<sup>7</sup> In this regard I problematise the idea of the EU as a ‘normative power’. It has become commonplace in recent years for scholars to suggest that the EU stands alone from other major actors in world politics, because in its external relations it employs an approach based on the diffusion of progressive norms alongside military and/or civilian power.<sup>8</sup> This is also something that the EU itself seeks to portray in the construction of its own self-image. For example, the Lisbon Treaty states that in its external relations the EU ‘shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights...’.<sup>9</sup> In contrast many critiques of EPAs, especially from NGOs, are based on the view that the EU is acting purely in its own commercial self-interest. However, I would concur with Storey, who suggests that framing the process as being driven by either norms *or* self-interest is reductionist and *both* need to be considered.<sup>10</sup> Moreover, the ongoing alignment with neoliberalism reflected in the

negotiation of EPAs brings the EU's material self-interest and the framing of its normative goals closer together.

In the following section I outline the evolution of EU development policy and explain how in essence the negotiation of EPAs represents a 'normalisation' of EU-ACP trade relations. Then the ideological and material interests of the EU are discussed in order to highlight how both have contributed to the pursuit of EPAs. The second half of the article then assesses the rather intricate relationship between the negotiation of EPAs and the WTO before making some observations on the impact of the EPA for the development prospects of, and future of regional integration in, the SADC region.

### **Historical background: how did we end up with EPAs?**

The EU's relationship with ACP states has its roots in the colonialism of many of the member states. The Treaty of Rome, signed in 1957, included an association with the colonies of the original member states, which gave both member states and their colonies preferential trade access. This was combined with financial support to the associates through the European Development Fund (EDF). The Yaoundé Convention of 1963 that was signed with 18 newly independent former colonies maintained the system of preferential trade and financial support through the EDF. The sovereignty of these newly independent states was also acknowledged and joint political institutions were created. However, as Koutrakou suggests, despite these developments, the relationship was still dominated by European economic interests in Africa.<sup>11</sup>

In 1975 a new agreement, the Lomé Convention, was agreed with the group of associates that had since expanded to include 46 countries. They became known as the ACP group of states. Despite its heterogeneity, initially this group demonstrated unity and strength in its negotiations with the EU.<sup>12</sup> This was representative of the nature of North-South relations and the ideological climate of ‘Third Worldism’ at the time. Lomé I offered improved trade relations for ACP states. These were based on non-reciprocal trade preferences and specific commodity protocols for sugar, rum, beef, veal and bananas, whereby the EU committed to import a set quota of these goods from ACP states at a guaranteed price.<sup>13</sup> Enhanced financial aid via the EDF was also agreed. Of particular benefit to ACP states was the System for the Stabilisation of Export Earnings (STABEX). STABEX was designed to counteract the fluctuating revenues that ACP states received from exporting a range of agricultural goods that were not covered by the Common Agricultural Policy (CAP).<sup>14</sup>

However, during the 1980s and 1990s and the successive Lomé Conventions that followed, there was an increasing adoption of neoliberal development thinking. For example, in Lomé IV, which was signed in 1989, the EU substantially increased the share of funding allocated for structural adjustment, with some of this money coming from the newly formed Structural Adjustment Support Facility.<sup>15</sup> The increasing alignment of the Lomé Convention with what became known as the ‘Washington Consensus’ meant that a continuation of preferential trade relations with the ACP states was increasingly questioned within EU policymaking circles. Ideas that first came to light in the early 1990s in a paper commonly referred to as ‘Horizon 2000’, were then formalised in a Green Paper that made the case for an overhaul of the EU’s relationship with ACP states.<sup>16</sup> This argued for multilateral trade liberalisation and suggested that the existing non-reciprocal trade preferences were failing to boost ACP exports. It is worth noting here that the relative value of these preferences had been steadily eroded during

this period, due to successive rounds of trade liberalisation under the auspices of the General Agreement on Tariffs and Trade (GATT).<sup>17</sup> The EU also put particular emphasis on the need for its relationship with ACP states to conform to the rules of the WTO. What was not clear at this point was the EU's desire to include a whole raft of trade-related issues.<sup>18</sup>

This 'debate' resulted in the signing of the Cotonou Agreement in June 2000 which proposed a new trade arrangement that would avoid the need for a WTO waiver in the future. The LDCs within the ACP group would continue to qualify for trade preferences, whilst non-LDCs would be offered the opportunity to negotiate EPAs with the EU to enable them to meet WTO rules on FTAs. This would result in significant problems of implementation given that many of the regional groupings, identified for the negotiation of EPAs, consist of a mix of LDCs and non-LDCs. The southern African region posed particular problems in this regard given the existence of the Trade, Development and Cooperation Agreement (TDCA) between South Africa (and de facto Botswana, Lesotho, Namibia and Swaziland (BLNS)) and the EU. Initially the EU had sought to agree a deal with South Africa alone, which led to protests and the request for an impact study from the other SACU members.<sup>19</sup> This experience was one of the key drivers in the decision by the EU to negotiate EPAs at the regional level. It is ironic to note that during the TDCA negotiations the EU had prevented South Africa from being part of the preferential trade scheme under Lomé, because it was suggested that, unlike other ACP states, they would be able to bear the adjustment costs of reciprocal trade liberalisation.<sup>20</sup>

In sum, when placed in historical context, we can see that the plan for reciprocal trade relations under EPAs is in fact a return to the relationship that was first set-up in the Treaty of Rome and then the Yaoundé Conventions. Lomé I can be seen as a high-point in attempts by

ACP states to negotiate as equals and achieve some of the changes they, and other developing countries, had outlined during the early 1970s in the call for a New International Economic Order.<sup>21</sup> Since the first renegotiation of Lomé in 1979, and in particular during Lomé IV in the 1990s, what we have witnessed is the increasing influence of neoliberal ideas on the EU-ACP relationship. EPAs can therefore be seen as an attempt to achieve what is effectively a normalisation of the trade relationship.

### **Locking-in neoliberalism**

The concept of ‘locking-in’ refers to the work of Stephen Gill and his concept of ‘new constitutionalism’ whereby regulatory regimes are created to lock-in neoliberal reforms.<sup>22</sup> To understand the EU’s relationship with ACP states we must acknowledge that it operates within a context where the ideas of neoliberalism have become hegemonic.<sup>23</sup> The system of trade preferences that was central to the Lomé Convention is seen by neoliberals as antithetical to their belief in the power of the free market to encourage greater competitiveness in the global economy.<sup>24</sup> The Cotonou Agreement is clear in its incorporation of this perspective and as Nunn and Price have argued, has a more general significance ‘in ensuring the wider compliance of the developing world with multilateral liberalisation’.<sup>25</sup>

During the last decade EU development policy has aligned itself with the Post-Washington Consensus (PWC).<sup>26</sup> Like other multilateral actors it now claims poverty reduction is the main objective of its approach.<sup>27</sup> Of course, the international consensus on the benefits of free trade for development remains central to the PWC. However, as Faber and Orbie argue, what



is new is ‘the growing emphasis on regulatory issues at the national level and on Aid for Trade schemes’.<sup>28</sup>

There is also an ideological commitment, which is particularly strong within the EU, to regional integration as part of the neoliberal project. Former European Commissioner for Development and Humanitarian Aid, Louis Michel, demonstrated this by arguing that ‘based on our experience in Europe and that of other regions in the world, we believe that supporting regional integration...is an important means to facilitate this inclusion into the process of globalisation’.<sup>29</sup> The type of regionalism promoted by the EU is often called ‘open regionalism’ as the aim is to liberalise within the region without increasing external barriers to trade. In addition the EU talks about ‘deep integration’, again based on its own historical experience, whereby EPAs will provide the impetus for regions within the ACP to achieve not only economic liberalisation but the harmonisation of regulatory standards that help business.<sup>30</sup>

When we consider EPAs within the wider context of international development debates I would suggest that this reveals a strong ideological alignment with the current consensus. The EU’s desire that ‘full-EPAs’ will include significant behind-the-border trade issues can be seen as a concerted attempt to secure much ‘deeper’ roots for the neoliberal development model. If agreed they will ‘lock-in’ neoliberalism by reducing the policy space for alternative development strategies within southern Africa, and other sub-regions of the ACP group of states. In doing so, the EU is ensuring that developing countries are prevented from being able to pursue some of the policies that were an option during the industrialisation of what are now considered developed countries. As Chang argues ‘most of them [developed countries]

actively used ‘bad’ trade and industrial policies, such as infant industry protection and export subsidies – practices that these days are frowned upon, if not actively banned, by the WTO’.<sup>31</sup>

### **The EU’s trade interests**

The previous section highlights the ideational aspects to EU-ACP relations that have culminated in the negotiation of EPAs. However, the material interests of the dominant negotiating power, the EU, must not be discounted from our analysis. In reality these two aspects should be seen as complementary. Despite repeated claims by the European Commission that EPAs represent little in terms of the direct economic interests of the EU, in reality they reflect more than just a desire to lock-in neoliberalism for purely normative reasons.

A few years ago the European Commission outlined its vision of the measures the EU needs to take in order to become more competitive within the global economy.<sup>32</sup> Here it is argued that there are complementarities between domestic and external policies. With regard to EU trade policy it is explicitly stated that the main priority is opening markets abroad and that one of the main reasons for this is that it ‘reinforces the competitive position of EU industry in a globalised economy’.<sup>33</sup>

The European Commission has often argued that the ACP as a whole is not a significant market or a major destination for European exports. It is certainly the case that the EU is in relative terms a much more important trade partner for ACP states than vice versa. In 2010 the value of EU exports to the ACP group (including South Africa) was € 68.7 billion, which represents only 5.1% of total EU exports. In contrast, the European market is of much more

importance to ACP states. Table 1 (below) highlights this fact. The EU is a key trade partner for both the ACP as a whole and the various trade partners within the SADC EPA negotiations.

**Table 1: The Significance of Trade with the EU for Selected Regions and Countries**

| <b>Region/<br/>Country</b>   | <b>Total Value of<br/>Trade with World<br/>in 2010 (€ million)</b> | <b>Total Value of<br/>Trade with the EU<br/>in 2010 (€ million)</b> | <b>EU as a share of<br/>Total Trade<br/>(%)</b> |
|------------------------------|--------------------------------------------------------------------|---------------------------------------------------------------------|-------------------------------------------------|
| ACP (including South Africa) | 529,704                                                            | 123,767                                                             | 23.4                                            |
| ACP (excluding South Africa) | 411,341                                                            | 86,361                                                              | 21.0                                            |
| South Africa                 | 118,363                                                            | 37,405                                                              | 31.6                                            |
| Mozambique                   | 5,651                                                              | 1,789                                                               | 31.7                                            |
| Angola                       | 45,383                                                             | 8,292                                                               | 18.3                                            |

Source: All trade data comes from European Commission, DG Trade, available at: <http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/statistics/> [Accessed 27 July 2011].

The claim that the EU does not have significant material interests in ACP states has been challenged by a number of critics of EPAs (in particular a number of development NGOs).<sup>34</sup> Whilst there are direct material interests at stake for the EU these do appear limited. Faber and Orbie develop a convincing argument to demonstrate that the main reason for European insistence on reciprocal trade liberalisation is not because the ACP group of states represent a substantial export market.<sup>35</sup>

However, this is not to say that relations with ACP states are completely unrelated to the wider trade interests of the EU. The ‘Global Europe’ strategy outlines that, based on the

criteria of large market potential combined with currently existing high barriers to trade, priorities for the EU are the Association of Southeast Asian Nations (ASEAN), South Korea, the Southern Common Market (MERCOSUR) in Latin America, India, Russia, the Gulf-Cooperation Council and China.<sup>36</sup> As discussed below, maintaining preferential trade terms for ACP states would require the negotiation of another waiver within the WTO. It is many of these emerging (non-ACP) trade partners that, as part of the G20 group of developing countries in the WTO, have in the past opposed a waiver for preferential EU-ACP trade arrangements. It has been acknowledged that the negotiation of the previous waiver was difficult for the European Commission. In fact, concessions such as additional trade access to the EU for exports of tuna from a number of Asian countries and banana exports from Latin America were needed.<sup>37</sup> Hence, there is also an indirect link between the negotiation of EPAs and the EU's trade interests. Faber and Orbie conclude that 'defending the Lomé acquis is undoubtedly costly for the EU, whereas its erosion can only benefit Europe's relations with more significant trading partners in Asia and Latin America'.<sup>38</sup>

Moreover, the United States, in particular, has also been very active in negotiating bilateral FTAs and it is clear that the EU is keen to secure a competitive advantage in this regard. Adopting a strategy of negotiating with sub-regions of African states signifies the EU's attempt to outdo the US or China who usually negotiate with individual African countries.<sup>39</sup> In fact the Commission has argued that 'where our partners have signed FTAs with other countries that are competitors to the EU, we should seek full parity at least'.<sup>40</sup> Another key player on the African continent in recent years has been China. Chinese trade with Africa has grown exponentially during recent years. The SADC region is of particular importance given that China's two main African trade partners for 2008 were Angola and South Africa.<sup>41</sup> After a decline during 2009 due to the global financial crisis, trade between China and Africa

returned to a new record high of US\$ 129 billion in 2010.<sup>42</sup> It is clear that the dominance of European interests and influence in Africa, and the SADC region in particular, are being challenged by China's increasing role. This geopolitical context was explicitly acknowledged in 2005 in the EU's 'Strategy for Africa', which acknowledges the growing interest in Africa of both familiar players, like the US, and emerging powers such as China, India and Brazil.<sup>43</sup>

## **EPAs and the WTO**

As discussed above, WTO-compatibility was one of the main justifications given by the EU for the overhaul of its relationship with the ACP states. The EU has received challenges within the WTO to parts of its trade policy over the years. In general, the differentiation in EU trade relations has proved problematic. Between 1998 and mid-2005 more than a quarter of WTO trade disputes involving the EU, were in some way related to its country differentiation.<sup>44</sup> However, it has never received a direct challenge to the preferential trade agreement it had with ACP states via the Lomé Convention.<sup>45</sup> From 1994, a GATT panel ruling meant that these preferences required a waiver in the GATT/WTO due to the fact that they were non-reciprocal and discriminatory.<sup>46</sup>

It was therefore argued by the EU that an EPA would be the best option to satisfy WTO rules. Article XXIV of the WTO requires EPAs to liberalise 'substantially all' trade between the EU and the partner regions within 'a reasonable length of time'. Precedents set in the past indicate that the EU will interpret 'substantially all' as 90% of currently existing trade.<sup>47</sup> The lack of flexibility in terms of levels of reciprocity is related to the fact that Article XXIV of the GATT was originally created with developed countries in mind.<sup>48</sup> The alternative offer for non-LDCs to the EPAs is the Generalised System of Preferences (GSP).<sup>49</sup> The GSP offers

inferior access to the EU market and is not negotiated because it is a unilateral offer made by the EU. It can therefore be revoked at any time. Thus, EPAs are the only available option to ACP states to ensure full contractual trade access to the EU market.

The European Commission has been keen to stress its support for the multilateral system and its disappointment at the difficulties encountered during the Doha Development Round of negotiations.<sup>50</sup> The deadlock in these multilateral trade negotiations has increased the significance of the EU's bilateral trade relations with developing countries. The bargaining power of developing countries in the WTO is much stronger than in EPA negotiations with the EU. With it becoming increasingly likely that full EPAs will be signed before a conclusion is reached in the Doha Round, many of the gains made by African states in these multilateral negotiations may be undermined by bilateral agreements with the EU.<sup>51</sup>

However, the EU's commitment to multilateralism is clearly compromised by the desire to make EPAs into WTO-plus agreements. They wish to include a number of 'behind-the-border' aspects including the so-called 'Singapore Issues'. During the Doha Round the EU has been an enthusiastic supporter of the inclusion of competition policy, transparency in government procurement, national treatment for foreign investors, and trade facilitation measures.<sup>52</sup> However, opposition of developing countries to their inclusion was one of the main reasons for the collapse of the trade talks at the 2003 WTO Ministerial Conference in Cancún. As the negotiations over EPAs have progressed, it has become clear that the EU has a 'twin-track' approach, in that it seeks to pursue its trade policy objectives at the bilateral level when obstacles at the multilateral level exist.<sup>53</sup>

## **The EU-SADC EPA: Good for Development?**

Negotiations towards an EU-SADC EPA began in earnest in early 2005. Towards the end of the year the SADC member states requested a suspension, to enable them to be able to hold their own regional discussions, to address the question of the impact of South Africa's TDCA with the EU. This allowed the SADC region to put together its EPA framework and this was presented to the EU in March 2006. This included a proposal to invite South Africa to join the negotiations. In November 2006, the European Commission sent a communication to the European Council proposing a modification of its EPA negotiating directives, in response to the inclusion of South Africa.<sup>54</sup> South Africa, for its part, claims that it joined the EPA negotiations in order to prevent the further break-up of the SADC region as a whole.<sup>55</sup>

The EU portrays EPAs as comprehensive development partnerships that offer much more than just a simple FTA. The European Commission is of the opinion that the final EPAs will have a beneficial impact on the regulatory framework in ACP countries, which in turn will help attract both domestic and foreign investment.<sup>56</sup> This together with the support for regional integration and development finance from the EDF is seen as the 'added-value' of EPAs. Organisational changes within the European Commission are worth noting here when considering where the emphasis lies. Whereas in the past, it was DG Development that would negotiate with ACP states, since the Prodi Commission reorganised the Directorates in 1999, it has been DG Trade that now has the main responsibility for trade with ACP states, including the negotiation of EPAs.<sup>57</sup> This has led to tension between the two DG's, particularly before it was clear that EDF money would be available to support the negotiation of EPAs by contributing to 'aid for trade' packages.<sup>58</sup> In fact Mold suggests that DG Development is much less enthusiastic about EPAs than DG Trade.<sup>59</sup> Given how central trade

relations are to EU-ACP relations as a whole, it is not an overstatement to suggest that DG Development has begun to resemble an ‘empty shell’.

A number of *ex ante* impact studies have been conducted to try to assess the potential impacts of trade liberalisation under EPAs. Some of these were funded through the EDF for ACP partners and then the results were not made available to the European Commission.<sup>60</sup> These macroeconomic studies often use either general equilibrium or partial equilibrium models and tend not to consider the ideational impact of EPAs, or their relationship to the broader material interests of the EU. They tend to show that, despite the potential for trade diversion, the revenue effects of reciprocal trade liberalisation will be positive. However, at the same time some of them express doubts as to the developmental benefits of EPAs. One assessment suggests that, unless countries in sub-Saharan Africa unilaterally reduce their MFN tariffs, EPAs will be potentially disadvantageous.<sup>61</sup> Another report, based on research supported by the UN Economic Commission for Africa, warns that the benefits of regional integration could be compromised by EPAs.<sup>62</sup>

The burden of adjustment will fall most heavily on SADC states during the liberalisation phase of trade in goods under the interim EPA. Given that these countries already have preferential access to the EU market, and particularly in the case of LDCs, who already qualify for duty-free and quota-free access under the ‘Everything But Arms’ (EBA) initiative, it is their imports from the EU that will constitute the vast majority of the liberalisation schedule. In the case of the ‘SADC-minus’ interim EPA, trade liberalisation has resulted in duty-free and quota-free access to the EU market being made available immediately for all goods except rice and sugar (where transition periods apply). In return, the SACU member states continue to move towards their target of liberalising 86% of their imports from the EU



by 2012 (as agreed in the TDCA). Mozambique, as an LDC has until 2023 to liberalise 81% of its imports from the EU and all the SADC signatories have decided to liberalise mostly industrial and fisheries products.<sup>63</sup>

The power relationship between EPA negotiating parties is extremely asymmetrical. Negotiating with one of your major aid donors precludes anything resembling ‘partnership’. In December 2007 the ACP Council of Ministers adopted a unanimous declaration in which they deplored ‘the enormous pressure that has been brought to bear on the ACP states by the European Commission to initial the interim trade arrangements’.<sup>64</sup> The EU could be seen to have manipulated the agenda by over-loading it with trade-related matters from the outset, then using delaying tactics, before presenting a draft final text at the last minute, allowing little time for ACP groups to respond adequately.<sup>65</sup> The effectiveness of ACP states is also constrained by a lack of negotiating capacity given they are pursuing trade negotiations at three levels – in the WTO, with the EU, and within regional groups.<sup>66</sup> Meyn concludes that EPA negotiations have increased the division between the EU and ACP and suggests that it is only the asymmetry in power and negotiating abilities that enabled interim EPAs to be agreed.<sup>67</sup>

This asymmetrical power in the negotiations is aptly demonstrated by the EU’s success in keeping the ‘Singapore Issues’ on the agenda for the negotiation of EPAs, given the strong opposition of developing countries to them in the WTO. Their inclusion in a full EPA with the SADC region will be highly significant for the reduction of policy space. In its March 2006 negotiating proposal the SADC group argued, amongst other things, that the EPA should focus solely on market access and they requested that further negotiations on trade-related rules should be reduced to non-binding agreements at most. This request was met with

a firm rebuttal by the EU who argued that the inclusion of these issues was the ‘essence’ of the EPA approach and that they were vital for the achievement of deeper regional integration in the SADC region.<sup>68</sup> If the only full EPA to be signed so far with the Caribbean group (CARIFORUM) is a reliable indicator, then rules on investment, competition policy and government procurement are likely to become part of the other EPAs.<sup>69</sup> Hence, the interim EPA that has been signed by SADC states commits them to future negotiations on services and investment, whilst competition and government procurement will only be discussed once sufficient regional capacity exists; intellectual property is not expected to become part of the full EPA negotiations.<sup>70</sup>

The European Commission insists that it is precisely these trade-related issues that reflect the ‘real development component of EPAs’.<sup>71</sup> However, some commentators have suggested that there are self-interested reasons for their inclusion. Faber and Orbie argue that they provide a more conducive environment for potential investors from Europe and set a precedent for future trade negotiations at both the bilateral and multilateral levels.<sup>72</sup> For Goodison, a focus on services provides ‘economic opportunities in those sectors where EU companies are strong’.<sup>73</sup> Moreover, an agreement on investment would require SADC states not to discriminate between foreign and domestic investors. For example, it would prevent host countries from making certain demands with respect to levels of local employment. Opposition to the inclusion of these ‘new generation’ issues has been expressed both by civil society organisations and trade ministers at the African Union.<sup>74</sup> In general, their inclusion would make it very difficult for governments in southern Africa to adopt an industrial policy that sought to protect and develop its own local firms. Similarly liberalisation of government procurement would also prevent any preferences for domestic providers over European ones.

The liberalisation of trade resulting from the EU-SADC EPA will also have a detrimental effect on tariff revenues collected by SADC states. This is of particular concern for countries that are heavily reliant on the contribution customs duties make to government revenue. Under the SACU, customs duties go into a common revenue pool and are distributed in favour of the BLNS states, which are dependent on this revenue as it contributes to a significant fraction of their overall government revenue. One impact study prepared for the European Commission provides some estimates of the losses in tariff revenue resulting from the implementation of EPAs. It concluded that although the SADC region could expect the lowest losses of all the ACP regions, they would still suffer between a 37% and 58% cut in tariff revenues on imports from the EU by 2022, based on two alternative scenarios for the potential list of goods that are excluded from liberalisation.<sup>75</sup>

The EU-SADC EPA also raises a number of issues in relation to the impact that it will have on African regionalism. It is a particularly problematic case given the fact that South Africa has already agreed a TDCA with the EU. Moreover, due to the existence of the Southern African Customs Union (SACU), which has a common external tariff, this also has an impact on the other four SACU member states. The current state of play in the EU-SADC EPA negotiations is shown in Table 2 below.

**Table 2: The State of Play in the EU-SADC EPA Negotiations (July 2011)**

| <b>‘SADC minus’<br/>Country</b> | <b>LDC?</b> | <b>Southern African Customs<br/>Union member state?</b> | <b>EPA status?</b>                                                     |
|---------------------------------|-------------|---------------------------------------------------------|------------------------------------------------------------------------|
| South Africa                    | No          | Yes                                                     | Non-signatory but part of<br>EU-SACU TDCA                              |
| Botswana                        | No          | Yes                                                     | Signed Interim EPA on<br>4 June 2009                                   |
| Lesotho                         | Yes         | Yes                                                     | Signed Interim EPA on<br>4 June 2009                                   |
| Namibia                         | No          | Yes                                                     | Initialled Interim EPA on<br>11 December 2007 but not<br>ready to sign |
| Swaziland                       | No          | Yes                                                     | Signed Interim EPA on                                                  |

|            |     |    |                                                          |
|------------|-----|----|----------------------------------------------------------|
|            |     |    | 4 June 2009                                              |
| Mozambique | Yes | No | Signed Interim EPA on 15 June 2009                       |
| Angola     | Yes | No | Non-signatory but as an LDC qualifies for EBA initiative |

The current situation is deeply challenging for the coherence of regional integration within the SADC region. During the EPA negotiations the coherence of SADC as an organisation has been compromised. Most of the member states are involved in other regional EPA negotiations and the focus is now on SACU rather than SADC. In addition, the interim EPA has only been signed by three of the five members of the SACU. The SACU has a common external tariff and as a result individual member states are prevented, under the terms of the 2002 SACU Agreement, from unilaterally negotiating a trade deal with a third party. With South Africa (and de facto Namibia) currently continuing to trade with the EU under the terms of the TDCA, both tariffs and rules of origin are not consistent. This will require new customs controls within SACU. These developments have led to serious political questions being raised over the future of this historic customs union.<sup>76</sup> South Africa is particularly unhappy with the inclusion in the EPA of the 'Most-Favoured Nation' clause. Article 28 of the interim EPA states that 'the SADC EPA States shall accord to the EC Party any more favourable treatment applicable as a result of the SADC EPA States or Signatory SADC EPA State becoming party to a free trade agreement with any major trading economy after the signature of this Agreement'.<sup>77</sup> No such clause applies to the TDCA that South Africa negotiated with the EU.

The pressure from the EU to negotiate EPAs on a regional basis is causing undue stress on what remain highly-underdeveloped regional groupings across Africa. It would have been more helpful if these African regional organisations had been able to create more robust

arrangements amongst themselves before having to negotiate with the most integrated regional bloc in the world. The EU argues that for ACP states to develop they need to increase regional trade between themselves and that in doing so this will help with the diversification of their export base. However, opening up to EU competition would threaten local manufacturing and food processing industries and therefore it is even less likely that ACP states will be able to diversify and develop nascent industrial sectors.<sup>78</sup> Even a mid-term report by the European Commission on Sustainability Impact Assessments acknowledged that processing and manufacturing capacity may be discouraged.<sup>79</sup> Hence, if the interim EPA with SADC becomes a 'full EPA' this will have significant implications for the alternative development strategies available to countries in the region. Moreover, as an UNCTAD report made clear this often leaves the use of tariffs as the only option for developing countries, but bilateral FTAs such as the EPAs proposed by the EU, further restrict their use.<sup>80</sup> As discussed above, the EU's desire to include a whole raft of trade-related issues, will make it very difficult for governments in southern Africa, to pursue an approach resembling the 'developmental state' strategy.

## **Conclusions**

In September 2002, at the outset of the EPA negotiations, the General Secretariat of the ACP group of states stressed 'the importance of maintaining and strengthening ACP unity and solidarity throughout the negotiations'.<sup>81</sup> However, it has become clear during the protracted regional negotiations that this view was more than a little naïve. As discussed above, the EPAs have not only negatively impacted upon the significance of the ACP group as a whole, but have also complicated attempts to develop regional organisations, particularly in the case of southern Africa. Moreover, the shift in responsibility for negotiating with ACP states from

DG Development to DG Trade further reveals the marginalisation of the ACP group. These developments led Bretherton and Vogler to conclude that ‘the new focus upon differentiation and regionalization may well mark the beginning of the end of this highly institutionalized relationship’.<sup>82</sup>

One recent development that is worthy of consideration is the ratification of the Lisbon Treaty by the final outstanding EU member state. What impact, if any, will this have on relations with ACP states and in particular the negotiation of EPAs? The Lisbon Treaty makes it clear that the EU’s relations with ACP states should be coherent with respect to the broader framework of its external relations.<sup>83</sup> This desire for increased policy coherence is a key task for the new High Representative for Foreign Affairs and Security Policy. The failure to make a direct reference to the ACP group in the Lisbon Treaty, as had been done in previous EU treaties, has increased the fears, noted above, about the break-up of this historic grouping of states. This has led Sicurelli to conclude that ‘African negotiators in the EPAs noticed that the European positions were actually dividing, rather than uniting African states’.<sup>84</sup> In a similar vein, van Reisen suggests that, since the late 1990s, EU development policy has increasingly become threatened with subordination to the EU’s other external priorities, which are reflected in the Common Foreign and Security Policy.<sup>85</sup> This article’s analysis of EPAs confirms this impression, given the ‘normalisation’ of EU-ACP trade relations that they represent.

In sum, the main argument of this article is that the negotiation of EPAs by the EU is a concerted attempt to lock-in neoliberalism within ACP states. This is understood as reflecting both the material and the ideational interests of the EU and is to be achieved through the inclusion of both trade liberalisation and a raft of trade-related issues, which aim to secure an

improved regulatory framework for European capital. The EU's failure to promote these norms in the Doha Round of the WTO has led to a more coercive approach whereby their diffusion is achieved through bilateral agreements. These behind-the-border issues limit the policy options for ACP states. The added focus on promoting regional integration is intended to further cement neoliberal development ideology via the promotion of 'open regionalism' across the different regions within the ACP group.

## Notes

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<sup>1</sup> Throughout this article I use EU to represent the European Union and the organisation, pre-Maastricht Treaty, officially referred to as the European Community.

<sup>2</sup> The seven regions are West Africa, Central Africa, Eastern and Southern Africa, East African Community, Southern African Development Community, Caribbean, and Pacific.

<sup>3</sup> G Faber & J Orbie, 'EPAs between the EU and Africa: Beyond free trade?', in G Faber & J Orbie (eds), *Beyond Market Access for Economic Development: EU-Africa relations in transition*, London: Routledge, 2009, p 3.

<sup>4</sup> World Trade Organisation, 'Regional Trade Agreements: Facts and Figures', at [http://www.wto.org/english/tratop\\_e/region\\_e/regfac\\_e.htm#rtas](http://www.wto.org/english/tratop_e/region_e/regfac_e.htm#rtas), accessed 26 July 2011.

<sup>5</sup> Wade has made a similar claim in relation to the inclusion of trade-related measures at the multilateral level. See RH Wade, 'What strategies are viable for developing countries today? The World Trade Organization and the shrinking of 'development space'', *Review of International Political Economy* 10(4), 2003, pp 621-644.

<sup>6</sup> KP Gallagher, 'Understanding developing country resistance to the Doha Round', *Review of International Political Economy*, 15(1), 2008, p 63.

<sup>7</sup> RW Cox 'Gramsci, Hegemony, and International Relations: An Essay in Method', *Millennium: Journal of International Studies*, 12(2), 1983, pp 167-168.

<sup>8</sup> The best example is I Manners, 'Normative Power Europe: A Contradiction in Terms?', *Journal of Common Market Studies*, 40(2), 2002, pp 235-258.

<sup>9</sup> European Union, 'Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community', *Official Journal of the European Union*, 17 December 2007, C306, p 11.



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- <sup>10</sup> A Storey, 'Normative Power Europe? Economic Partnership Agreements and Africa', *Journal of Contemporary African Studies*, 24(3), 2006, p 334.
- <sup>11</sup> VN Koutrakou, 'New directions in the EU's Third World policy: from aid to trade under the watchful eye of the WTO', in VN Koutrakou (ed), *Contemporary Issues and Debates in EU Policy: The European Union and International Relations*, Manchester: Manchester University Press, 2004, p 122.
- <sup>12</sup> M Holland, *The European Union and the Third World*, Basingstoke: Palgrave Macmillan, 2002, p 33.
- <sup>13</sup> C Bretherton & J Vogler (2006), *The European Union as a Global Actor (2<sup>nd</sup> edition)*, London: Routledge, 2006, p 120.
- <sup>14</sup> In Lomé II, the System for the Promotion of Mineral Production and Exports (SYSMIN) was agreed. Unlike STABEX this did not help with price fluctuations and was only concerned with financing projects to ensure the production of minerals, and hence their supply to Europe.
- <sup>15</sup> T Parfitt, 'The Decline of Eurafica? Lomé's Mid-Term Review', *Review of African Political Economy*, 23(67), 1996, p 57.
- <sup>16</sup> European Commission, *Green Paper on Relations between the European Union and the ACP Countries on the Eve of the 21st Century: Challenges and Options for a New Partnership*, COM (96) 570, 20 November 1996.
- <sup>17</sup> SR Hurt, 'Co-operation and coercion? The Cotonou Agreement between the European Union and ACP states and the end of the Lomé Convention', *Third World Quarterly* 24(1), 2003, p 165.
- <sup>18</sup> G Faber & J Orbie, 'EPAs between the EU and Africa', p 5.
- <sup>19</sup> SR Hurt, 'A Case of Economic Pragmatism? The European Union's Trade and Development Agreement with South Africa', *International Relations*, 15(3), 2000, p 77.
- <sup>20</sup> *Ibid*, pp 72-73.
- <sup>21</sup> W Brown, 'Restructuring North-South Relations: ACP-EU Development Co-operation in a Liberal International Order', *Review of African Political Economy*, 27(85), 2000, pp 372-373.
- <sup>22</sup> See S Gill, 'Globalisation, Market Civilisation, and Disciplinary Neoliberalism', *Millennium: Journal of International Studies*, 24(3), 1995, pp 399-423.
- <sup>23</sup> SR Hurt, 'Co-operation and coercion?', p 161.
- <sup>24</sup> See for example, M Davenport, 'Africa and the Unimportance of Being Preferred', *Journal of Common Market Studies*, 30(2), 1992, pp 233-251.

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- <sup>25</sup> A Nunn & S Price, 'Managing Development: EU and African Relations through the Evolution of the Lomé and Cotonou Agreements', *Historical Materialism*, 12(4), 2004, p 219.
- <sup>26</sup> For an excellent discussion of the PWC see Z Önis and F Şenses, 'Rethinking the Emerging Post-Washington Consensus', *Development and Change*, 36(2), 2005, pp 263-290.
- <sup>27</sup> European Commission, *The European Community's Development Policy: Statement by the Council and the Commission*, 10 November, 2000.
- <sup>28</sup> G Faber & J Orbie, 'EPAs between the EU and Africa', p 7.
- <sup>29</sup> L Michel, *Economic Partnership Agreements: drivers of development*, Brussels: European Commission, 2008, p 2.
- <sup>30</sup> G Faber & J Orbie, 'EPAs between the EU and Africa', p 7.
- <sup>31</sup> Ha-Joon Chang, *Kicking Away the Ladder: Development Strategy in Historical Perspective*, London: Anthem Press, 2002, p 2.
- <sup>32</sup> European Commission, *Global Europe: Competing in the World. A Contribution to the EU's Growth and Jobs Strategy*, COM (2006) 567, 4 October, 2006.
- <sup>33</sup> *Ibid*, p 5.
- <sup>34</sup> NGOs across Europe and southern Africa have continued to campaign against EPAs. For example, the Trade Justice Movement, an umbrella organisation, has been quite active in this regard. Similarly the Southern African People's Solidarity Network, a collective of NGOs from the region, has targeted SADC summits to voice their criticisms of EPAs.
- <sup>35</sup> G Faber & J Orbie, 'The EU's insistence on reciprocal trade with the ACP group: Economic interests in the driving seat?' in G Faber and J Orbie (eds), *Beyond Market Access for Economic Development: EU-Africa relations in transition*, London: Routledge, 2009, pp 45-47.
- <sup>36</sup> European Commission, *Global Europe*, p 9.
- <sup>37</sup> L Curran, L Nilsson & D Brew 'The Economic Partnership Agreements: Rationale, Misperceptions and Non-trade Aspects', *Development Policy Review*, 26(5), 2008, p 530.
- <sup>38</sup> G Faber & J Orbie, 'The EU's insistence on reciprocal trade with the ACP group', p 56.
- <sup>39</sup> D Sicurelli, *The European Union's Africa Policies: Norms, Interests and Impact*, Farnham: Ashgate, 2010, p 100.
- <sup>40</sup> European Commission, *Global Europe*, p 9.

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<sup>41</sup> China Daily 'China-Africa trade up 45% in 2008 to \$107 billion', 11 February, 2009, at [http://www.chinadaily.com.cn/china/2009-02/11/content\\_7467460.htm](http://www.chinadaily.com.cn/china/2009-02/11/content_7467460.htm), accessed 10 December 2009.

<sup>42</sup> L Gedye 'China's boom swells the coffers of African economies', Mail & Guardian Online, 6 May, 2011, at <http://mg.co.za/article/2011-05-06-chinas-boom-swells-the-coffers-of-african-economies>, accessed 27 July 2011.

<sup>43</sup> European Commission, *EU Strategy for Africa: Towards a Euro-African pact to accelerate Africa's development, Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee*, COM(2005) 489 final, 12 October 2005, p 10.

<sup>44</sup> C Stevens, 'Creating a Development-Friendly EU Trade Policy' in A Mold (ed), *EU Development Policy in a Changing World: Challenges for the 21<sup>st</sup> Century*, Amsterdam: Amsterdam University Press, 2007, p 221.

<sup>45</sup> A Mold, 'Between a Rock and a Hard Place – Whither EU Development Policy?' in A Mold (ed), *EU Development Policy in a Changing World: Challenges for the 21<sup>st</sup> Century*, Amsterdam: Amsterdam University Press, 2007, p 250.

<sup>46</sup> A Flint, *Trade, Poverty and the Environment: The EU, Cotonou and the African-Caribbean-Pacific Bloc*, Basingstoke: Palgrave Macmillan, 2008, p 17.

<sup>47</sup> Personal Interview with an official at DG Development, Brussels, 27 April 2009.

<sup>48</sup> A Flint, *Trade, Poverty and the Environment*, p 155.

<sup>49</sup> For more detail on the various alternative trade arrangements see C Stevens, 'Economic Partnership Agreements: What Can We Learn?', *New Political Economy*, 13(2), 2008, pp 211-223.

<sup>50</sup> European Commission, *Global Europe*, p 8.

<sup>51</sup> Personal interview with Karin Ulmer (APRODEV), Brussels, 28 April 2009.

<sup>52</sup> A Payne, *The Global Politics of Unequal Development*, Basingstoke: Palgrave Macmillan, 2005, p 192.

<sup>53</sup> P Goodison 'Situating the EPA Negotiations: Issues and Unresolved Debates in Africa-EU Trade Relations', *The Nordic Africa Institute Policy Notes*, 2009/9, September 2009, p 1.

<sup>54</sup> European Commission, *Communication to modify the directives for the negotiations of economic partnership agreements with ACP countries and regions*, COM (2006) 673, 28 November, 2006.

<sup>55</sup> Department of Trade and Industry *SADC EPA Group – EC Negotiations: Assessing the Emerging Outcome*, Pretoria, 30 January, 2008.

<sup>56</sup> Personal interview with an official at DG Development, Brussels, 27 April 2009.

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- <sup>66</sup> O Morrissey, C Milner & A McKay 'A Critical Assessment of Proposed EU-ACP Economic Partnership Agreements', p 203.
- <sup>67</sup> M Meyn, 'Economic Partnership Agreements: A 'Historic Step' Towards a 'Partnership of Equals'?', *Development Policy Review*, 26(5), 2008, p 516.
- <sup>68</sup> European Commission, *Communication to modify the directives for the negotiations of economic partnership agreements*, p 9.
- <sup>69</sup> O Elgström, 'From Cotonou to EPA light: A troubled negotiating process' in G Faber & J Orbie (eds), *Beyond Market Access for Economic Development: EU-Africa relations in transition*, London: Routledge, 2009, p 33.
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<sup>76</sup> P Draper & N Khumalo, 'The Future of the Southern African Customs Union', *Trade Negotiations Insights*, 8(6), 2009, pp 4-5.

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<sup>83</sup> SJH Dearden, 'Introduction: European Union Development Aid Policy – The Challenge of Implementation', *Journal of International Development*, 20(2), 2008, p 191.

<sup>84</sup> D Sicurelli, 'The European Union's Africa Policies', p 155.

<sup>85</sup> M van Reisen, 'The Enlarged European Union and the Developing World', p 60.