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ESA countries must determine agenda of Economic Partnership Agreements Negotiations

Jane Nalunga

The ACP / EU Partnership Agreement was signed between 77 ACP (African, Caribbean and Pacific countries and the European Union in June 2000 in Cotonou (Benin) and is therefore commonly called the "Cotonou Agreement."

The Cotonou Agreement builds on twenty-five years of ACP-EU co-operation fewer than 4 successive Lome Conventions. The Agreement lasts for 20 years and contains a clause allowing it to be revised every 5 years. There are two main pillars of ACP-EU co-operation; these are economic and trade co-operation; and aid.

Under the 4 successful Lome Conventions (1975-2000), the EU granted a preferential trade regime to ACP countries through trade preferences, commodity protocols and other instruments of trade cooperation i.e financial and technical aid.

Under the Cotonou Agreement, the current non-reciprocal tariff preferences will be maintained until 31st Dec. 2007; starting from 2008, a set of reciprocal Economic Partnership Agreements (EPAs) will replace them.

Objectives

The overall objectives and principles of EPAs are the sustainable development of ACP countries, their smooth and gradual integration into the global economy and eradication of poverty. The EPAs must support regional integration initiatives

existing within the ACP and not undermine them.

The ESA negotiations:

On 7 February 2003 the ESA countries comprising of Burundi, Comoros, DR Congo, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Uganda, Zambia and Zimbabwe agreed to negotiate the second phase of the EPA with the EU.

The negotiating Phases:

Phase I: March – August 2004 Setting priorities

Out put of Regional Negotiating Forum (RNF):

- Compiled progress reports on the activities of the National Development and Trade Policy Forum (NDTPFs)
- Phase I RNF Work Programme and budget.
- Regional Preparatory Task Force (RPTF) terms of reference.
- Negotiating briefs on topics defined in the RNF Work Programme.
- A framework for the negotiations with the EC and a tentative list of priorities for the negotiations and a preliminary phasing.

Phase II: September 2004 – December 2005: Substantive negotiations

- An outline EPA will have been agreed on.

Phase III: January 2006 – December 2007: Continuation and finalisation

- Substantive negotiations will continue if necessary.
- Areas of disagreement revisited and compromise reached
- EPA agreement finalised and ratified
- Enact necessary legislation
- January 2008 EPAs come into force.

It is important to note that the period for substantive negotiations is too short -- 1 year and three months; given the fact that some ESA countries have not as yet put the National Development and Trade Policy Forum (NDTPF) which is supposed to come up with the national negotiating position. Most countries have

not also completed the Impact Assessment Studies, which are supposed to guide them in the negotiations.

Negotiating areas/ clusters:

Cluster	Ministerial Lead Spokespersons	Ministerial Alternate spokespersons
Development Issues	Sudan	DR Congo
Market Access	Mauritius/ Rwanda	Burundi and Zambia
Agriculture	Malawi	Uganda and Ethiopia
Fisheries	Madagascar	Seychelles and Djibouti
Trade in Services	Zimbabwe	Rwanda and Djibouti
Trade related areas	Kenya	Djibouti

Cluster	Ambassador Lead Spokespersons	Ambassadorial Alternate Spokespersons
Development issues	Ethiopia	Zambia and Burundi
Market access	Kenya	Zimbabwe and Uganda
Agriculture	Mauritius	Zimbabwe and Madagascar
Fisheries	Eritrea	Seychelles and Madagascar
Trade in Services	Malawi	Rwanda and Uganda
Trade related areas	Sudan	DR Congo and Burundi

The National Development and Trade Policy Forum (NDTPF):

It is cross-sectoral representation of both the public sector and Non State Actors. It is responsible for formulating a national position in each country that is then presented to the RNF.

The Regional Negotiating Forum

Composition: three representatives of each NDTPF (NDTPF chair, a representative from the public sector, and one from the

NSA), the six lead spokespersons for each of the negotiating sectors at the ambassadorial level from Brussels , one representative from the ACP secretariat, and the Commonwealth Secretariat, up to 2 representatives from the secretariats of the East African Community , the Indian Ocean Commission, the Inter-Governmental Authority on Development and SEATINI, a representative from COMESA (secretariat) , other participants and resource persons to be authorised by the chairperson.

The chairperson is the most senior delegate of the NDTPF of the country holding the chair of COMESA at the time of the meeting.

Terms reference of the RNF:

- To prepare negotiating briefs to be used in the negotiations.

ESA-EU Regional Preparatory Task Force:

It is not a decision making body but one which supports the negotiations through the official negotiating structures. Its main objective is to exchange information on issues pertaining to the negotiations so that areas of divergence and convergence are known to both sides so that negotiations at the Ambassadorial/ senior officials and ministerial/ Commissioner level can concentrate on those areas where there is divergence. The task force is also charged with exchanging views on a number of issues -- opportunities for debt cancellation, Rules of Origin, how to improve SDT, preserve/improve market access into EU.

Composition: Representative of DG Trade and a representative from the Embassy accredited to Belgium of the country, which holds the COMESA chair, these will co-chair the Task Force. Other members will depend on the topic to be discussed but will be either from other directorates of the EC or from the RNF or specialists invited by the 2 chairpersons. Membership will be not be more than 10 people. COMESA will act as the secretariat. There are some question marks about this task Force especially as

far as its effects on the negotiations are concerned.

Challenges

Regional integration: can the EPAs lead to further integration or fragmentation of Africa in particular and the ACP countries in general? The role of the regional organisations like EAC, Indian Ocean Commission, and African Union is not clear. Africa is now fragmented; with West Africa (ECOWAS), Central Africa (UEMA), Southern and Eastern Africa (COMESA and SADC) fighting for a better deal from EU.

The effects on the economy and on various sectors are not clear despite the fact that a number of impact assessment studies have been carried out. These studies are also heavily influenced by the EU, which determines the consultants and also funds them.

The role of the EU in these negotiations is overwhelming. In addition to the historical relationship between the ACP and EU countries and the 25 years of the Lome convention, EU is still playing the Big Brother role. Thus the independence of ESA countries in these negotiations is questionable.

There is also limited negotiating capacity: As a result of clear understanding of what the negotiations are all about (even the outcomes), not only among civil society organisations but even among key government officials. ESA countries must determine the agenda after deciding how and what they want to negotiate.

**Jane Nalunga heads the SEATINI Office in Uganda.*

Resolution Of The Members Of The East African Parliamentarians Liaison Committee

We, members of the East African Parliamentarians Liaison Committee comprising of the Trade committees of the National Assemblies of the East African Countries of Kenya, Tanzania and Uganda, the Joint Parliamentary

Association (JPA) and the East African Legislative Assembly (EALA) sitting in Mombasa, Serena Hotel between the 1st and 2nd day of April 2004 to consider the ongoing Economic Partnership Agreement (EPA) negotiations with the European Union (EU);

Recalling the Resolutions of our earlier meetings held at the Indian Ocean Beach Hotel in Mombasa and at the Nile Resort Hotel in Jinja Uganda in June and November 2003 respectively ,

Observing with concern that the pace of the negotiations has caught our countries without adequate considerations of the options open to us, or understanding of their implications, and that we are becoming hostage to the target dates that have been hastily set without the participation of our respective parliaments, and various other stakeholders, including the private sector, hereby resolve as follows; That:

1. the East African Community negotiates as a bloc in the EPA negotiations with the EU in compliance with the directive of the East African Heads of State given at Kampala in April 2002 and adopted by way of Resolution by EALA in May 2003.
2. our partner states utilise the East African Community (EAC) as an existing legal entity for the said negotiations.
3. the objectives of EPA negotiations should be :
 - To help create conditions to eradicate poverty that has been increasing in our countries.
 - To build the production capacity, enhanced growth and sustainable development of the East African Countries and the competitiveness of our products.
4. the East African Customs Union Protocol which was signed on 2nd March 2004 be quickly ratified by the respective parliaments of our countries.
5. the EAC be involved in all stages of the preparations and negotiations process of EPA with the EU.
6. That the requirements of funding should not drive the negotiations. These should be driven by the priorities as determined by our respective countries and the EAC.
7. a model of a negotiating machinery that represents the partner states as a single negotiating entity be developed.
8. a proper budget be drawn out by the three national parliaments to provide for an effective functioning of the various structures, including the EALA, engaged in the deliberations and negotiations with the EU.
9. there is structural harmonization of national trade committees that include various stakeholders so that the same body handles the
 - To give priority to the development of the domestic market and East African internal trade in general.
 - To promote regional integration based on our own initiatives so that the negotiations do not undermine the integrity of the East African Community.
 - To ensure that the EPA negotiations do not erode and dilute the flexibilities and safeguards provided for in the WTO.
 - To ensure that special and differential treatment is provided to all East African countries

preparations for negotiations with the EU and the WTO.

10. the embassies of our three countries in Brussels and Geneva harmonize their activities, and negotiate as a bloc with the European Commission and the WTO.
11. the respective Departments / Desks on the EAC within the Foreign Affairs/ Trade Ministries be strengthened.
12. the three countries appoint resident ministers at Cabinet rank specifically in charge of East African Community matters.
13. a joint regional parliamentarians session of all members of parliament of the three countries and of EALA be convened as soon as possible.

Finally the Parliamentarians expressed their sincere gratitude to both Friedrich Ebert Stiftung (FES) and the Southern and East African Trade, Information and Negotiations Institute (SEATINI) for their untiring consistent efforts in building the capacity of the respective Parliamentarians on trade matters. Called upon them to continue with this generous concern.

The Political Economy of Regional Trade Agreements in Africa

Oduor Ong'wen

Introduction

Throughout history, international trade has generated considerable controversy. While conceding that some trade was imperative, Aristotle observed that trade was disruptive of community life. Until the 19th Century, most European powers viewed trade as a form of undeclared warfare. Their objective was - and still remains - the maximization of benefits accruing to themselves and minimization of those accruing to rival nations. The weapons of choice in this warfare were import barriers.

The idea of trade as a mutually beneficial activity only gained currency and political momentum following David, Ricardo's elaboration of the theory of comparative advantage in 1817. Today the free trade doctrine reigns supreme. Trade negotiations - at multilateral, plurilateral and bilateral levels - all focus on reduction and eventual elimination of trade barriers (a kind of disarmament treaty).

The removal of trade barriers in rich countries can accrue certain benefits for impoverished countries. But this can only occur when the economies of underdeveloped countries are accorded the right space to respond first and foremost to the fundamental developmental needs of these countries. Rapid import liberalization imposed on underdeveloped countries via structural adjustment programmes has more often than not intensified poverty and inequality.

The IMF, the World Bank, and most industrialized country governments are strong advocates of trade liberalization. In the case of the two Bretton Woods institutions, advocacy has been backed by loan conditions which require countries to reduce their trade barriers. Largely as a result of these loan conditions, poor countries have been opening their economies much more rapidly than industrialized countries. Average import tariffs have been halved in Sub-Saharan Africa and South Asia, and cut by two-thirds in Latin America and East Asia.

Problems with Trade Liberalization

The popular view is that trade liberalization is an outcome of negotiated trade agreements. But, the UN Conference on Trade and Development (UNCTAD) emphasizes that the principal vehicles for trade liberalization are the conditions attached to IMF and World Bank loans. That is, the IMF and World Bank disburse loans as, or when, borrowing governments comply with conditions, including trade-related conditions that are sometimes part of Structural Adjustment Programmes. The work programme of the Doha Agenda have

been incorporated in IMF and World Bank SAPs for years.

Trade As If Nothing Else Mattered

Economists' training prepares them to build and have unshakeable belief in models that have not been successfully challenged. But they are not very well trained in how to - rigorously verify their policy relevance for policy relevance for specific contexts. The models are often deployed on the assumption that they are relevant to a specific context without the benefit of supporting justification.

The assumption of applicability is perhaps the most widely deployed, yet unstated, auxiliary assumption used in economic policy analysis. It is especially concerning models dealing with underdeveloped countries where many of these assumptions below are routinely violated - especially those based on smoothly mobile labour and capital, complete and functioning markets, and perfect information flows.

Regional Integration and Regional Trade Agreements

Integration is once again a concept so much in vogue. The promoters of economic globalization are using it to justify the unprecedented expansion of the power of transnational corporations. The underdeveloped world, especially Africa, is being constantly reminded that it has to be integrated into the world economy if it is to survive. The validity of this position will be examined briefly at some later stage. Integration means different things to different people. For some, it is an all-embracing union of contiguous countries and includes both economic and political areas. The United States of America, the United Kingdom and the former Soviet Union are perfect examples of this type of integration. For others, it is agreement among a group of countries to remove various kinds of trade barriers. In between these two extremes lie numerous types of arrangements. In all these arrangements, the overarching concern is the formation of a body with a common purpose, usually to increase human welfare.

Integration in Africa has been driven by two competing forces - one internal and the

other external. Internal impetus to integration of African economies has been provided by the realization that the continent has over the centuries suffered wanton exploitation of its natural, material and financial resources at the hands of imperialist forces. The global economic arrangement since the 15th Century has defined for Africa its place in the international economic division of labour - to produce and export primary commodities in line with its perceived comparative advantage. Value adding by way of processing, manufacturing, packaging, branding etc. is left to industrialized countries. In other words, Africa produces what it does not consume and consumes what it does not produce.

The motivation for internally-driven integration derives from the following expected benefits:

More efficient use of the region's capital, labour and natural resources, which are often less than optimally utilized nationally and has been exploited extensively by the industrialized countries.

Developing the market, so that instead of fighting and bending backward to be 'granted' access to the markets of Europe and North America, Africa can begin producing first and foremost for its own markets.

Reduced Costs of transaction within the region, as a result of reductions in tariff and non-tariff barriers. This reduces monopolistic profits and leads to efficiency gains.

Training effect, as national producers are gradually exposed to the regional market before the world market, since it is easier to compete in the regional market than in the global market. This could be a stepping stone to the outside world.

External interests also push for regional integration in Africa but for different reasons. The overarching motivation for externally-induced regional integration is to maintain the historical division of labour that assigns Africa the role of green field that feeds Northern industry with raw materials. Below are characteristics of externally-driven integration.

High-tech, Low-value ghettos: With the increasing demands for higher wages, improved working conditions and environmentally sound production methods, many transnational corporations are increasingly looking at Africa as possible sites for the assembly of their high technology exports such as electronics, auto and engineering products.

Raw material reservoirs: In order to keep feeding the Northern industries with the necessary raw input, it is in the interest of industrialized economies to secure the source of minerals, agricultural commodities and other natural resource-based inputs. As it is cheaper to deal with a bigger entity with uniform policies and procedures than individual states with differing policies and often changing political moods.

Entry points for multilateral negotiations: As resistance to many issues fronted by industrialised countries in the multilateral for a like the WTO intensifies, the North finds it easier forcing the issues through regional fora.

Captive markets: Trade and trade negotiations are about accessing markets. Expansion and securing of African markets rank very high in the scheme of corporate interests in industrialized countries. It is the essence of integration of Africa into the global economy.

Cotonou Agreement

Perhaps the most important trade agreement outside the WTO agreements is the African, Caribbean and Pacific (ACP) and the European Union (EU) relation under the Cotonou Agreement signed in June 2000. As a successor to the Lome Convention, which had guided these relations since 1975, the Cotonou Agreement has the following new characteristics;

- It breaks the solidarity of ACP countries by creating regional differentiation through negotiation of Economic Partnership Agreements (EPAs).
- It introduces reciprocity.
- It seeks to be WTO compatible (Indeed, the EU proposals are WTO-plus).

- Creates uncertainty and confusion among Least Developed Countries.

AGOA

The African Growth and Opportunity Act (AGOA), though not a trade agreement, deserves serious attention for its destructive effect on Africa's economy. The eligibility criteria undermine policy autonomy of African countries. Some of the worrying items in the criteria include:

- US strategic interests clause (War against terrorism).
- Rules of origin
- Free Trade Areas with SSA
- Monitoring and review
- Study on improving agricultural practices in Africa (GMOs?)
- Elimination of restrictions to US investments

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Editorial: Cotonou juggernaut now in full motion

Percy Makombe

Relations between the European Union (EU) and the African, Caribbean and Pacific (ACP) states have come a long way. In fact, they can be traced back to the treaty of Rome (1957). According to Article 131 of that treaty, the guiding principle of this community was to promote economic and social development. Today EU's relationship with the ACP is anchored in the ACP-EU partnership Agreement signed in Cotonou on 23 June 2000. This agreement changes previous trade relations which since Lome 1 have been based on non-reciprocal trade preferences allowed by the European Union to ACP exports. Of the 78 ACP countries that are signatories to the Cotonou Agreement, 48 are African states, 15 are Caribbean and the remaining 15 are Pacific states. From this total of 78 countries, 41 are classified as Least Developed Countries (LDCs). The Cotonou Agreement envisages the gradual removal of trade barriers leading to new trading arrangements that are World Trade Organisation-compatible.

ACP-EU negotiations

The ACP-EC negotiations were subsequently launched in Brussels in September 2002. The Cotonou Agreement provides for the basic procedures of the negotiations and states that Economic Partnership Agreements will enter into force at the latest by 1 January 2008. On 2 October 2003, the ACP Council of Ministers and the EC Commissioners for Trade and Development had a second joint meeting at Ministerial level in which they said the first phase of EPA negotiations launched in September 2002 was "satisfactory with regards to the high degree of convergence reached." It was also agreed at this meeting that the Joint Report (ACP/00/118/03 REV. I – ACP -- EC/NG/NP/43) on the all ACP – EU phase of EPA would serve as the reference point and provide guidance for negotiations at the regional level.

The Eastern and Southern Africa Group (ESA) launched their negotiations with the EC on 7 February 2004 in Mauritius. The ESA Group is comprised of Burundi, Comoros, DR Congo, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Uganda, Zambia and Zimbabwe. The ESA will set up a Regional Preparatory Taskforce (RPTF) to coordinate its activities.

The actual negotiations will take place at two levels – the ministerial level and also the ambassadorial/senior official level. On the ministerial level the European Commission will be represented by the Commissioner for Trade while the Director General of Trade will represent the EC on the ambassadorial level. The ESA Group has selected six ambassadors based in Brussels and six ministers to lead the negotiations at the two levels.

Phase I Setting Priorities (March 2004 – August 2004)

The actual EPA negotiations will be conducted in three phases. The first phase begins March 2004 to August 2004 and will basically focus on setting the priorities. This is where rules and terms of reference will be set. The work

programme will also be finalized at this stage. The composition of the technical teams to assist the ambassadors and the ministers will be discussed as well as issues relating to funding.

Phase II Substantive Negotiations (Sep 2004 – Dec 2005)

Substantive negotiations begin in earnest in September 2004. In this phase, all issues relevant to Economic Partnership Agreements will be covered. A meeting at ambassadorial level in July 2004 will prepare this phase. This meeting will draw a general framework for negotiations and identify priority issues as well as the phasing of negotiations. It is envisaged that by the end of Phase II in December 2005, an outline EPA will have been agreed on.

Phase III Continuations and finalization (Jan 2006 – Dec 2007)

This phase will see the continuation of substantive negotiations especially over areas of disagreement. This is where compromises will be reached over contentious issues leading to the finalization of the EPA following which the agreement will be ratified by all parties. The EC will then look into the legal implications to ensure that the EPA comes into force by January 2008.

CAP problems

There is no doubt at all that the Cotonou juggernaut is now in full motion with likely disastrous consequences for millions of people in developing countries. Agriculture in most countries of Africa is being threatened by products from the developed nations. The high subsidies paid to European farmers under the Common Agricultural Policy (CAP) lays the ground for products from Europe to enter ACP markets with prices that are below those of domestic producers. In southern Africa the Namibian and Botswana market has been greatly affected by the dumping of low grade subsidized beef by Europe. This beef is dumped in South Africa which also happens to be Namibia and Botswana's prime market. Farmers in South Africa have also been complaining for a long time about how they are being pushed out

of business by the heavily subsidized EU fruit canning industry. This means that those in the canning industry in South Africa have problems selling in their own home markets let alone in other international markets like Japan and the US. For EU establishing a free trade area basically means gaining market access for its products. The rhetoric about creating sustainable development in developing countries does not cut it otherwise if it were so, the EU would not drag its feet on reforming CAP. ACP countries should be under no illusion that Cotonou Agreement will help uplift their economies. The Cotonou Agreement still calls for the application of the type of policies that undermine the local capacity of these countries including full compliance with many WTO rules that countries are not required to comply with under the WTO.

A study on the impact of Introducing Reciprocity into Trade Relations between EU and the SADC region revealed that SADC would not gain much from a free trade agreement with the EU. It pointed out that many SADC countries stood to lose customs revenue and their industries would face unfair competition from European imports. At any rate the 41 ACP Least Developed Countries are in a better position without free trade agreements. They can still take advantage of the non-reciprocal trade preferences (though this is regarded as a transitional situation) extended to them. In southern Africa Angola, Lesotho, Malawi, Mozambique, Tanzania and Zambia are classified as LDCs, they therefore need not feel pressured into signing free trade agreements. In any event Article 16.9 of the Cotonou Agreement commits it to allow at latest by 2005, duty free access for essentially all products from LDCs. A much beneficial way of engaging in these negotiations is to negotiate for an extension of this deadline by at least five years.

One area which needs serious attention in the ACP countries is the area of forever exporting raw material which then comes back into these countries as finished products much to the advantage of foreign businesses. For example in 2002, 8

products account for 61% of total ACP exports. Petroleum oil tops the chart with 28% followed by diamonds 9%, Cocoa 8%, fish 6%, wood 4%, sugar 3%, aluminum 2% and tobacco at 2%. What is evident from these statistics is that the bulk of ACP exports are raw materials. Finished goods represent 21% of the ACP exports to the EU. This cries out for attention, the ACP states should strengthen their home industries so that they are able to process raw materials and only export finished products. That way they gain extra value for their products and ensure that money from the processed goods stays in their countries to support more industries.

Conclusion

The exigencies of globalization will not be addressed by asymmetrical regional trade agreements. It must be remembered that when the WTO was created, it was not to prevent development in developing countries but this is what has happened. Today the Cotonou Agreement is paddled as an agreement that will bring sustainable development to ACP states. How this will come about given that the Cotonou Agreement seeks to be WTO-compatible is a mystery. The main focus of regional integration in Africa should not be that of being integrated into the global economy – which essentially means the liberalisation of all sectors of the economy. The aim of regional integration should be to get Africa united so that it is better able to respond to the challenges of globalization. It is to give the African people a voice and to improve their standards of living. The priority should be to strengthen Africa's capacity so that it can later effectively participate in economic partnership agreements. Talk of regions as merely 'regional trade arrangements' is contemptuous as it reduces the millions of poor people in these countries to nothing. There is more to regions than just trade and markets. Justice demands that the lives of people of the South should not be subjected to this narrow examination.

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