

3. ACP-EU Future Trade Relations: Challenges and Opportunities for Eastern and Southern African Countries

Kaire M. Mbuende

Introduction

The decision of the European Union (EU) to conclude Economic Partnership Agreements (EPAs) with African, Caribbean and Pacific (ACP) group of countries represents a fundamental transformation of the trade relations between the two groups of countries.

The successive Lomé Conventions and the Cotonou Agreement that governed the relationship between ACP and EU since 1975 provided inter-alia for tariff-free and non-reciprocal market access to EU markets for products from ACP countries. This is going to change under the EPAs. The EPAs are going to be based on the principle of reciprocity and compliant with the provisions of the World Trade Organisation (WTO).

The preferential trade regime was critical for the development of the manufacturing sector in a number of ACP countries. ACP countries are concerned that EPAs may not be an effective instrument for the promotion of sustainable social and economic development, reduction of poverty, regional integration and the smooth and gradual integration of ACP countries into the global economy.

A Case for EPAs?

The European Commission believes that there is a need for a new system, as in its view, the past system of non-reciprocal trade preferences extended to ACP countries has on the whole failed to deliver expected results in terms of broader economic and social development. The trade performance of ACP countries have not been impressive. The share of ACP imports into the EU fell from 7% in 1976 to 4% in 2000. Foreign Direct Investments (FDI) from EU to ACP has stagnated. ACP received currently less than 2% of EU foreign direct investment.

Furthermore, the exports of other developing countries to the EU grew faster than that of ACP. The exports of ACP countries to the EU grew on average at 2% per annum between 1976 and 2000. The exports from Mediterranean and Latin American countries grew at an average of 6% per annum, while exports from Asian developing countries grew at an average of

12% per annum. Asian countries had replaced ACP as the main developing country exporters to the EU by 1992.

In as much as there are justification for a new system, it is important to point out that trade preferences played a positive role in preventing the further marginalisation of ACP states in the world economy. Individual ACP economies performed better in areas where significant preferences were enjoyed compared to those areas where no preferences are enjoyed. While ACP exports to the EU as a whole increased in volume terms between 1988 and 1997 by 3.6%, in those products where the trade preferences provided margins of preference greater than 3%, the expansion in exports in volume terms was 61.9%. This is an export performance that is 17 times better than their general export performance.

In short, the relationship between non-reciprocal trade preferences and export performance by ACP economies is complex. If one desegregates ACP countries, you will find that 26 ACP economies have enjoyed higher export growth to the EU than the average for Mediterranean and Latin American developing countries. Eight ACP countries have enjoyed higher export growth to the EU than the average for Asian developing countries. Furthermore, certain ACP countries have developed entirely new manufactured and non-traditional agricultural and horticultural exports. They have also expanded the export of existing manufactured goods in a significant way. The trade preferences enjoyed by ACP countries were important for their development and the erosion thereof will have far reaching implications.

The objectives of the Economic Partnership Agreements is, *inter alia*:

- to promote and expedite the economic, cultural and social development of the ACP states with a view to contributing to peace and security and to promoting stable and democratic environment;
- to reduce and eventually eradicate poverty;
- to foster the smooth and gradual integration of ACP states into the world economy;
- to support the regional integration process within the ACP group of states and to foster regional integration as key instrument for the integration of ACP countries into the world economy; and,
- to enhance co-operation in all areas relevant to trade and to achieve progressive and reciprocal liberalisation of trade in goods and services in accordance with WTO rules.

The success of the EPAs will ultimately depend on the extent to which they are able to promote regional integration in the regions of the ACP. Regional integration is cardinal for the competitiveness of individual ACP countries as well as their integration into the world economy on a competitive basis. The

question of the regional configuration of EPAs is therefore of fundamental importance.

ACP solidarity is important in the redesigning of relationship with the EU. It is important that ACP regions are not played against each other. This is why the ACP guidelines for negotiation makes provision for a two phase approach to negotiations. The first phase will be an ACP wide negotiations where general principles will be agreed upon. This phase may take up to one year. The second phase will be region specific and will among others deal with details relating tariff phase down. This approach is important to maintain ACP solidarity. At the same time, regions need time to agree on regional configurations and to adopt negotiation mandates by the different regional organisation.

It is important to note that there are a number of parallel negotiations in which ACP countries are involved and that would have a bearing on the EPAs. These include the WTO Round negotiations (scheduled to be concluded by January 2005), the negotiations on the General Agreement on Trade in Services (GATS) in Geneva, EU enlargement (2004), the Free-Trade Area of the Americas (FTAA) in the case of certain ACP countries, the reform of the common agricultural policy (CAP) and the revision of the Generalised System of Preferences (GSP) in 2004.

EPAs should be ideally concluded with regional organisations that ACP countries themselves have formed for the purpose of integrating their economies and not through groups that are solely constituted for the purpose of concluding an EPA. A configuration of a group of countries for the sole purpose of dealing with the EU will not have internal cohesion and may work at cross-purpose with regional integration initiatives in the particular regions.

Three members of COMESA, Kenya, Tanzania and Uganda have formed the East African Community (EAC). The EAC has set out to harmonise policies in a number of areas and has also created common institutions. It simply represents an advance form of integration with COMESA even though Uganda and Kenya are trading on the basis of the COMESA treaty. Tanzania on its side suspended its membership in COMESA opting for integration through SADC.

SACU is an ideal configuration for an EPA because of its cohesion and level of integration. However, it is already in a trade agreement with the EU by association through the EU-South Africa Trade, Development and Co-operation Agreement. Botswana has already given concurrence for that agreement to come into effect. Lesotho, Namibia and Swaziland are yet to do so, as they have to understand the full implications of the agreement. They also need to design measures to mitigate against possible adverse impact and get commitment from all stakeholders (include the EU and South Africa) for

their implementation. Rules of Origin notwithstanding, EU products that enter South Africa under the agreement do find their way into the markets of the BLNS¹ countries.

BLNS countries will therefore be exposed to low tariff EU products much earlier than other ACP countries. This will lead to substantial revenue loss. The estimated fiscal losses for BLNS countries emanating from the implementation of the EU-South Africa Agreement as a percentage of total Government revenue amounts to 5.3% for Botswana, 8.6% for Namibia, 12.9% for Lesotho and 13.9% for Swaziland.

The EU needs to introduce extra-ordinary measures in order to mitigate against the impact of EU-South African agreement on BLNS countries. This should include programs to improve efficiency of revenue collection as well as to develop alternative sources of revenue through greater market access particularly in the horticultural sector. There is also a need for targeted support to investment promotion in order to overcome supply side constraints. Trade is after all a function of investment and production.

The Need for Development centered EPAs

It is not evident, however, that EPAs in themselves can provide the necessary stimulus to attract investment in ACP countries. Particularly in the light of poor physical infrastructures, lack of access to inexpensive water and electricity and human resource constraints. This situation is further compounded by the multiplicity of free trade area arrangements, which the EU is concluding with non-ACP states. Why should EU enterprises invest in ACP States to serve EU and ACP markets when they could locate in low wage cost and high skill zone within an expanding EU? The investment promotion effects of EPAs are not automatic, conscious and deliberate efforts have to be made if that objective is to be attained.

BLNS countries need immediate market access beyond that provided by the Cotonou Agreement because of their exposure to competition from EU low tariff products that will enter their markets as a result of the EU-South Africa Agreement. An appropriate market access to them should be equivalent to that afforded to Least Development Countries (LDC), Every Thing But Arms (EBA).

SACU member states are also involved in a process of integration through SADC and to a lesser extend COMESA. That relationship especially the one with SADC is important and cannot be simply sacrificed. SACU represents a variable geometry in the broader SADC integration. There are greater benefits to be derived through a SADC wide EPA rather than a SACU based one.

¹ BLNS countries are Botswana, Lesotho, Namibia and Swaziland.

A SADC based EPA will however be complex. Of the 14 SADC member states four belong to other regions than Southern in the context of the ACP-EU co-operation under the Cotonou Agreement. That is, Tanzania, Mauritius, Seychelles belong to the East African region and the DRC to the Central African region.

This is not a major problem however as countries will make their choice. It may result in a disconnection between the regional indicative programmes on the one hand and EPA on the other. This will be unfortunate as the regional indicative programmes could be used to address the supply side constraints. This does not present a problem to the Island states, which are not part of the regional infrastructure development programs. It could be a problem for Tanzania and DRC.

South Africa is already in a category of its own because of the existence of the EU-South Africa agreement. The relationship between South Africa and a SADC based EPA has to be crafted carefully. South Africa's access to the EU is already defined in terms of the agreement. Support to the development of infrastructure is not a problem as it has been possible to co-finance a project with the SADC regional indicative programme with funds and resources earmarked for South Africa under its Agreement with the EU. What is at issue is the regional integration function of the EPA vis-à-vis South Africa as access provided to the EU should also be provided to the other members of the EPA. It will ultimately depend on which of the trade regime is more preferential.

Application of the principle of special and differential treatment will be important to a SADC based EPA. Eight out of fourteen SADC member states are least developed countries. South Africa and to a certain extent, Botswana, Lesotho, Namibia and Swaziland are in a special category. Zimbabwe and Mauritius are thus the only SADC countries that are neither least developed nor dissociated directly or indirectly with a trade agreement with the EU other than the Cotonou Agreement and that will affect negotiations for EPA.

In terms of the need for market access Botswana, Namibia and Swaziland are in the same position with Mauritius and Zimbabwe. This represents a broader base for negotiations.

Some members of SADC are also members of COMESA and they have to make a choice between the two organisations in terms of EPAs. Countries of Southern Africa in particular have in the past not made clear indications in terms of their preferred organisation for regional integration. They have made commitments in the context of different organisations that are not always compatible. The time may have come for countries to pronounce themselves unequivocally in terms of their preferred organisation. The choice of an organisation for the purpose of concluding the EPA will constitute substantial

statement on the side of countries in Southern Africa in terms of their preferred organisation for integration. For EPAs will among other things serve to promote regional integration. According to the European Commission, any trade preferences extended to the EU by any ACP country will be automatically extended to the other members of the EPA. In this way, the EPA will significantly influence the pace of regional integration in ACP countries by reducing trade barriers among neighbouring countries.

Five member states of SADC are not members of COMESA, i.e. Botswana, Lesotho, Mozambique, South Africa and Tanzania. Namibia and Swaziland have had derogations from implementing the COMESA trade program because of their membership of SACU. These countries need a home for the purpose of an EPA. Their logical home is SADC.

The Eastern African States under the ACP arrangement with the notable exception of Tanzania have express themselves in favour of negotiating an EPA through COMESA. The question is whether the SADC member states that are also members of COMESA will go the SADC or the COMESA route.

In the East African group only two countries, Kenya and Mauritius can negotiate an EPA in all honesty. The other members of the group are least developed countries and will enjoy EBA benefits. This state of affairs may help the middle income countries make the case for EBA status.

The situation will not change substantially if the SADC member states went the COMESA route. Zambia and Malawi are least developed countries and Zimbabwe will be the only addition to Kenya and Mauritius.

Given the predominance of least developed countries in the East and Southern African regions any configuration of countries must be accorded EBA status to be meaningful. At the same time the interest of least developed countries must be safeguarded especially when it comes to the introduction of reciprocity.

Countries of Eastern and Southern Africa can only derive maximum benefits from the conclusion of EPAs if the supply side constraints are addressed comprehensively. These constraints include poor infrastructures, lack of access to inexpensive power and water and shortage of skilled manpower which was further exacerbated by the HIV/Aids pandemic. Needless to say, on the contrary, the EU based companies will not face such constraints in their bid to take advantage of the opportunities offered by the creation of larger integrated markets. As such, the playing field is not leveled between ACP and EU enterprises.