

Economic Partnership Agreements: The Southern African experience

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Introduction

In 2002 the European Union (EU) began negotiating Economic Partnership Agreements (EPAs) with the African, Caribbean and Pacific (ACP) group of states.¹ Since October 2003 the negotiations have been conducted at the regional level with eventually seven ACP regions identified as potential partners.² These are set to be the cornerstone of the EU's development policy in the future. Faber and Orbie suggest they 'represent a watershed in Europe's relations with Africa' (2009: 3). EPAs include bilateral Free Trade Agreements (FTAs) with each of the different regions. 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 Organisation (WTO) in 1995. This is the proliferation of bilateral FTAs. Since 1995 almost 300 Regional Trade Arrangements have been notified to the WTO, which compares with only 124 during the period 1948-1994 (WTO website).

In this paper 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 2009.³ The other eight members of the SADC were involved in other regions for the purposes of the negotiation of EPAs with the EU.

¹ Throughout this paper I use EU to represent the European Union and the organisation, pre-Maastricht Treaty, officially referred to as the European Community.

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

³ Botswana, Lesotho, Swaziland and Mozambique have signed the interim EU-SADC EPA. Namibia initialled the agreement back in December 2007 and is still expected to sign. South Africa has its own Trade, Development and Co-operation Agreement with the EU and for the time being Angola, as a Less-Developed Country, has decided not to sign as it qualifies for the 'Everything But Arms' initiative.

This paper seeks to locate these negotiations within the wider context of international development theory and policy. It argues that the agreement of a full EPA with SADC will 'lock-in' liberalisation and thus advance the hegemonic position of the neo-liberal development model within the region. In the following section I outline the historical development 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 to highlight how both have contributed to the pursuit of EPAs. The second half of the paper 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 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 EU has, since its foundation, always had a collective policy towards developing countries. 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). As many of these colonies became independent a formal partnership agreement was signed in 1963 with 18 Associated African States and Madagascar (AASM). The Yaoundé Convention as it became known maintained the system of preferential trade and financial support through the EDF. In addition, the sovereignty of these newly independent states was acknowledged and joint political institutions (an Association Council and a Parliamentary Conference) were created. However, as Koutrakou (2004: 122) suggests the relationship was still being dominated by European economic interests in Africa. Yaoundé II was then agreed in 1969 with little alterations made in terms of the nature of the agreement.

The EU's relationship with its former colonies changed quite significantly with the negotiation of the Lomé Convention that was agreed in 1975. By this point, mainly due to the inclusion of the United Kingdom as a European member state in 1973, the group of

associates had expanded to include 46 countries. The AASM was replaced with the ACP group of states. Despite its heterogeneity, initially this group demonstrated unity and strength in its negotiations with the EU (Holland 2002: 33). 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 (Bretherton and Vogler 2006: 120). 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).⁴

However, during the 1980s and 1990s and the successive Lomé Conventions that followed, there was an increasing adoption of neoliberal development thinking. 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 (Parfitt 1996: 57). It was claimed by the EU that they were offering an approach that was more concerned with the impact on vulnerable groups, than that of the World Bank and International Monetary Fund (IMF). However, as Brown suggests 'there was substantial cause to doubt the Commission's, and in particular the member states', seriousness of pursuing an 'alternative' adjustment policy' (2002: 101).

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. EU concerns over the continued viability of the Lomé Convention can be traced at least as far back as the early 1990s and in particular the publication by the European Commission of a paper commonly referred to as 'Horizon 2000'. Here it was suggested that there needed to be a general

⁴ 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.

emphasis on the liberalisation of economic activity both within developing countries and in their integration into the global economy (European Commission 1992).

These ideas were then formalised in a Green Paper that made the case for an overhaul of the EU's relationship with ACP states (European Commission 1996). This argued for multilateral trade liberalisation and was unambiguous in the view that a radical overhaul of the Lomé Convention was inevitable. The existing non-reciprocal trade preferences were seen to be failing to boost ACP exports and reference was made to the fact that, from 1976 to 1994, the contribution of ACP states to total exports to the EU had fallen from 6.7% to 2.8% (European Commission 1996: xiii). 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) (Hurt 2003: 165). What was not clear at this point was the EU's desire to include a whole raft of trade-related issues (Faber and Orbie 2009: 5).

The EU also put particular emphasis on the need for its relationship with ACP states to conform to the rules of the WTO. The Lomé Convention failed to comply with the most-favoured nation principle, or qualify as a FTA due to its non-reciprocal trade preferences. Under the GATT Enabling Clause of 1979 trade preferences can only be justified on the basis of the different levels of development of trade partners, but the ACP group consisted of both less-developed countries (LDCs) and non-LDCs. Moreover, some LDCs were not included in the ACP group of states and hence these states were also being discriminated against.

This 'debate' resulted in the signing of the Cotonou Agreement in June 2000 which proposed a new trade arrangement with ACP states 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. The combination of these two suggestions 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) and the EU. 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 (Hurt 2000: 72-73).

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 (Brown 2000: 372-373). 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 (Hurt 2003: 162-163). EPAs can therefore be seen as a plan to achieve what is effectively a normalisation of the trade relationship.

Locking-in neoliberalism

To understand the significance of EPAs it is important to situate them within broader theoretical debates within international development. As I have argued elsewhere, the EU's relationship with ACP states must be situated within a context where the ideas of neoliberalism have become hegemonic (Hurt 2003: 161). 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 (e.g. Davenport 1992). The Cotonou Agreement is clear in its incorporation of this perspective: Article 1 highlights that one of the central objectives of the relationship is the 'gradual integration of the ACP countries into the world economy' (European Union 2000: 7).

EU development policy has over the last decade aligned itself with the new Post-Washington Consensus (PWC). Like other multilateral actors it now claims poverty reduction is the main objective of its approach (European Commission 2000). Holland (2008) highlights the complementarity of the EU's approach with the global development agenda, particularly in the case of the United Nation's Millennium Development Goals. 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' (2009: 7).

There is also a strong 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 most clearly 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' (Michel 2008: 2). 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 group of states to achieve not only economic liberalisation but the harmonisation of regulatory standards that help business (Faber and Orbie 2009: 7).

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 neo-liberal 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 engaged in 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' (2002: 2). In sum, EPAs can be seen as one part of the ongoing hegemonic project of neoliberalism.

The EU's trade interests

The previous section highlights the ideological aspects to the historical development of 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. Despite repeated claims by the European Commission that EPAs with ACP sub-regions represent little in terms of the direct economic interests of the European Union, there is an argument to be made about how they reflect more than just a desire to lock-in neoliberalism for purely ideological reasons.

A few years ago the European Commission (2006) outlined its vision of the measures the EU needs to take in order to become more competitive within the global economy. 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' (European Commission 2006: 5).

The European Commission has repeatedly made the argument that the ACP group of states as a whole is not a significant market or a major destination for European exports. According to the former Commissioner for Development and Humanitarian Aid, 'Europe has no offensive interests' (Michel 2008: 19). In 2007 the value of EU exports to the ACP group (excluding South Africa) was € 39.7 billion, which represents only 3.2% of total EU exports (DG Trade website). For the SADC region (excluding South Africa) EU exports for 2007 were worth only € 7.3 billion, which translates into just a 0.6% share (DG Trade website). In contrast, the European market is of much more relative importance to the SADC region. For 2006 the EU received an 18% share of total SADC (excluding South Africa) exports and contributed 27% of total imports to the region (DG Trade website).

Such claims have been challenged by a number of critics of the EPAs (in particular a number of development NGOs). Whilst there are direct material interests at stake for the EU these do appear limited. Faber and Orbie (2009a: 45-47) 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.

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 (European Commission 2006: 9). As discussed below, maintaining preferential trade terms for ACP states would require the negotiation of a 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 (Faber and Orbie 2009a: 56). 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' (2009a : 56).

Moreover, the United States, in particular, has also been very active in negotiating bilateral FTAs and it is clear that the EU is keen that it should not lose out in such a contest. 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' (European Commission 2006: 9). It is statements like this that lead commentators to express concerns that in its relations with developing countries, 'the EU may be moving towards a limited, business-like and mercantilist approach more akin to the US model' (Mold and Page 2007: 19).

Another key player on the African continent in recent years has been China. Chinese trade with Africa has grown exponentially during recent years. Data for 2008 shows a 45.1% increase in the volume of trade between China and Africa to a record total of US\$ 107

billion; the SADC region is of particular importance given that the two main trade partners of China for 2008 were Angola and South Africa (China Daily 2009). 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 has led Naidu *et al.* to conclude that 'China's deepening involvement, certainly in Africa's natural resource sector, is now beginning to show and strategic interests of major powers are clearly clashing in Africa' (Naidu, Corkin and Herman 2009: 107).

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 need to conform to WTO rules is referred to repeatedly throughout the text of the Cotonou Agreement. This recourse to the need to conform to WTO rules by the EU is disingenuous as 'they are portrayed as fixed and immutable and not the political construct which they really are' (Hurt 2003: 174).

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 (Stevens 2007: 221). However, it has never received a direct challenge to the preferential trade agreement it had with ACP states via the Lomé Convention (Mold 2007: 250). 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 (Flint 2008: 17).

It was therefore argued 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 suggest that the EU will interpret 'substantially all' as 90% of currently existing trade.⁵ The lack of flexibility in terms of levels of reciprocity is related to the fact that Article XXIV of the GATT

⁵ Personal Interview with an official at DG Development, Brussels, 27 April 2009.

was originally created with developed countries in mind (Flint 2008: 155). The alternative offer for non-LDCs to the EPAs is the Generalised System of Preferences (GSP). 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 Commission (2006: 8) 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. 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 it is in EPA negotiations with the EU. Breaking the ACP group up into regional blocs could be seen as a 'divide and rule' strategy. 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 the multilateral negotiations may be undermined by bilateral agreements with the EU.⁶

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' within EPAs. 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 (Payne 2005: 192). One of the main reasons for the collapse of the trade talks at the 2003 WTO Ministerial Conference in Cancún was the opposition of developing countries to the inclusion of these new issues. As the negotiations over EPAs have progressed, it has become clear that the EU is moving far beyond simply the need to make its relations with ACP states satisfy WTO rules.

⁶ Personal interview with Karin Ulmer (APRODEV), Brussels, 28 April 2009.

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 of the discussions, 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.⁷ 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 (European Commission 2006a). 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 (Department of Trade and Industry 2008).

The EU portrays the EPAs as comprehensive development partnerships that offer much more than just a simple FTA. 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 (Van Reisen 2007: 53). 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.⁸ After conducting interviews at both DG Trade and DG Development it is clear that the lead is being taken by DG Trade. Mold suggests that DG Development is much less enthusiastic about EPAs than DG Trade (2007: 252). 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'.

⁷ South Africa is a 'qualified ACP member state' meaning that its trade relations with the EU are governed by its own bilateral TDCA with the EU rather than the Cotonou Agreement.

⁸ Personal interview with Karin Ulmer (APRODEV), Brussels, 28 April 2009.

A number of 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.⁹ These macroeconomic studies are not engaged in a discussion about the ideational impact of EPAs, nor their relationship to the broader material interests of the EU. One attempt at modelling the East African Community (EAC) EPA made the more general conclusion that ‘one cannot assume that the welfare effects on ACP countries will be positive; it is more likely that the static effects will be negative...Of greater importance, least-developed ACP countries are unlikely to gain at all from an EPA, as they are entitled to preferential access anyway’ (Morrissey, Milner and McKay 2007: 217). So it appears even on this more limited macro-level view there are doubts as to the developmental benefits of EPAs.

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’ 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) (European Commission 2009: 2). 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 (European Commission 2009: 2).

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

⁹ Personal interview with an official at DG Development, Brussels, 27 April 2009.

the European Commission to initial the interim trade arrangements' (ACP Council of Ministers 2007: 1). 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.¹⁰ 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 – (Morrissey, Milner and McKay 2007: 203).

This asymmetrical power in the negotiations is aptly demonstrated by the EU's success in getting the 'Singapore Issues' onto the agenda, given the strong opposition of developing countries to them in the WTO. 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 (European Commission 2006a: 9). 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 (Elgström 2009: 33). 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 (European Commission 2009: 3).

The liberalisation of trade resulting from the EU-SADC EPA will 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 Botswana, Lesotho, Namibia and Swaziland (BLNS). The BLNS states are heavily reliant on this revenue and it contributes to a significant fraction of their overall government revenue.

¹⁰ Personal interview with Karin Ulmer (APRODEV), Brussels, 28 April 2009.

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 is shown in Table 1 below.

Table 1: The state of play in the EU-SADC EPA negotiations

'SADC minus' Country	LDC?	Southern African Customs Union member state?	EPA status?
South Africa	No	Yes	Non-signatory but part of EU-SACU TDCA
Botswana	No	Yes	Signed Interim EPA on 4 June 2009
Lesotho	Yes	Yes	Signed Interim EPA on 4 June 2009
Namibia	No	Yes	Initialled Interim EPA on 11 December 2007
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

As Table 1 shows, the current situation is deeply problematic for the coherence of regional integration within the SADC region. The interim EPA has been signed by only three of the five members of the SACU. The SACU has a common external tariff and as a result individual member states are prevented 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 (see Draper and Khumalo 2009). 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' (European Union 2009: 27). 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. These complications have meant that formal negotiations on the SADC EPA have been put on hold over recent months and it is anticipated that they will begin again in early 2010.

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, food processing industries, etc. and therefore it is even less likely that ACP states will be able to diversify and develop nascent industrial sectors.¹¹ Even a mid-term report by the European Commission on Sustainability Impact Assessments acknowledged that processing and manufacturing capacity may be discouraged (Mold 2007: 252). If the interim EPA with Southern Africa becomes a 'full EPA' this will have significant implications for the alternative development strategies available to countries in the region. As noted 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' (ACP General Secretariat 2002). However, it has become clear during the protracted regional negotiations that this view was more than a

¹¹ Personal interview with Karin Ulmer (APRODEV), Brussels, 28 April 2009.

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’ (2006: 127).

One recent development that is worthy of consideration is the recent 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 (Dearden 2008: 191). 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. Van Reisen (2007: 60) suggests that since the late 1990s, EU development policy has increasingly become threatened with subordination to the EU’s other external priorities that are reflected in the Common Foreign and Security Policy (CFSP). This paper’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 paper is that the negotiation of EPAs by the EU is a concerted attempt to lock-in neoliberalism across ACP regions. This 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. 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.

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