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Trade Negotiations Insights

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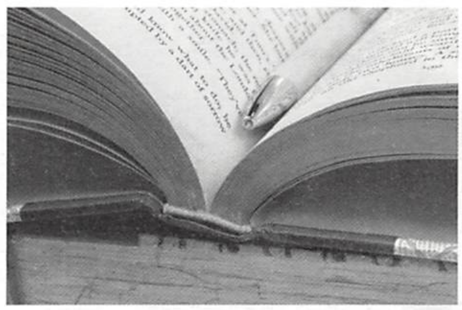
What if politics finally got involved with world affairs? The Taubira report on EPAs

Nicolas Mombrial[1]



A report which "does not mince its words" and puts Europe in the dock

On April 9 2008 Christiane Taubira, a left-wing member of the French National Assembly, was asked by French President Nicolas Sarkozy to examine ways of relaunching the Economic Partnership Agreements (EPAs) between the European Union and the African, Caribbean and Pacific (ACP) countries and to help clarify the French position during its Presidency of the Council of the European Union (FPEU). The President's letter of appointment specifically requested Taubira to look at how to restore confidence between the partners, what leverage is available to help the EU encourage ACP countries to negotiate and conclude comprehensive regional EPAs and how to ensure that these agreements support current trends towards regional integration.

After two months of work and wide consultation, Taubira submitted her report on June 15.[2] Although the report is available on the internet, the French government has yet to publish it officially, despite the letter of thanks from Sarkozy which appeared at the beginning of July. After reading this report, one can understand why there are rumours that it has been an embarrassment to the FPEU and why the FPEU appears unsure of how to proceed. In fact, as Taubira herself says, this report "does not mince its words" and "it puts a particular vision of the world on trial," a vision which is the European Commission's current position. Although the approach Taubira supports is one shared by many, it goes against the customary views of the French government, its European partners and many negotiators. Indeed, it would be difficult for the FPEU to defend, given that it is already preoccupied with energy and institutional issues and will certainly be reluctant to venture into such a minefield.

A political rather than a technical report

The Taubira report, which has a political edge rather than being simply a technical document, actually takes up a number of the criticisms and points made by those

Editorial

As we head into summer months, the weather is not the only thing warming up. Trade negotiations see hitting the headlines with increasing frequency, a sense of urgency driving the debate into the public domain: the Doha Round of global trade talks seems to be veering towards a potential climax, with revised negotiating texts issued on July 10 and WTO chief Pascal Lamy announcing a crunch meeting for ministers in Geneva on July 21.

Given that many see this get-together as the last opportunity to salvage a deal before the US heads into presidential elections and a change of administration in 2009, all eyes are firmly fixed on the outcome. Political leaders are voicing optimism and trying to steer the talks towards a satisfactory outcome, while trade negotiators work behind the scenes to try to narrow the remaining gaps.

The annual meeting of G8 leaders in Japan at the start of July was the perfect stage to discuss trade and how it can improve lives in developing countries. Over the course of three days, eight of the world's most powerful politicians tried to forge solutions on rising oil prices, the global food crisis, the environment, global warming and the Doha Round. Leaders from seven African states and other major emerging economies, including China and India, also participated in the talks making it the largest gathering in the event's 33 year history.

"We are deeply concerned that the steep rise in global food prices coupled with availability problems in a number of developing countries is threatening global food security," the G8 leaders said in a joint statement. "The negative impacts of this recent trend could push millions more back into poverty, rolling back progress made towards achieving the Millennium Development Goals," they added.

TNI has tried to reflect the public interest in these important questions. Luisa Rodriquez addresses the hot topic of food and energy security, while Jacob Kotcho and Martin Abega look at what is at stake in terms of agriculture and development in the EPAs.

Indeed, the EPA negotiations are no less sizzling than those taking place at the multilateral level. The recent release of a report commissioned by the new President of the EU Council, Nicolas Sarkozy, has been little less than controversial. Nicolas Mombrial leads this month's issue with an overview of the so-called 'Taubira report' and assesses the implications for the future of the EPAs. One question that continues to arise is whether there are any convincing alternatives to EPAs. In a bid to tackle this topic, MEP Helmuth Markov, weighs up different trade preference systems and considers whether Europe should reconsider its trade policy agenda altogether.

This month sees the TNI team publishing a joint July / August issue and would like to take this opportunity to encourage all those who may have a spare moment over the summer to consider a contribution to the publication. As usual, all comments, questions or feedback can be sent to vhanson@ictsd.ch

We hope you enjoy the July / August issue of TNI.

opposed to EPAs. It argues for a return to basics, the adoption of a completely new approach to EPAs and renegotiation so as to reach agreements which would be more conducive to development. It is thus opposed to the Commission's position, which is to continue negotiating within the current parameters in order to reach agreements that will promote development through measures such as Aid for Trade. This report goes beyond a mere analysis of the EPAs, it also reflects the malaise currently afflicting the EPA negotiations. Occasionally going beyond her brief to cover issues such as food security and debt cancellation, Taubira has in fact turned a report which was intended to concentrate solely on EPAs into a call for a new paradigm in relations between the EU and developing countries.

Thirteen recommendations for changing the rules of the game

After a lengthy historical, geopolitical and contextual analysis of relations between the EU and ACP, Taubira makes a set of 13 recommendations, some of which will not be readily entertained by the FPEU.

In order to turn EPAs into agreements for promoting development and regional integration, Taubira proposes a complete redefinition of the Commission's mandate. She suggests turning the clock back to look at the many sectors that are well on the way to being liberalised, in order to ensure that development is at the heart of the EPAs. She also proposes inviting regional communities to carry out an evaluation of the effects of the Lomé Conventions (particularly on non-reciprocity) over the next three months, and to contrast this with the principle of the Cotonou Agreement that "no ACP state should find itself worse off than its present situation". Based on this evaluation, there should be clarification of the possibility to sign up for GSP+, which is open to those ACP countries not involved in EPAs. There should also be an analysis of how the mandate for regional integration contained in Article 35.2 of the Cotonou Agreement has been implemented, to ascertain whether EPAs can promote regional integration rather than impede it as at present. Finally, there should be joint monitoring of how EPAs operate.

In order to restore confidence, Taubira suggests returning to the Cancun 2003 discussion of the so-called Singapore issues and drawing up a timetable without actually writing them into the EPA itself; formulating a joint and equal definition of development and the processes which may contribute to it; obtaining an expert legal opinion on GATT Article XXIV and the enabling clause; reiterating that there is no link between signing an EPA and obtaining access to the European Development Fund (EDF); and, rather than refusing any conditionality, agreeing to the broad lines on which mutual conditionality might operate.

In order to relaunch the process, Taubira proposes calling an international symposium on the ACP after the next Europe-Africa summit, in order to discuss the future EU-ACP relationship, its weighting in diplomatic terms and its relevance - or lack of it - in a globalised world. An EU conference examining the levels of commitment from member states to Aid for Trade could also be held concurrently.

Sarkozy's letter sheds little light on the future of the report

After two long weeks of silence, the French President acknowledged receipt of the report in a letter dated July 1 2008.[3] While Sarkozy states that he fully agrees with some of Taubira's positions - such as the need to clarify that development is a key aim of the EPAs - and although he reiterated the need for flexibility, Sarkozy says nothing about the report's more divisive recommendations, such as the need to rethink the Commission's mandate or the need to cancel ACP debt. The letter has the merit of officially acknowledging receipt of the Taubira report and of recognising its contribution to the debate, but it sheds very little light on the report's future or on the reasons why it has not been officially published. Although it is unlikely that the report's recommendations will be adopted by the FPEU, due to its call for a complete rethinking of the current European approach to EPAs, it does at least contribute to the ideological discussion on the nature of the agreements and renews the debate over how to develop economic cooperation with Africa.

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1 Nicolas Mombrial is a research assistant with the economic and trade cooperation team at ECDPM.

2 This report is available at: www.acp-eu-trade.org

3 The letter is available on Taubira's website: www.christiane-taubira.org/cms/uploads/Lettre%20PR%20%C3%A0%20Taubira%20-%20APE.pdf

Checking the system: a review of trade preferences

Helmuth Markov[1]

GSP wrongly in the shade of EPAs?

In recent months public discussion has focused on negotiation of Economic Partnership Agreements (EPAs) between African, Caribbean and Pacific countries (ACP) and the EU, leaving other preferential trade options as notes in the margin. This is somewhat surprising, given that since the summer of 2007 it appeared obvious that the conclusion of these full agreements with all ACP regions was very unlikely to happen by the end of that year. Yet EPAs were deemed necessary after the specific preferential treatment to ACP countries provided under the Cotonou Agreement had been ruled as non WTO-compliant. But article 37 of the Cotonou Agreement, explicitly stipulates that the EU will examine *all alternative possibilities* in order to provide non-least developed countries (LDCs), that are not in the position to enter into EPAs, with a new framework for trade that is equivalent to their existing situation and conforms to WTO rules.

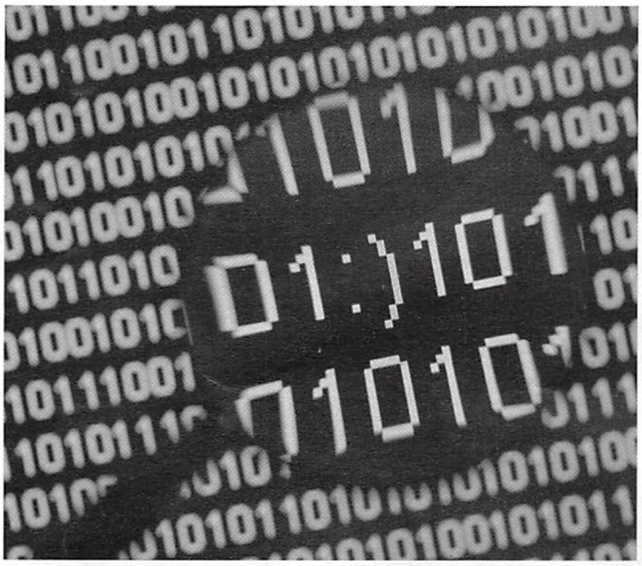
One could presume that the European Commission, the single negotiator on behalf of EU member states, actually did not want to consider alternatives. Europe already has instruments that can provide a basis for such options: more than 35 years ago the Generalised System of Preferences (GSP) for developing countries was implemented and has regularly been advanced and adjusted since. Today, the EU's non-reciprocal preferential access scheme is the most used of all such developed country systems and grants a number of products imported from beneficiary countries either duty-free access or tariff reductions, depending on which of the GSP arrangements a country enjoys.[2]

For 2006-2008, there are three types of general preferential trade regimes in force:

a) The standard preferential regime (GSP) benefits all recipient countries and grants duty-free market access (for non-sensitive products) or tariff reductions on the most favoured nation rate (for sensitive products).

b) The special incentive arrangement for sustainable development and good governance (GSP+) provides additional benefits for countries implementing certain international standards in human and labour rights, environmental protection, the fight against drugs and good governance.[3] It also allows duty-free market access for products classified as 'sensitive' imported into the EU.

c) The special arrangement for the countries included in the United Nation's list of least developed countries, which is known as the 'Everything but Arms' initiative (EBA), provides the most favourable treatment of all. It grants LDCs duty-free and quota-free access to the EU markets for products excluding arms and ammunition with transition periods until 2008 and 2009 for rice and sugar.



Mini-reform of GSP

It is expected that the new European Commission regulation for GSP envisaged for the period 2009-2011 will maintain this structure. The revision proposed by the Commission includes: removal of certain products for specific countries based on the value of the imports from these countries; a three-month postponement of the tariff reduction scheme for sugar under EBA; required completion of the ratification and implementation of international conventions before the application for GSP+ (the 2005 regulation included a three year transitional period); and prolongation of the time that the Council will have - from one month to two - for the assessment of a preference withdrawal proposal by the Commission.

While the Commission saw the revision as a basic technical adjustment, the European Parliament added some substance that it had already proposed for the GSP guidelines for 2006-2015 that was not taken into consideration by the Council at the time. These proposals aimed at incorporating greater transparency, clarity and legal certainty.

Above all, the Parliament stressed that the GSP scheme is designed with the aim of supporting the Millennium Development Goals and particularly the reduction of poverty in developing countries. It therefore needs comprehensive impact analysis that includes opinions from civil society; broader distribution of information to the public; the prevention of preference erosion by transferring products currently classified as sensitive to the non-sensitive category; and a possibility for countries to apply for GSP+ on a yearly basis (instead of only every three years). The latter might be a compromise solution since, as of 2008, there is no longer any transition period that allows a country that has almost, but not fully, completed implementation of all 27 international conventions mentioned in the annex of the specific incentive arrangement to be included into the GSP+ system.

One of the Parliament's most pressing requests was the reform of overly complex rules of origin which were hampering the uptake and use of preferential trade schemes such as GSP. Some argue that rules of origin should take into account inter-regional and global 'cumulation' when calculating the possibility of a country benefiting from preferential treatment. Such an approach would facilitate regional integration, especially among small countries that have fewer real opportunities to diversify their export economies.

A low level of diversification of exports to the EU is itself an eligibility criterion for the GSP+ scheme. Currently, the threshold is that the share of the five top GSP imports into the EU by one country must be below 75% of all the EU's GSP imports from that country. This criterion is used to indicate the 'vulnerability' of a country's economy. Yet, while the diversification of exports might be an indicator for the industrial development level, there are certainly other criteria, such as gross domestic product (GDP) at purchasing power parity (PPP) per capita or the human development index (HDI), that would display a broader idea of the level of development of an economy.

GSP a possible alternative to EPAs?

It is sometimes argued that the GSP system, especially GSP+, could be developed as an alternative to the proposed Economic Partnership Agreements. As the few points highlighted here already suggest, a careful reform would first be necessary. And since there is little in-depth quantitative and qualitative information on the functioning of the GSP it is rather difficult to give detailed proposals. Still, there is reason not to dismiss such an option.

On the one hand, GSP is generally accepted as being compliant with WTO rules that explicitly allow for derogations from Most Favoured Nation (non-discriminatory) treatment for developing countries. On the other hand, the fundamental difference in comparison to the EPAs is that it follows a non-reciprocal approach instead of facilitating mutual market opening.

As previously stated, least developed countries would enjoy almost unlimited market access under the EBA initiative even without a new trade agreement. But an ACP country not listed as an LDC would most certainly lose a good part of its preferential access to EU markets, although to different degrees. In this case, only something like GSP+ would be an option. The Commission itself has prepared an overview of which eligibility criteria the 37 countries concerned currently fulfil: none would reach more than 0.3% of GSP imports into the EU, and 24 do not reach more than 0.1% (the maximum threshold being 1%). The Dominican Republic with 'only' 81.87% share of its five top GSP exports holds the highest level of diversification and only two more countries (Antigua and Barbuda and the Bahamas) reach less than 90% (threshold is 75%). Only Antigua and Barbuda and the Bahamas are considered high income countries.

Looking at the implementation of the relevant international conventions, the situation becomes more complicated: not one of the 37 non-LDC countries have ratified all conventions. Therefore, after the expiry of the transition period in 2008, they do not fulfil the criterion that is actually at the heart of GSP+. Still, 12 have ratified at least 24 conventions so theoretically there would be the possibility of granting them preferential treatment under GSP+ if another transition period was accepted for new applicant countries. In the case of Africa, the relevant countries are Seychelles, Mauritius, Kenya, Namibia, Ghana, Cameroon and Nigeria.

While this looks encouraging for at least some countries, the serious questions highlighted above remain. For example, the coverage of products by GSP in general, especially products listed as sensitive, as well as the rules of origin.

Another argument that has been used against GSP+ as an alternative to the EPAs is that ACP countries would face direct and equal competition with those countries that already or will soon benefit from it (see endnote 2).

The European Parliament has been eager to be involved in the reform of the GSP. But it must be noted that under the current European Commission treaty, the Council is not bound by the European Parliament's recommendations to date, even if the so-called consultation procedure is used. This would change fundamentally if the new terms of decision-making as proposed in the [draft] Lisbon Treaty would enter into force. If this happens, the Parliament will have full co-decision power on internal legislation in the field of trade policy, including the GSP framework.

> *"Reciprocity in trade agreements only makes sense among partners with at least similar economic power."*

Overcome the errors in the system

GSP in its current state neither seems to be a perfect system for serving the needs of developing countries in general, nor is it appropriately designed for the specific situation of ACP countries. But in comparison to the European Commission's attempts to promote reciprocal market access it is at least an alternative that should be used as a model. Reciprocity in trade agreements only makes sense among partners with at least similar economic power.

Moreover, the fact that EPAs - or the interim agreements that have been concluded so far - foresee transition periods is a false argument: who could claim that the countries concerned will be able to equal the EU's economic capacity even in the next 50 years?

One could say that 'the error is in the system'. Trade policy could be designed in a way that promotes fair trade relations and sustainable development, but so far the EU appears to be advancing a foreign trade support and market access programme for its own companies. It is understandable that more and more countries are not willing to accept such treatment and claim a right to self-determination as regards the pace and organisation of economic development. Indeed, it is no surprise that so far only one ACP region is ready to sign a comprehensive EPA and negotiations on other free trade agreements have halted, notwithstanding the years of stagnant WTO negotiations. If Europe wants to be recognised as a trustworthy partner in development, it would be well advised to reconsider its trade agenda.

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1 Helmuth Markov is a German politician and member of the European Parliament with the Party of the Democratic Socialism, Treasurer of the European United Left - Nordic Green Left and sits on the European Parliament's Committee on International Trade.

2 There are 177 beneficiaries of the EU's GSP. Other preference giving countries are Australia, Belarus, Canada, Japan, New Zealand, Norway, the Russian Federation, Switzerland, Turkey and the United States.

3 Current beneficiaries are Bolivia, Ecuador, Columbia, Peru and Venezuela (Andean), Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama (Central America), Moldova, Georgia, Mongolia and Sri Lanka.

Negotiating Caribbean IP rights: a question of balancing national policy priorities with foreign trade policy?

Ermias Tekeste Biadgleng[1]

A group of small economies in the Caribbean with limited industrial and technological capability signed an Economic Partnership Agreement (EPA) with the European Commission covering the protection and enforcement of intellectual property (IP) rights. Many other poorer nations from the African and Pacific region also signed interim 'goods only' EPAs with a further possibility of negotiating on IP rights protection. ACP countries have been the beneficiaries of preferential arrangements with the European Union and the United States for many years. Recently, the erosion of the preferential arrangements due to liberalisation and increased competition from China and India, and the legal challenges at the WTO, shifted the relationship towards EPAs and free trade agreements. With preferential schemes failing to induce development and institutional reform, the economies of a significant number of ACP countries are on the verge of becoming inconsequential to the global economy - except as suppliers of raw materials.

The provisions of the European Commission-CARIFORUM (Caribbean) EPA on IP rights should be examined in light of the factors necessary for institutional and economic development of ACP countries. With change in industrial competitive structure based on innovation, technology and knowledge, the advanced nations are aggressively pushing for better protection of their intellectual assets through IP rights. The EPA negotiation experience shows us the different approach taken by developing countries. The African and Pacific countries did not concede to European demands on IP rights protection and instead accepted an agreement covering only goods in order to ensure consistency with the WTO rules.[2] So the question is: did the Caribbean secure any advantage by agreeing to European demands on IP rights protection, and if so, what is the way forward for other regions? There are various issues that may arise from the IP rights under the EPA, including the balance in concessions, the long term advantages or disadvantages for Europeans promoting narrow and short-sighted interests in EPAs and the necessary response to address development challenges in IP rights.

Balance in concessions

The EPA agreements introduce binding TRIPS-plus standards on the Caribbean with non-binding commitments for cooperation in innovation, technology transfer and cultural industry development.[3] Whether the Caribbean will benefit from the provisions for cooperation in innovation and technology transfer depends on further implementation arrangements and funding from the Europeans. However, if the European Commission fails in its commitment to cooperate on innovation, such failure will not be the basis for the Caribbean countries to derogate, withdraw, or change their commitment with respect to IP rights protection.

The Caribbean signatories would have to implement their obligations by January 2014, unless a new period is agreed jointly which takes into account different priorities and levels of development. This transition period, which is beyond 2021 for Haiti, is the European Commission's only significant concession to Caribbean countries.[4] Under the TRIPS Agreement, by the end of the transition period, the Caribbean nations have to extend the same level of protection that they conceded to the EU to all WTO members. This includes the extension of the standards of protection under the WIPO internet treaties. The TRIPS-plus effect of the EPA is abundantly clear: when WTO members enter into an agreement on IP rights, they usually move beyond the TRIPS standard. The European Commission secured major concessions from the Caribbean nations by expanding the protection of geographical indications (GIs) - a category of IP rights that Europeans are successfully using to target sophisticated consumers with their agricultural products, beverages, wines and spirits. The European Commission also secured Caribbean commitment to the WIPO internet and IP administration treaties, protection of industrial design, trademarks and enhanced the standard for enforcement of IP rights in the Caribbean region.

The Caribbean negotiators attempted to balance respective national interests in the EPA IP provisions. However, their interest in cultural industries and the protection of Caribbean GIs hardly benefited from the final result of the IP rights in the EPA. WTO panels have already confirmed access to European registration and protection of GIs to all WTO members.[5] Caribbean countries do not receive any additional advantages by agreeing to the extension of GIs to all products. Instead they lose a bargaining tool in the WTO negotiations. Moreover, the provisions of the EPA on traditional knowledge and genetic resources do not resolve any global legal questions but lock the Caribbean countries into a consultation mechanism with the European Commission in international negotiations.

Perhaps the most innovative aspect of the CARIFORUM EPA relates to the *Protocol on Cultural Cooperation* that aims at implementing the UNESCO Convention on Artistic and Cultural Expression.[6] Much of the protocol's best endeavor provisions on movement of artists, technical assistance, co-production and publishing would only take effect through subsequent arrangements for cooperation and implementation. Thus, the advantage for Caribbean nations from the provisions on GIs and cultural cooperation lies in establishing the basis for further collaboration.

The EPA provisions do not impact current EU trade policies and rules that could affect the trade interest of the ACP countries. Even the negotiations at the WTO hardly indicate if the European agricultural policy is to be changed beyond the minimal reform plan within the EU itself. The patent system that can be used to misappropriate genetic resources and traditional knowledge, the plant variety protection that threatens food security during high food prices and other EU laws and practices remain unchallenged under the EPAs.

Fixing national policy orientation and institutions for development

The international debate on EPAs and IP rights protection has focused too much, although for the right reasons, on the unfair exercise of political and economic leverage of rich countries against poor ones. Beyond the discourse on power relations, the responsibility of governments for national policies of development needs a fresh look, especially as the Caribbean countries proceed to implementing the IP section of the EPA by 2014. The backbone of development institutions is the laws and the national policy orientation towards local economic actors. The UN Commission on legal empowerment of the poor identified that the prosperity of rich countries is created through a variety of instruments and norms such as, tradable assets and IP rights that rely on an effective legal framework and functioning institutions. Bringing the institutions of the rich countries, such as higher standards of IP rights protection, to small economies would mean at least two things: (1) detaching foreign trade policy from local economy, and (2) undermining local potentials in favour of commercial interests of rich nations.

When implementing EPA commitments the Caribbean nations need to consider how to respond to these challenges through (i) counter measures that minimise the potential costs of the EPA; (ii) proactive measures empowering the local economic actors and (iii) development benchmarks that function as a basis for implementing the EPA provisions on IP rights. In this regard, the Caribbean nations need to prevent the tightening of local markets for knowledge goods due to higher standards of IP rights. This can be done through ensuring stronger patentability criteria, introducing effective and robust limitations and exceptions to IP rights and regulation of licensing and anti-competitive behavior. At the same time the Caribbean nations need to invest in institutions that will encourage local innovation and empowerment. The protection and use of traditional knowledge, the development of an IP property system that is closely linked to the local economy (such as utility models), creating collective trademarks, protection of cultural expressions and branding of local products should be the ultimate aim of Caribbean countries. On the whole, developing nations lag behind in global research, development expenditure and the patenting trend. While catching up with advanced nations could be a novel ambition, poorer countries need to look at the potential and IP rights that are appropriate to their economies. Finally, since the Caribbean nations have the option to request an extension to the implementation period, they need to use progress in protecting and promoting Caribbean GIs, cultural industry, use of the utility model, licensing and technology transfer, and most importantly, the implementation of the provisions for cooperation on innovation, as benchmarks for full implementation.

Lessons for African and Pacific countries

The recent study by CIEL shows that IP rights remain on the agenda for African and Pacific countries following the conclusion of the 'goods only' interim EPA.[7] It recommends that ACP countries try to identify offensive interests in IP rights such as genetic resources and traditional knowledge, as well as defensive interests such as countering higher standards of IP rights. However, it is proposed that the best strategy would be not to negotiate IP rights under EPAs at all. The lesson from the CARIFORUM EPA is clear: negotiation of IP rights does not bring a balanced outcome due to the sharp contrast in economic interests and institutional factors necessary to improve national competitiveness in a globalised world. The CARIFORUM EPA demonstrates the risks for African and Pacific regions of opening up negotiations on IP rights, with the hope of getting concessions on traditional knowledge, public health and genetic resources. The European Commission would not be able to offer any concessions for the offensive agendas of the African region, since that would require revisiting European laws.

Ultimately the prospect of development for ACP countries rests upon their own ability to upgrade local capabilities and empower local actors in the global economy. The EPAs undermine what is called 'policy space' for economic development. However, it is not necessarily true that other ACP countries that have not signed an EPA with IP rights are using existing regulatory spaces, such as the transition period for implementation of the TRIPS Agreement for LDCs and the flexibility to promote public interest in the regulation of IP rights. Requests at the WTO for technical assistance to implement the TRIPS Agreement and recent interest in implementing higher standards of IP rights enforcement in the World Customs Organisation are examples of incoherent national policy orientation by some ACP countries. If African and Pacific countries are effectively able to reject European demands for higher IP rights standards in the EPA, but do not use the advantage of existing regulatory space, the discourse on power relationships and the problem of IP rights in economic development would be superficial.

Concluding remarks

The EPA negotiations on IP rights raise fundamental questions for development, not merely due to the TRIPS-plus nature of the commitments under the CARIFORUM EPA, but because the negotiations are an indication of how countries could harmonise their national priorities and relevant institutions in their foreign trade policy. There are no indications that the EU would negotiate its own policies that affect the socio-economic interests of ACP countries in negotiations related to IP rights. The European Commission aims to introduce institutions with higher IP rights standards that serve its industries and negotiation challenges at the WTO. ACP countries need to focus on the right domestic institutions and laws in order to improve learning, upgrade technological capability and ensure access to knowledge in the process of economic and human development.

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2 For further analysis of the status of IP negotiations of ACP countries with the European Commission, see CIEL (2008), Intellectual Property in European Union Economic Partnership Agreements with the African, Caribbean and Pacific Countries: What way forward after the Cariforum EPA and the interim EPAs? www.ciel.org

3 Trade and innovation in the EPAs: another step towards re-framing TRIPS, Malcolm Spence, Trade Negotiations Insights, Volume 7. Number 5 / June 2008, p.6. TRIPS is the World Trade Organisation Trade-Related Intellectual Property Rights Agreement.

4 Economic Partnership Agreement between the CARIFORUM states, on the one part, and the European Community and its member states, on the other part.

5 WTO (2005), European Commission – *Trademarks and Geographical Indications*, Reports of the panels on complaints by the United States (WT/DS174) and Australia (WT/DS290).

6 United Nations Educational, Scientific and Cultural Organisation (2005).

7 See endnote 2.

EPAs: what is at stake for agriculture and development in Central Africa?

Jacob Kotcho and Martin Abega[1]

Negotiations between the EU and Central Africa on a final regional Economic Partnership Agreement (EPA) resumed in Brussels at the end of May. Exchanges focused on the text of the agreement put forward by Europe on market access and on trade in services while the development aspects of the EPA were once again put on hold. However, taking a dispassionate look at the rationale of rules of origin will demonstrate that in the current state of affairs, negotiations do not take into account the development needs of Central Africa and hence draw a veil over this crucial component of the EPA. Our overview of what is at stake for agriculture and development amply demonstrates this.

Agriculture is one of the most complex multilateral negotiating areas within the World Trade Organisation. This complexity is due, firstly, to the specific role played by this sector, and, secondly, to the refusal of the richer countries to give up some of their policy space and reduce the distortions they have introduced in the trade of agricultural products. The current world food crisis demonstrates that the overall political, economic and social stability of a country depends on its ability to provide enough food for its population and hence to attain food security.

The work of the Citizens' Association for the Defence of Collective Interests (ACDIC) on EPAs has shown that ensuring food security involves (i) providing support for the agricultural sector; (ii) controlling the liberalisation of the market in agricultural products; (iii) ensuring proper management of the resources allocated to the agricultural sector; and (iv) promoting the consumption of local products. Focusing on these four points could help make the EPA a tool for development in so far as market access depends on the production, transformation and marketing of agricultural products. EU-CEMAC trade statistics (including Sao Tomé and Principe and the Democratic Republic of Congo) show that agricultural products only make up a small share of the region's exports to the EU[2] (see table).

Subsidising agriculture in the South

Support for the agricultural sector should be the preferred means of improving the market position of ACP countries so that they can benefit from the access to markets provided by the EPA. Agricultural support includes production subsidies, the financing of research and training programmes, the organisation and financing of management training for producers and the improvement of basic infrastructure to facilitate market access, etc. In the Central African negotiations these concerns are high on the agenda to facilitate capacity building. The problem is that the EU does not want to commit to providing the necessary support.

As far as Central Africa is concerned, appropriate policies should be put in place with corresponding budgets to match. The EU, for its part, should commit to making a contribution to financing these activities. A binding provision to this effect should be inserted into the legal text of the full regional agreement in order to enforce this. Moreover, as a precaution, Central African countries should introduce a clause which makes the dismantling of tariff barriers conditional on fulfilling commitments in the area of capacity building and development.

The protection of the Cameroonian poultry-raising industry against unfair competition from imports of frozen chicken pieces is a concrete example of this. While prices of all basic commodities are soaring, the market price of chicken remains stable. This is the consequence of the expansion of local production, the state authorities' support of local production and the fact that prices can be controlled and limited.

Controlling the liberalisation of agricultural markets

"We need dynamic farm markets that encourage farmers to improve productivity and grow so as to feed a growing world market. This means progressive liberalisation of agricultural markets, which have been closed for decades while the rest of the global economy has opened up. Not opened overnight, but prudently, in a way that reflects a country's capacity and respects the impact of reform on farmers." To a large extent, ACDIC supports the principle set out by Peter Mandelson, the EU Commissioner for Trade, in a recent interview with the International Herald Tribune.[3]

This principle should be incorporated into the EPAs with specific provisions. In particular: (i) adding agricultural items to the list of excluded products in order to protect the fragile incomes of rural farmers and fledgling industries; (ii) strengthening quality control capacities for products of European origin sold in Central African markets, through building laboratories, setting up a system of quality control and certification of products, and training health and phytosanitary personnel; and (iii) setting up mechanisms to ensure that there is fair competition between European agricultural products, which benefit from all kinds of subsidies and support, and African products, which do not enjoy such advantages. These protective measures should be sufficiently robust to correct distortions and offset the negative consequences of the loss of customs revenue.

Measures to increase the effectiveness of the single regional market should also be incorporated. This involves building a regional communications infrastructure to facilitate the circulation of goods between the countries of the region. In turn, this would reinforce intra-regional trade which is more accessible and beneficial to local operators.

Escalating pressures

The signing of a full and final EPA assumes that the legitimate interests of both parties have been taken into account. However, political decision-makers in Central Africa have been pressured into signing this agreement before major differences have been resolved, namely over how the partnership will be financed, the rate and time-scale of trade liberalisation, the inclusion of the Most Favoured Nation clause and rules of origin in the text of the Agreement.

The problem of financing the partnership, or the development dimension, is all the more crucial given that implementing the EPA will involve structural adjustments to the economies of the Central African States and consequent loss of tax and customs revenues.[4] Logically, there is a need to reinforce basic infrastructures (to reduce the cost of production) and to improve the efficiency of internal tax collection instruments. Given these constraints, the Europeans argue that the costs of implementing the EPA should be met by the European Development Fund (EDF) through the National and Regional Indicative Programmes (NIPs and RIPs). Now, it is not difficult to see that the EDF is not the appropriate channel for financing the fallout from the EPA. The type of partnership being negotiated has the peculiar feature of granting reciprocal trade preferences which would entail major adjustment costs for Central Africa. Since these costs derive from the dismantling of trade barriers under the EPA, the modalities of financing such costs should be negotiated under the same heading as market access issues. Or, better still, once the amount of the RIP has been unilaterally fixed by the European Commission and has no link to the costs of implementing the EPA, some proportionality should be established between the losses incurred and the amount allocated by the EU.

Following this line of thought, it should be borne in mind that Central Africa's dismantling of tariff barriers will make small and medium sized enterprises vulnerable, as they will face increased competition from products imported from Europe. The closing down of businesses and the knock-on social problems call for reinforcement of basic infrastructures and improvement in competitiveness. If indeed the EPA is a new partnership involving reciprocal opening-up and fair compensation for any ensuing losses, there is a need to make the reinforcement of basic infrastructure one of the priority areas for funding earmarked under the EPA Regional Fund and to ensure that the dismantling of tariff barriers will actually lead to lower market prices of goods for consumers.

We live in hope, as the saying goes, that the political representatives of Central Africa will remember that on July 16 2007 at Yaoundé, the Joint Central African Ministerial Committee and the European Commissioners for Trade and Development agreed, in relation to the sale of goods, that:

"Central Africa will provide an initial list in September of products to be removed from tariff protection covering 60% of imports originating in the European Community, as well as the list of remaining products. In relation to this list of remaining products, and with a view to establishing the coverage ratios and the timescale for the dismantling of tariff barriers contained in the Central African States's final offer, the Ministerial Committee is agreed on developing a plan for tariff liberalisation which focuses on development, and therefore sets out the following targets: (i) for extremely sensitive products on this list, and for any future sensitive products put forward as candidates for liberalisation over the next 25 years, the European Commission and Central Africa undertake to study each tariff line on this list; (ii) the exact percentage of tariff dismantling will be determined after an examination of each tariff line, in a way which encourages development, improvements in competitiveness and diversification of sectors of production, economic growth, the fight against poverty, food security, consumer wellbeing and employment in Central Africa."

Table: Main export products from CEMAC + Sao Tomé and Principe + Democratic Republic of Congo in 2006 (Source: Comext 2007).

Code HS4	Products	Value (€1000)	% of total exports	Quantities (tonnes)
2709	Crude oil or bituminous minerals	3,847,177	57.6%	1,028,340
4407	Sawn wood	475,257	7.1%	628,815
4403	Wood in the rough, including stripped of bark	322,112	4.8%	895,720
7102	Diamonds, including polished	309,090	4.6%	3
1801	Cocoa beans, whole or broken	192,307	2.9%	147,367
4408	Veneer sheets and sheets for plywood	156,704	2.3%	133,664
0803	Bananas, including plantains, fresh or dried	151,377	2.3%	222,319
7601	Raw aluminium	123,626	1.9%	60,002
8105	Cobalt mattes and other cobalt by-products	107,569	1.6%	27,164
2905	Acyclic alcohols and their halogenated derivatives	105,560	1.6%	430,135
4001	Natural rubber	93,809	1.4%	65,066
0901	Coffee	71,308	1.1%	51,103
	Unrefined copper; copper anodes for refining	71,207	1.1%	14,319
	Total exports CEMAC (plus ST&P and the DRC) to the EU	**6,676,659**	**100.0%**	

As examples of persisting differences, we may cite the interpretation of GATT article XXIV relating to 'substantially all trade',[5] rate of liberalisation,[6] transition periods,[7] liberalisation of at least 50% of the service sector and rules of origin. Actual examples of the latter show the scale of the problems that may arise if the negotiators do not keep their eyes on the ball.

The setbacks

According to the Cotonou Agreement, fish was considered to be an originating product if caught by ships on which 50% of the crew came from EU member states or from ACP/Overseas countries and territories.[8] This guaranteed employment opportunities for citizens of ACP countries particularly on European Union tuna fishing vessels which would unload their catch in ACP countries to be processed before export to European markets. If the European Union had its way, European boat owners would be able to take on board a crew not originating in Central Africa but still benefit from the rules of origin - as if milk from a French cow which was imported and raised in Central Africa, subsequently produced French milk! The European Union wants to go even further and force Central Africa to accept that the opportunity to rent or charter boats must be first refused by European fishing interests.[9]

The EU's unilateral demands also involve the textile sector. In a departure from the Cotonou Agreement, which stipulated that articles made from imported fabric could not be considered as having originating status, the EU now demands that in certain cases:

- The kind of yarn to be used in manufacture should no longer be specified[10]
- The reference to change in tariff heading should be removed and the 50% price ex-works should be the only condition set[11]
- Knitted and crocheted articles of apparel and clothing accessories (chap. 61) should be made directly from fabric rather than yarn, and articles of apparel and clothing accessories, other than knitted or crocheted (with the exception of handkerchiefs, pouches, shawls, scarves, mantillas, etc.) should have originating status if they are made from fabric.

We should therefore realise that, in concrete terms, the ACP countries will no longer form a single territory and hence a so-called 'cumulation' zone. In fact, regional agreements turn the countries within the regional bloc into a single territory. 'Cumulation' will no longer be possible unless the countries form part of the same zone, that is, the same trading area, unless the partners have the same rules of origin and are part of a legal framework which allows 'cumulation' and administrative cooperation. From this point of view, Cameroon will not be able to 'cumulate' with products originating in Nigeria until Central Africa and West Africa have the same rules of origin and engage in cooperation at the level of customs administration.

In a word, if Central African political leaders sign up to the rules of origin that the EU wants to impose on Central Africa, the industrialisation that is said to be necessary for growth and the fight against poverty will remain a distant dream. When we see the difficulties faced by Mauritius in using Kenyan inputs in its exports to Europe, we can imagine the blow our region would suffer when the EU, for its part, has already managed to create safeguard mechanisms.

In fact, it is unreasonable to force Central Africa to open markets completely to products where manufacturers close their own markets by recourse to a range of mechanisms and subterfuges. If globalisation is to become reality, it must take into account that in these circumstances the region is in a better position to know what is right for its own countries and hence for its sub-regions.

1 Jacob Kotcho is the Permanent Secretary of the Citizens' Association for the Defence of Collective Interests (ACDIC) and Martin Abega is the Executive Secretary of the Cameroon Joint Employers' Group (GICAM). See www.acdic.net and www.legicam.org

2 The four major agricultural exports from the Central African region only make up 7.6% of total exports to the EU estimated at a value of €6,676,659, while crude oil and minerals represent 57.6% (source: comtext 2007 EU declarations).

3 To read the full article see: "Opinion: Food insecurity", Peter Mandelson, The International Herald Tribune, May 22 2008, www.iht.com

4 Studies are to be carried out on how to calculate the matrix for net fiscal impact on the basis of the general calculable equilibrium model (for the EU) and the partial equilibrium model (for Central Africa).

5 The basis for calculating the 'substantially all trade' to be liberalised is not consensual: Central Africa understands this trade to consist of both imports and exports, whereas other WTO members believe that such trade concerns only imports.

6 70/30 for Central Africa and 80/20 for the European Union.

7 25 years for Central Africa and 17 years for the European Union.

8 Article 3. (d) title 2.

9 We may well think that this is based on the lack of national capital in Central Africa for the direct acquisition of ships from the factory.

10 This specifically concerns coverings, bed linen, curtains, etc; other furnishing articles made from felt and non-woven fabrics, fabrics made from non-natural, rather than natural, fibers.

11 Embroidery in garment form, in strips or in patterns.

The Growth Report: the momentum of Africa

Paolo Ghisu[1]

Developing countries can achieve fast, sustained, equitable growth if they engage and integrate with the global economy and have committed leaders. This is the key message of the recently published 'Growth Report', a study put together by a group of policy makers and economists, mostly from developing countries.[2] The group was commissioned to investigate what is required for sustained and inclusive growth in order to identify practical implications for policy makers.

"At a time when industrialised countries are experiencing a sharp slowdown in growth, many of the world's poorest countries have found growth to be elusive. It is our belief, however, that sustained, high growth can be explained and repeated," said the Chair of the Commission, Michael Spence.

According to the report, fast sustained growth for developing countries is attainable with the right mix of "policy ingredients." Commercial activity alone will not produce the kind of growth that will lift developing countries out of poverty. Government intervention in the economy and some degree of protectionism will also be needed.

The experience of high-growth economies

The report looks at the 13 economies that have grown by at least 7% a year for 25 years or longer since 1950.[3] Despite much heterogeneity, these countries have some common characteristics that should help policy makers formulate a growth strategy: each exploited the opportunities presented by the world economy, upheld high rates of saving and investment, maintained macroeconomic stability, allowed markets to allocate resources and had governments that were competent, dedicated and reliable.

Integration with the global economy is a key requirement for growth. This has allowed developing countries to import ideas, technologies and knowhow from the rest of the world, especially through foreign direct investment and education.

The challenge for Africa

According to the report, Sub-Saharan Africa is enjoying its fastest growth for decades: 6% a year since the mid-1990s. New leaders have created more accountable governments, better economic policies and higher prices for commodity exports. The challenge for the region will be to turn these favourable circumstances into lasting progress, based on rapid job growth and a more diverse economy. Ideally, it would "use the fruits of the commodities boom to reduce the region's dependency on those commodities." This will require strategies for global economic integration and policies to identify those products that will help Africa create comparative advantages, increasing productivity and stimulating growth. It will also be very important to increase both domestic and foreign investment, mainly in infrastructure.

But the report also calls on richer countries to play a part in encouraging growth, offering time-bound trade preferences to help Africa overcome being "late starters." Advanced economies must help development by ending their current focus on energy subsidies, biofuels and protectionist policies.

It will take time to create the conditions to sustain growth. But African leaders should take advantage of the favourable momentum and find the right path. "Growth is not an end in itself. It is instead a means to several ends that matter profoundly to individuals and societies. Growth is, above all, the surest way to free a society from poverty."

1 Paolo Ghisu is a member of the EPA and Regionalism team with ICTSD.

2 See the Commission on Growth and Development's report: The Growth Report: Strategies for Sustained Growth and Inclusive Development, May 21 2008, www.growthcommission.org

3 The 13 countries concerned are: Botswana, Brazil, China, Hong Kong, Indonesia, Japan, the Republic of Korea, Malaysia, Malta, Oman, Singapore, Taiwan and Thailand.

The quest for answers: food and energy security

Luisa Rodriguez[1]

The world is facing its worst food crisis since the 1970s: rapidly rising prices have triggered riots and threatened hunger in dozens of countries. The current situation is unprecedented on account of the number of commodities affected by price hikes and the simultaneous record costs for energy commodities.

The extent of the crisis recently prompted the UN secretary general, Ban Ki-moon, to issue a warning on the deepening global food crisis, which he said could have grave implications for international security, economic growth and social progress. At the recent United Nations Conference on Trade and Development held in Accra, Ghana, Ban Ki-Moon highlighted that the surge in prices of basic foodstuffs could cancel out progress made towards meeting the UN's Millennium Development Goal of halving world poverty by 2015.

It is important to look at the underlying causes of the current crisis and to explore the links between rising food prices, energy security and climate change. This can help understand the policy dilemmas that governments and developing countries are confronting and highlight possible multilateral responses.[2]

Converging views on the food security and energy debate

In recent weeks and months there has been much public discussion of the key issues. There seems to be some degree of consensus in the debate.

First of all, rising global food and energy prices have had severe implications for international security, economic growth and social progress. Rising food and energy prices pose challenges to developing countries from different policy angles, such as hunger and access to food, social and economic development, energy use and climate change.

A complex combination of supply and demand factors is driving food prices up worldwide. There is agreement on which factors are affecting the supply side: decreased production capacity in developing countries, weather and natural disasters affecting crop yields. On the demand side, however, factors such as increased requirements for food commodities for biofuel production and greater demands from emerging countries (such as India and China) remain controversial (see the second half of this article).

On the supply side, some of the main contributing factors to the present situation include the current lack of agricultural production capacity in developing countries, inappropriate support policies and the decline of investment in the agricultural sector. These factors were linked to the deregulation of agricultural markets due to policies recommended as part of Structural Adjustment Programmes and to phenomena such as trade dumping, import surges and import dependence, which have grown in frequency in developing countries over the last 10 years.

Decreasing stocks, financial speculation, rising prices of raw materials, distribution logistics and costs, trade distortions and protectionist market measures are also factors impacting the current crisis. In contrast with previous situations of high food prices, there is a stronger causal link between food prices and energy prices.

The impact of the crisis is different between countries and actors. In this sense, agricultural sectors in developed countries are equipped with advanced technologies, large financial resources and support systems to manage quick shifts in conditions. However, the agricultural sector in developing countries is characterised by more traditional farming mechanisms and a lack of institutional and financial means to deal effectively with the volatility of markets. As a result, there is a notable difference in productivity and scale.

Among developing countries, the crisis poses greater policy challenges for those such as Net Food Importing Developing Countries (NFIDCs) and particularly least developed countries (LDCs), who are dual importers of food and energy and have limited available resources. Within any one country, small scale farmers, poor farmers and rural populations were identified as being more vulnerable in the current context than urban consumers.

Depending on the impact and the challenges confronted, the policy solutions being implemented are different.

In Senegal, for example, there are many challenges confronting NFIDCs and LDCs. Policies being implemented, in the short term, aim to reduce the effect of oil and food price increases on consumers and vulnerable sectors, for instance through price controls, suspension of tariffs, import taxes and food subsidies. In the long term, the country has adopted the objective of developing production in certain sectors.

Thailand, on the other hand, is a middle-income exporting country. Policy priorities in the current context include increasing efficiency in production, enhancing market development, promoting the increase of the farming population and increasing income for small farmers. The major goal has been to achieve relative stability for producers and consumers.

Divergent views on the food security and energy debate

Many aspects of the current crisis raise considerably conflicting views. Some of the key arguments include:

Use of agricultural commodities for biofuel production as a contributing factor to the current crisis

Many in Brazil present biofuel production as an opportunity for developing countries. Here, it is seen as having the environmental benefits of substituting fossil fuel, the possibility of using a Southern technology as leverage for development strategies and an effective policy for achieving higher standards of living in developing countries - particularly in rural areas. According to this perspective, the effect of biofuel policies on food security could be disregarded, given the fact that, in Brazil's case, biofuel was being produced from other products.

According to other countries, however, biofuel production has had a direct impact on reducing availability and access to food. Many are concerned with respect to the uncompetitiveness of biofuel production and the increased trend for subsidising it in the North.

Increased demand from China and India as an important factor fuelling high prices

One widely held opinion is that the increased demand for food and energy from emerging economies has played a key role in the current situation. Others, however, point out that its importance has been over exaggerated. They claim that prices of fertilisers, transport costs and increased fuel costs are more significant in the current crisis and point out that US consumption of chicken and beef exceeds India's by multiples of several hundred.[3]

Need to resort to a "Green Revolution" to increase productivity in the South

Some believe that the solution to the current crisis lies in increased productivity and that another "Green Revolution" is the way to achieve it.[4] Others question this course of action claiming the results of past experiences in Asia and Africa fell short in terms of overcoming hunger and delivering equity.

Use of export bans and export restrictions

Some argue that export bans and restrictions exacerbate price increases and should be sidestepped in the current context. Others believe that it is legitimate to ensure internal availability of food supply before helping other countries.[5]

Trade liberalisation as a solution to the food crisis

It has been suggested that the Doha Round could contribute to solving the food crisis because its negotiating mandate includes the elimination of export subsidies, the reduction of trade distorting subsidies, the reduction of tariffs (which could increase international trade at the global level) and the implementation of Aid for Trade programmes (which should help developing countries to integrate in international markets).

Another view suggests that, in the current WTO negotiating scenario, the successful elimination of trade distorting practices is not definite. Moreover, existing WTO instruments designed to cope with situations such as the current crisis (i.e. the Marrakech decision in favour of NFIDCs and LDCs) have not yielded positive results. They claim that increased liberalisation in a context where countries lack means, policies and institutions to support agriculture, could only lead to growing import dependence and poverty in rural areas. This view advocates a scenario at the WTO that incorporates instruments such as safeguard measures and special products.

A handful of recommendations

The current crisis provides an opportunity to put food issues and security back on the global agenda, considering them in a broader development framework and linking them to variables such as the political angle of food trade, energy security and climate change.

The current crisis could be characterised as a "wake up call," which requires re-thinking past agricultural policies in developing countries and strengthening the role of the state in promoting productivity, long-term sustainability of agricultural production and protecting some of the most vulnerable producers and consumers.

Solving the crisis will require a dual approach: short-term measures to provide assistance to countries through emergency aid, additional finance, inputs for production increased agricultural productivity, and longer-term solutions, which include increasing the capacity of developing countries to cope with market distortions, climate change and reduced productivity.

The following recommendations could also help to solve the crisis:

- Supporting agricultural production and trade in the short-term, through an increase of food assistance and safety-net programmes.
- Sustaining efforts to build production capacity in the medium and long-term.
- Mobilising and increasing investment in developing countries, particularly for agricultural raw materials (i.e. seeds and fertilisers) and infrastructure (transport and communication), to find solutions to post-harvest losses and reduce livestock diseases.
- Increasing production and security for smallholders and guaranteeing remunerative, stable prices for farmers.
- Empowering local communities to examine alternative policy solutions through multidisciplinary analysis.
- Engaging in South-South cooperation. It might be interesting to look at Asian initiatives, particularly regarding regional food stocks that are not traded but kept for emergency purposes.
- Reducing dependence on imports because of the link between food production, livelihood security and the characteristics of labour markets in the agricultural sector of developing countries.
- Considering trade liberalisation as a part of the solution but not as the sole solution to the crisis.

The Food and Agriculture Organisation of the UN estimates that the funds required to handle the crisis are US $1.7 billion. In this context, the UN Task Force on the Global Food Crisis can play a key role in mobilising these funds and in coordinating a strategy to respond to problems at the global level.

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1 Luisa Rodriguez is Programme Officer for Agriculture at the South Centre and has been working on trade and development since 2000.

2 This article was written following the South Centre Dialogue on Food Security and Energy Security, which was held in Geneva on June 17 2008. The seminar, organised with the help of the Permanent Mission of Indonesia in Geneva, brought together a wide range of actors with relevant expertise on food and energy matters. For further information on the dialogue see: www.southcentre.org

3 See: Indian outrage brings home Americans' role in rising food prices, Indo Asian News Service, May 21 2008. www.ians.in

4 The term "Green Revolution" was first used in 1968 by former USAID Director William Gaud, who noted the spread of the new agricultural technologies "These and other developments in the field of agriculture contain the makings of a new revolution. It is not a violent Red Revolution like that of the Soviets, nor is it a White Revolution like that of the Shah of Iran. I call it the Green Revolution."

5 See: India's export ban on food grains : A measure to ensure availability of food for its poorest citizens, Adil Ali, The Oakland Institute. www.oaklandinstitute.org/?q=node/view/482

WTO Roundup

Victoria Hanson, ICTSD

Doha Round nears moment of truth, as Lamy calls make-or-break ministerial

WTO Director General Pascal Lamy has called for a crunch meeting of ministers in Geneva on July 21, in a bid to salvage a deal in the troubled Doha Round of trade talks. Speaking to chief negotiators on June 27, Lamy said that his bold plan to wrap up so-called 'modalities' before the traditional summer break was "not without risks." But he added: "my sense today is that the chances of getting there are today over 50%. This fits with my own appreciation that if there are no modalities in July, the chances of concluding the Round this year are much less than 50%."[1]

Lamy urged delegations to look for convergence on both agriculture and non-agricultural market access (NAMA) ahead of the ministerial, to enable the chairs of each negotiating committee to produce new draft texts that would leave fewer issues to debate during the ministerial. These texts, which will reflect progress on technical details, are expected to be published on July 10.

New draft farm text to simplify options

It is hoped that the new draft text to be circulated by the chair of the agriculture talks, Crawford Falconer, will simplify options and act as a blueprint for ministers ahead of the ministerial. The draft accord will update previous versions released in February and May but is not expected to contain major changes in the most controversial core areas: the size of cuts in agricultural tariffs and the ceilings to be placed on domestic support.

Falconer told WTO Members on July 7 that his informal consultations (dubbed 'walks in the woods') had been constructive. He said the new text will set out clearer options on the 'special' products that developing countries will be able to shield from tariff cuts. It will also streamline reductions on in-quota tariffs, tariff 'caps' on unusually high tariffs and on the special safeguard mechanism (SSM) that will allow developing countries to raise tariffs temporarily in the event of import surges or price depressions.

Many NAMA issues unresolved

The chair of the industrial goods talks, Don Stephenson, will release a new NAMA text at the same time as Falconer. However, Stephenson told WTO members on July 8 that he had achieved "some success" in his recent consultations but regretted that "we have too many issues still unresolved."[2] While some of the differences are fundamental, such as the size of overall tariff cuts, Stephenson said some gaps were "absurdly small" and that it was "insane" to leave these for ministers to deal with.

Differences in the NAMA discussions have proved especially stubborn. Stephenson suspended talks in early June, after delegates failed to make sufficient progress. Since then, however, some gaps have narrowed, albeit modestly. Stephenson reported that delegates have moved forward on a number of issues, including implementation periods, the structure and flexibilities of formula cuts, unbound tariff levels, non-tariff barriers and special treatment for South Africa. One of the most contentious remaining issues relates to the number of tariff lines and share of manufacturing imports that developing countries will be allowed to shelter, either partially or wholly, from standard tariff reduction obligations.[3]

Internal EU squabbles

European sentiments over the Doha Round have been running particularly high in recent weeks, with a series of scathing public outbursts from leaders. At the inauguration of France's presidency of the EU Council on July 1, President Nicolas Sarkozy confirmed his earlier threats to scupper a Doha deal, claiming it would mean a 20% decline in EU farm production. "That would be 100,000 jobs lost, I won't let it happen," Sarkozy had told a French television channel.[4] France, along with a host of other EU member states, is critical of EU Trade Commissioner Peter Mandelson, blaming him for 'selling out' EU agriculture in the interests of a deal.

The Commission quickly hit back, with Mandelson's spokesman arguing that Sarkozy's figures were based on what would happen if Europe gave in to demands from developing countries. "He is basing his figures on false assumptions," Mandelson's spokesman Peter Power told journalists in Brussels on July 2. "Sarkozy's figures would only be valid if the EU had agreed to the full demands of the large developing (G20) countries," he said, adding: "we have not agreed, we will never agree to the full demands of the G20." EU trade ministers will now meet during a special pre-WTO General Affairs Council in Brussels on July 18. This will make sure everyone "is singing from the same hymn sheet come July 21," one EU official told TNI.

G8 leaders urge action

EU leaders put on a show of unity during a G8 summit in Japan on July 7-9, giving strong political backing to strike a Doha deal.[5] EU Commission President José Manuel Barroso told leaders that failure in Geneva in July would undermine the global fight against climate change and other collective challenges. "The failure of Doha would be a political failure of our capacity to conduct in the international system," he said.[6] UK Prime Minister, Gordon Brown, warned the talks were at "a minute to midnight" and issued a joint statement with Brazil's president, Luiz Inácio Lula de Silva, stressing the need to boost the flagging global economy by opening markets.[7] "President Sarkozy was clear that he wanted to see a breakthrough in the talks," Brown claimed.[8]

Failure could spell the end

In private, WTO delegates are voicing doubts that the July ministerial will succeed. Without a breakthrough before the traditional summer holidays in August, many fear the Doha Round will collapse. Not only is the US heading towards presidential elections and a change of administration, India will hold elections in 2009 and a new European Commission team will take office.

1. To read Lamy's full speech, see: Lamy urges "maximum effort" for July meeting of ministers, trade negotiations committee, June 27 2008, www.wto.org
2. See: WTO members still apart on industrial goods trade, Jonathon Lynn, Reuters, July 8 2008.
3. For full details on this topic and the question of the 'anti-concentration' clause, see: Bridges Weekly Trade News Digest, Volume.12, Number 25, July 9 2008. www.ictsd.org/weekly
4. See: Sarkozy-Mandelson tensions flare as WTO talks loom, Agence France-Presse, July 2 2008.
5. G8 countries are: US, Japan, Germany, Italy, Canada, UK, France and Russia.
6. See: President Barroso's press conference at the G8 summit in Toyako, Hokkaido, Japan, July 8 2008, www.ec.europa.eu
7. See: G8: Gordon Brown expects world trade deal to save British families £200 a year, The Telegraph, July 9 2008, www.telegraph.co.uk
8. See: G8 backs 'make-or-break' global trade deal to ease flagging economies, The Guardian, July 8 2008.

EPA Negotiations Update

Melissa Julian, Nicolas Mombrial, Corinna Braun-Munzinger, ECDPM

ACP-EU Council adopts EPA resolution

The ACP-EU Council of Ministers adopted a joint resolution on Economic Partnership Agreements during its meeting on June 12-13 in Addis Ababa.[1] The text echoes the EU External Relations Council conclusions of May 27, by calling for greater flexibility in the move from interim agreements to regional EPAs.[2]

The ACP reiterated previous calls by African Union trade ministers to review ten articles in the interim agreements, given the haste to complete EPA negotiations at the end of 2007. The European Commission said it would try to accommodate changes in the push towards full agreements, but stressed that it could not guarantee all ACP demands. ACP governments fear presenting imperfect interim deals to parliaments for ratification on the grounds that they *may* be improved *if* a full agreement is negotiated. Some members of the European Parliament believe they should not approve EPAs until ACP Parliaments have done so.

Several ACP countries argued that a full EPA covers an entire region, but does not necessarily have a wide thematic scope, i.e. may exclude services and trade related issues. The European Commission claims that the fuller the EPA, the better the development potential. It stresses the importance of ACP ownership of EPAs to ensure that governments carry out the necessary reforms to implement the agreements. Both sides stressed the need to build regional markets and agreed to discuss regional integration and its potential benefits, rather than focussing on compliance with WTO rules. Timelines for signature of interim EPAs have slipped due to EU requirements to translate the texts into 23 languages. Signature of the interim agreements is now only expected in the autumn or even early next year.

The 10th EDF finally enters into force

The 10th European Development Fund (EDF) entered into force on July 1, after six months of delay. EU Development Commissioner Louis Michel told the ACP-EU Council of ministers that all EU member states and the majority of ACP countries had ratified the financing instrument, appealing to those who had not yet signed to do so within 12 months in order for them to access the funds. The European Commission has clarified that the bulk of support (€1.3 billion) is for EPAs and economic and trade integration, while 40% will be general budget support. Discussion continues on regional strategy papers, which should be concluded in October. There is still no firm commitment to development cooperation finance beyond the EDF. However, EPA texts state that both sides have an obligation to give priority to EPA implementation. This is the first time bilateral support has been promised in an EU agreement and is an obligation of intent for member states to provide this support.

African Union calls for unity to tackle food crisis

Africa must unite to reduce the impact of rising food prices that have hit its citizens harder than the rest of the world, African Union (AU) Commission Chairman Jean Ping said during the African Union Summit in Sharm El Sheikh from June 24-July 1.[3] "This sharp increase [in basic food prices] has had a particularly negative effort on African countries," Ping said, claiming it was crucial for African countries to negotiate with the West with one voice on the food crisis, as well as on soaring energy costs. Ministers also adopted a statement on EPAs.[4]

Optimism reigns ahead of Central African talks

There is optimism in Central Africa ahead of its EPA negotiations with the European Commission in July, despite the original calendar slipping. Leaders instructed CEMAC to pursue negotiations to reach a comprehensive EPA during the CEMAC Summit in Yaoundé on 24-25 June. Member states were also invited to send representatives to CEMAC headquarters in a bid to create national structures to deal with regional integration. The President of the African Development Bank said a regional economic programme will be drafted before December 3 and should be adopted at an extraordinary heads of states summit around the same date.

Central Africa continues to work on its regional goods and services market access offer to the EU, ahead of technical and chief negotiator sessions on July 7-18. Central Africa maintains that there should be 70% trade coverage with 30% exclusions and a 25 year transition period. However, it is willing to negotiate this if effective compensation or accompanying measures are put in place to cover fiscal losses, reinforce capacity and finance adjustment costs. The European Commission is calling for 80% coverage with 20% exclusions and a 15 year transition period, although it has indicated willingness to negotiate once the offers are on the table.

One suggestion from the European Commission was to start work on the basis of the three schedules discussed last year (Cameroon and Gabon's liberalisation schedules and the one tabled by Central Africa in October 2007) and offered to assist the region in calculations. But Central Africa refused this approach, stating that schedules presented in October 2007 were hypothetical and - along with Cameroon's interim agreement - failed to take individual country concerns into account.

Central Africa has not yet managed to present a services offer as national lists have not been finalised, but did present an ambitious request for an improvement of the EU's original proposal. The EU reportedly rebuffed the request, insisting that it expects an offer from Central Africa of at least 50% liberalisation before it will offer more.

Central Africa has noted that it does not want to include the European Commission's proposal for an MFN clause in the EPA and has flagged concerns about including a safeguard clause.

Development issues were the focus of a Regional Preparatory Task Force meeting in June. Central Africa requested that the joint orientation document on reinforcing capacities be translated into precisely funded programmes. Studies are being conducted to elaborate a matrix that will calculate the net fiscal impact of the EPA with a view to agreeing a common methodology and a matrix for financing cooperation. Following a European Commission audit of the Central African Regional Development Bank, it was decided that an interval of around one year is necessary to sufficiently increase the capacity of the bank to manage the regional EPA Fund.

West Africa advances towards regional EPA

Ministers from West Africa's monetary union (UEMOA) examined the region's financial situation and invited member states to accelerate harmonisation of national economies and fiscal regimes during a meeting on June 26. They also held a ministerial seminar to define a strategic framework for relaunching agricultural production. Meanwhile, there was a UEMOA workshop in Dakar to validate a report on the effect of harmonisation of import taxes on society and the impact of EPAs on the fiscal receipts of UEMOA countries.[5] The report suggests the introduction of a maximum import tax of around 30% with capacity building to ensure fiscal potential is reached. Experts said more information was necessary to draw conclusions on EPAs.

Earlier in the month, negotiations on an initial joint text took place between European Commission and West African officials in Abuja on June 17-20. The text, which was based on a draft from West Africa, still contained brackets. However, both sides agreed on the objectives of the EPA and on the trade in goods section. Disagreement remains on the elimination of export taxes; the reform of ECOWAS and UEMOA levies to make them WTO compatible; the MFN clause; the elimination of EU agricultural subsidies; the duration of the transition period for establishing free movement of goods in West Africa; transit; and the definition of custom duties.[6] West African sources indicate that further outstanding issues relate to the standstill clause and the non-execution clause.

There are reports that the region still needs to agree to the methodology to be used for aggregating national lists into a regional one.

Progress on the market access offer is linked to the finalisation of the ECOWAS common external tariff (CET). A preliminary report commissioned by ECOWAS was published in the second half of June, which addressed the creation of a fifth tariff band as well as the reclassification of certain products. ECOWAS heads of state subsequently stressed that the establishment of a customs union was a prerequisite for a regional EPA with the EU.[7]

Senegalese authorities and private sector representatives have indicated a possible u-turn from their December 2007 position to not negotiate EPAs. The EU's Director General of Trade, Peter Thompson, told a civil society meeting in Brussels in June that these two groups would be interested in negotiating an EPA, including on services. He also indicated that there was a change in mood and preparation on EPAs in Nigeria.

Translation problems have delayed the Côte d'Ivoire signature of the interim agreement with the EU, which will no longer take place on June 30 as planned.[8]

SADC-EU prepare for July round of negotiations

SADC and European Commission negotiators hammered out trade in services and investment questions, during a meeting in Gaborone on June 30-July 4. They also discussed the SACU market access offer and the list of concerns presented by Angola, Namibia and South Africa (ANSA) with the interim EPA, which they want addressed in the final EPA. As previously agreed, trade related issues and the ANSA concerns will now be discussed in parallel processes. The region aims to sign the interim EPA by July 1 (delayed for translation reasons) and a full EPA by the end of the year. Peter Thompson confirmed this deadline to civil society in Brussels on July 1. He said that the full EPA would include chapters on services and investment, incorporating the EU services liberalisation offer. SADC countries (minus ANSA) would include one services sector liberalisation commitment per member country, as well as a standstill clause to negotiate the rest of the SADC schedule within three years, he said.

SACU tabled its goods market access offer to the EU on June 27 and awaits an initial reaction.

ESA tackles outstanding EPA problems

Eastern and Southern Africa identified and discussed the key problematic areas in the interim EPA that it wishes to re-open in the move towards a full agreement, during a technical officials meeting in Brussels on June 23-25.[9] Constructive discussions took place on agriculture, particularly for sanitary and phytosantiary measures, while provisions for technical barriers to trade were almost finalised.

Discussions on development focused on the need to link ESA's development strategy with the 10th EDF Regional Strategy Paper. Both sides agreed to hire a consultant to consider how to establish development benchmarks. ESA also agreed to submit a revised, costed, development matrix which identifies the region's top priorities.

ESA and EU services texts were put on the negotiating table: ESA's GATS based text was compared to the EU's Caribbean EPA GATS – plus text (i.e. including investment). ESA called for investment in non-service sectors to be dealt with in the trade related issues negotiating group. The two sides agreed to take a further look at rules and development cooperation in relation to investment.

There was similar debate based on joint texts with regard to intellectual property rights, competition policy and sustainable development. ESA called for negotiations to take place in an asymmetric and progressive way, with flexibility offered to different sectors and interest groups of ESA countries. Good progress was made by outlining objectives on a joint text acknowledging the importance of customs and trade facilitation. ESA and the EU agreed to step-up cooperation to ensure that the relevant legislation, procedures and administrative capacity was in place to promote trade facilitation.

ESA voiced objection to having provisions on good governance in the fiscal chapter of the full EPA. However, the European Commission replied that its inclusion was compulsory.

EAC common market talks deferred

The East Africa Commission region continued to prepare for the next round of EPA negotiations with the European Commission. These had been scheduled for early June, but will now only take place in September. The region plans to finalise its liberalisation schedule in early July.

WTO talks could delay Caribbean signature

The official signature of the Caribbean EPA could be postponed due to the WTO ministerial meeting which has been scheduled simultaneously. Peter Thompson told civil society in Brussels that signature, which was foreseen on July 23, might be postponed due to the ministerial in Brussels on July 21. EPAs will be discussed during a CARICOM Summit in Antigua-Barbuda on July 2-4. Sources indicate that signature will now take place for all countries (possibly not Guyana) in Barbados on July 30 or August 30.

Debate on the EPAs in the region continues, with prominent academics, eminent regional personalities, trade unions and the Guyana government calling for signature to be postponed unless the EU threatens to re-impose tariffs.[10] However, no private sector organisation has yet called for a delay. The Director General of the Caribbean Regional Negotiating Machinery maintains the agreement is imperative for the region.[11] The Prime Minister's cabinet of Barbados is set to consider its review of the EPA on July 10. Meanwhile, Jamaica's Prime Minister, Bruce Golding, has announced that his country will sign the EPA, but added that signing could be called off in the face of wide-scale opposition.[12] Trinidad and Tobago's trade minister, Lenny Saith, has also given the thumbs up to the EPA.[13]

Sources indicate that the main problem governments are flagging with the EPA relates to the terms of regional preferences the EU sought and secured for the Dominican Republic. It remains to be seen whether those concerned would be willing to put the region's credibility to the test by trying to re-open what they and the EU have already agreed. Many will have to weigh up the negative impacts of a delay in signature, particularly in terms of uncertainty for bananas and sugar. Haiti and the Bahamas still need to put forward their services liberalisation offers.

Pacific calls for focus on trade in goods

The lead spokesman for the Pacific ACP trade ministers, Hans Joachim Keil, wrote to EU Trade Commissioner Peter Mandelson in July, proposing to conclude EPAs by the end of the year. According to sources in the region, Keil suggested that both sides focus on finalising outstanding issues including trade in goods, dispute settlement, fisheries and development. He also advocated suspending negotiations on trade in services and inserting a rendez-vous clause in the EPA that would commit both parties to revisit services in the future. Problems have arisen after the European Commission was unable to agree to Pacific proposals, particularly with regard to the temporary movement of natural persons (so-called Mode 4). There is also disagreement on trade related rules, where the Pacific does not feel that the agreement proposed by the EU, which is based on the one agreed with the Caribbean, is in line with the developmental issues faced by the region. Any EPA institutions established between now and the end of the year, will take responsibility for a programme designed to deepen the Pacific-EU partnership. The Pacific now awaits a response to its letter from the Commission.

For more EPA news please visit: www.acp-eu-trade.org

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1 For further details see EU Council press release: ACP-EC Council of Ministers, Addis Ababa, June 13 2008 http://register.consilium.europa.eu/pdf/en/08/st10/st10822.en08.pdf

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Calendar and resources

ACP–EU EVENTS

JULY

3- 5	29th Meeting of the Conference of Heads of Government of the Caribbean Community, Antigua and Barbuda.
7 - 18	CEMAC-European Commission technical and senior official level negotiations, Brazzaville.
14 - 17	West African workshop to validate the regional report on sensitive products, Banjul.
18 - 19	ECOWAS-UEMOA coordination meeting (to prepare for the follow up ministerial Committee and technical meeting in Brussels), Banjul.
21- 22	West African experts meeting.
24	West African meeting of the EPA ministerial monitoring committee, Banjul.
21-25	Pacific Forum officials and ministers trade meeting, Cook Islands or Fiji.
22-23	Meeting of the European General Affairs and External Relations Council (GAERC), Brussels.
23	Signing of the CARIFORUM-EU EPA, Barbados (TBC, depending on WTO ministerial).
25	South Africa-EU Summit, Bordeaux, France.
28-31	Joint technical negotiation meeting West Africa-EU, Brussels.
29-30	ACP rules of origin meeting, Brussels.
31- 1	EPA Chief Negotiators meeting, Brussels (TBC).

AUGUST

No meetings during traditional summer holiday period.

SEPTEMBER

8-11	13th Session of the Joint ACP-EU Parliamentary Assembly, Brussels.
16-18	EU-EAC technical negotiations, Bujumbura.

WTO EVENTS

JULY

1	Council for Trade in Goods.
1-2	Committee on Technical Barriers to Trade.
14-18	Negotiating Group on Trade Facilitation Week.
14+16	WTO: Trade Policy Review Body, Singapore.
15	Committee on Trade and Development.
15	Round of Consultation on the Development Assistance Aspects of Cotton.
17-18	Committee on Regional Trade Agreements.
21	Mini-ministerial to push for a Doha deal on modalities.
23-25	Trade Policy Review Body, Barbados.
29-30	General Council.

AUGUST

29	Dispute Settlement Body.

SEPTEMBER

11-12	Jeune Genevois (WTO non-working days).
17-18	Committee on Agriculture.
17+19	Trade Policy Review Body, Barbados.
18-19	Committee on Regional Trade Agreements.
22	Symposium on Movement on Natural Persons (Mode 4).
23	Dispute Settlement Body.
30	EID AL-FITR (WTO non-working days).

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