

TRADE POLICY IMPLICATIONS OF ECONOMIC PARTNERSHIP AGREEMENTS (EPAs)  
BETWEEN THE EUROPEAN UNION (EU) AND NAMIBIA

A THESIS SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE  
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**Abstract**

Namibia, which forms part of the Southern African Development Community (SADC) group of former European colonies, is traditionally enjoying preferential trade market access to the European Union (EU). This means that goods from Namibia are facing lower tariffs and non-tariff barriers when entering the European market. This trade regime between the EU and Namibia was enshrined in successive agreements. As a result of the outcome of legal and other challenges - at the level of the World Trade Organisation (WTO), the latest one, the Cotonou Partnership Agreement (CPA) - there will be a fundamental shift in this trade relationship. This will provide Economic Partnership Agreement (EPAs) which will usher in reciprocity in trade between two parties. The EU has initialled the Interim Economic Partnership Agreements (IEPA) covering trade in goods with some members of SADC (Botswana, Lesotho, Swaziland and Mozambique) and is currently negotiating full EPAs which will cover trade in services. Therefore, Namibia decided not to sign the IEPA due to the inability of the negotiating partner (EU) to address the concerns it had raised upon initialling the IEPA text.

As the new agreement is currently in its negotiation phase, no results in terms of the development process can be measured yet. The research question and sub-questions will therefore be answered by analysing different aspects influencing the relationship which will mainly be done with an intensive qualitative literature study and the application of the international trade theory (dependency theory). The main presumption of the theory will be connected to the main findings of the literature

study. Depending on the ideological point of view, EPAs can be seen as a negative ploy by the dominant capitalist countries, here the EU.

In order to analyse the EPAs, the study will reflect arguments favouring the theory. The main research questions of the thesis are: Will EPAs help integrate Namibia into the global economy; and will Namibia have a sustainable economy that reduces poverty among its people? The theory was applied in this study, which concluded that the EPAs can be regarded as a negative development initiative for Namibia.

From a developmental perspective, it is not clear yet, whether the method adopted by the study will prove to be correct; but the disappointing results of the Lomé Convention and the short lifetime implementation of the Cotonou agreement had proven that the EU promoted a model of economic liberalisation to secure for itself continued market access across the African continent.

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This thesis offered me the opportunity to acquire an understanding of the myriad challenges a developing country like Namibia faces in the international environment and how different circumstances are compared to the more developed countries, here the European countries.

**Dedication**

To: *Hassan Dessande* I, *Hassan Dessande*, declare hereby that this study is a true reflection of my own research and that it has not been submitted for a degree in any other institution of higher education.

Mr Maliko Ruffin and his wife Mrs Maliko Dessande Sophie.

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..... [Signature]

Date .....



**List of Abbreviations**

ACP	African, Caribbean and Pacific
Art	Article
AU	African Union
BFA	Framework Agreement on Bananas
CARIFORUM	Caribbean Forum of ACP States
CAP	Common Agriculture Policy
CDC	US Centers for Disease Control and Prevention
COMESA	Common Market of Eastern and Southern Africa
DSB	Dispute Settlement Body
DDA	Doha Development Agenda
EAC	East African Community
EBA	Everything But Arms
EC	European Commission
ECDPM	European Centre for Development Policy Management
ECOWAS	Economic Community of West African States
EDF	European Development fund
EU	European Union
GATT	General Agreement on Tariffs and Trade
GATS	General Agreement in Trade and Services
GDP	Gross Domestic Products
GSP	Generalised System Preferences
GTAP	Global Trade Analysis Project
HRDC	Human Rights and Documentation Centre
ICCO	Inter-Church Organisation for Development Cooperation
IEPAs	Interim Economic Partnership Agreements
IFPRI	International Food Policy Research
IPS	International Press Service
LDC	Least Developing Countries
MeatCo	Meat Corporation of Namibia
MFN	Most Favoured Nation
NGO	Non-Governmental Organisation
ODI	Overseas Development Institute
SACU	Southern African Custom Union
SADC	Southern African Development Community
SAIIA	South African Institute for International Affairs
SIA	Sustainable Impact Assessment
SPS	Sanitary Phytosanitary System
SSA	Sub-Sahara African
TBT	Technical Barriers to Trade
TDCA	Trade Development and Cooperation Agreement
UNECA	United Nations Economic Commission for Africa
USA	United States of America
VAT	Value Added Tax
VLCT	Vienna Convention on the Law of Treaties
WTO	World Trade Organisation

## CHAPTER 1

### GENERAL INTRODUCTION

#### 1.1 Orientation of the proposed study

During the African Union (AU) Commission Summit in Addis Ababa (Ethiopia) in 2007, the African leaders strongly stated that: “Signing of trade pacts is posing a threat to the unity of African Union.”<sup>1</sup> The three leaders of the AU opposed the European Union (EU) trade recommendations, because in their opinion the continent was not ready for it at that time.

By the end of 2007, the Interim Economic Partnership Agreements (IEPAs) were initialed by many African, Caribbean and Pacific (ACP) countries. Namibia is a member of the ACP and AU. The World Trade Organization (WTO) felt that the Cotonou Agreements and four Lomé Conventions provided for non-reciprocal and preferential trade agreements.<sup>2</sup> The WTO rules and guidelines advocate for equal treatment, not preferential treatment; and reciprocal, not non-reciprocal market access trade agreements, so as to be fair to all members of the WTO.<sup>3</sup> Therefore, the EU negotiated with the ACP countries to replace the Cotonou and Lomé Conventions with trade agreements called Economic Partnership Agreements, or EPAs, for compliance with WTO rules. In short, the favored status of former colonies was abandoned by the EU. This placed the ACP countries in competition with the rest of the countries in the

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<sup>1</sup> Odhiambo, A. (2008, January). *Africa to push for revision of EU trade deals*. Business Daily. Nairobi. p.5.

<sup>2</sup> Bank of Namibia. (2007, January). *Annual Report*, Windhoek.

<sup>3</sup> Ibid p.112.

world. This is to be achieved by gradual removal of trade barriers between the EU and the ACP countries.

It is important to clarify that the EU adopted a two-step approach in the EPAs negotiations. The first step is the initialing of the Interim EPAs or IEPAs for providing the provisional implementation of the new agreement to avoid any disruption of trade and to secure improved market access.<sup>4</sup> The initialing of IEPA does not impose any obligations on the parties upon ratification. This means initialing an agreement demonstrates that the text is authentic and definitive<sup>5</sup> (Article (Art.) 10 (b) of the Vienna Convention on the Law of Treaties (VCLT), 1969: “The text of the treaty is established as authentic and definitive...”), ready for signature or provisional application. The parties to an agreement are only under an obligation to implement its terms once it has entered into force, which takes place after ratification if this is specified in the treaty<sup>6</sup> (Art. 11 of the VCLT, 1969: “The ratification is one way in which the parties to a treaty may express their consent to be bound”). The IEPAs as initialed only apply to trade in goods and was supposed to expire at the latest on 01 July 2008. According to the IEPAs text, after January 2008, Namibian exports of products such as beef, fish, and grapes will be without any duties or quotas.<sup>7</sup>

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<sup>4</sup> Roux, W. (2008). *Economic Partnership Agreements: The new game of divide and rule*. Labour Resource and Research Institute (LARRI). Windhoek p.12.

<sup>5</sup> Vienna Convention on the Law of Treaties. (1969). *Treaty Series*. Vol. 1155. United Nations.

<sup>6</sup> Art.11 of VCLT.

<sup>7</sup> Erasmus, G. (2008). *The Interim SADC EPA Agreements: legal and technical issues and challenges*. Discussion Paper. p.2.

However, the second step is the implementation of the full EPAs which requires fulfillment of the parties' constitutional procedures for signature, approval and ratification. This means also a commitment with the initialing of IEPAs to address and sign regarding services and others issues such as investments, government procurement, competition and intellectual property rights during the course of 2008.<sup>8</sup> The EPAs are not yet finalized and implemented, but the deadline was set for the end of December 2008. Thus, the EPAs are being debated for formal establishment.

This study intends to promote objectively the debate by examining the policy arguments for and against the EPAs. It attempts to present a critical analysis of the EPAs by evaluating the process, analyzing its content, and examining its promised interests and benefits. Further, this study will critically explore the core objectives contained in EPAs with the aim of establishing whether it presents real interests and benefits from which Namibia can profit. A certain number of Namibia's economic export sectors to the EU will be determined under the new Agreements and will inform the reader of what can be expected from EPAs.

The research will further investigate the impact of these changes from non-reciprocity to reciprocity and will focus mainly on the intersection of economic and legal issues (International and national trade policy).

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<sup>8</sup> Michel, L. ( 2008). *Economic Partnership Agreements: Drivers development*. EC Document. Retrieved June 20, 2008, p.26-32 from [http://europa.eu/commission\\_barroso/michel/press/docs/articles/2008g854-289-argumentaire-web-end.pdf](http://europa.eu/commission_barroso/michel/press/docs/articles/2008g854-289-argumentaire-web-end.pdf)

## 1.2 Statement of the problem

From its origin, the IEPAs were surrounded by controversy and debate.<sup>9</sup> Conceptualised as a vehicle to promote development, the merits of EPAs for development have been intensely debated; although criticism of the EPAs started as early as 1996 when the EC only suggested EPAs in their embryonic form as an option. The approaching deadline and the fact that the EPAs are entering more substantive phases have only heightened the controversy. The most outspoken supporter of the EPAs is the EC itself, while critics can be found in civil society, academic circles and both ACP countries and EU member states; the IEPA is fraught with contradictions.<sup>10</sup>

This study seeks to shed some light on potential advantages and disadvantages of the IEPAs signed between the EU and Namibia. It intends to address the following question: Will EPAs help to integrate Namibia into the global economy; and will Namibia have a sustainable economy that reduces poverty among its people?

## 1.3 Objectives of the study and research questions

This research is conducted with the following fundamental purposes:

- To determine whether Namibia could benefit from the ongoing EPAs as compared to previous trade agreements, namely, Lomé and Cotonou Agreements;

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<sup>9</sup> Berthelot, J. (2006). *David and Goliath: Argument against the Economic Partnership Agreement (EPAs) between European Union and Africa, Caribbean and pacific countries*. Solidarity Paper. Retrieved April 16, 2008, from <http://www.solidarite.asso.fr> p.8-20.

<sup>10</sup> Ibid

- To determine the likely consequences and effects of EPAs between Namibia and the EU regarding the surpluses of exports from the EU into the Namibian market; and
- To verify whether the EPAs are the principle trade instruments between Namibia and the EU.

The following research questions are to be addressed by this study:

- Are EPAs seen by key Namibian negotiators and policy makers as an improvement over previous trade agreements?
- What do key Namibia negotiators and policy makers expect to be the likely consequences of the EPAs to the Namibian economy, in particular regarding newly-allowed goods exported from the EU to Namibia?

#### **1.4 Hypothesis**

Will EPAs promote economic growth? The EU-ACP relationship is considered to be a measure of development cooperation. To evaluate EPAs, it seems appropriate to connect it to the main development theory: the dependency theory. The theoretical considerations in this context explain one basic trade theory - the dependency or mercantilist theory. These theories deal with the necessity and motivations for international trade in more detail; both theories provide explanations for the reasons of underdevelopment.<sup>11</sup> [Dependency is]...an historical condition which shapes a certain structure of the world economy such that it favours some countries to the detriment of

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<sup>11</sup> Ferraro, V. (1996): *Dependency Theory: An Introduction*. Retrieved on November 28, 2009 from <http://www.mitholyoke.edu/acad/intrel/depend.htm>

others and limits the development possibilities of the subordinate economics...a situation in which the economy of a certain group of countries is conditioned by the development and expansion of another economy, to which their own is subjected.<sup>12</sup> The dependency theory which argues that the developing countries are in the position they are due to the dependence of the developed world which tries to keep them at a low level and exploit them. According to this theory, the EU would only offer Preferential Trade Arrangements (PTAs) to the ACP states to reach further trade liberalization only for the sake of their own benefits. Even though they have a similar tenor as the two grand theories – the mercantilist theory argues that international trade only benefits the industrialized countries.<sup>13</sup>

The application of the main theory might help one to understand the position of EPAs between the EU development cooperation and economic self-interest. The main presumption of the theory will be connected to the main findings of the literature study. This part of the work leaves the objective description behind and displays the relationship from two one-sided and biased points of view. It shows that, depending on the ideological point of view, the hypothesis can be tested to some extent: EPAs can be

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<sup>12</sup> Dos Santos, T. (1971). *The structure of Dependence. Reading in US Imperialism*. Ed. Boston: Porter Sargent

<sup>13</sup> Wu Wien, W. & Sozialgeschichte: *Modul 7:Depenz-& Welt-System Theorie-Die Entwicklung der Unlerentwicklung*. Retrieved on October 2,2008 from <http://www.wu-wien.ac.at/inst/w3/telematik/download/wsg7.pdf>

seen as a negative intrigue by the dominant capitalistic countries which entails further dependency of the ACP group on the EU.<sup>14</sup>

### **1.5 Significance of the study**

This study aims to help Namibian policy makers, the government, the private sector and all stakeholders to evaluate and assess trade agreements between Namibia and the EU. Such agreements can contribute significantly to the economic stability of the country, but should also warrant a careful approach. The salient objective of this study is to explore how trade agreements can benefit the Namibian economy.

### **1.6 Limitations of the study**

Since the study will only involve small-scale research, there might be some limitations that militate against its reliability and validity. Another limitation is access to information. This is due to the high sensitivity and confidentiality of the subject matter, and because Namibia is still negotiating the agreement, it becomes difficult to get access to information needed.

### **1.7 Methodology**

The methodology is a procedure employed in research studies to arrive at critical valid findings for such studies. Methodology research refers to the adaptation of research procedures and techniques to track the object of study for valid knowledge. According to

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<sup>14</sup> Read, D. (2009). *The Continuation of Colonialism by Other Means*. Retrieved on November 29, 2009 from [http://www.bilaterals.org/article.php?id\\_article=16189](http://www.bilaterals.org/article.php?id_article=16189)

Neuman, it “is what makes social science scientific.”<sup>15</sup> The methodology therefore presupposes what orderly method of procedure is being utilized to gather, collect and receive data and information relevant to the object of study. This approach lends such studies a scientific dimension. That is why Leedy and Ormrod had postulated that “research methodology is used to extract meaning from the data collected.”<sup>16</sup>

The most appropriate methods for this research will be qualitative. A qualitative study is appropriate when, as here, there is yet to be any trade data to analyse in a quantitative manner. Yet a great amount of valuable information can be collected by using the qualitative methodology. For example, it will be useful to know what the likely outcomes of the EPAs could be.

This study will be conducted by means of qualitative research. The qualitative research method is the type of process or procedure that is not based on numerical data analysis but on an analytical approach; this means that the method uses observation and interviews as a process method to collect the relevant and sometimes irrelevant information. It denotes analysis of any written material that contains information about the phenomenon being researched.<sup>17</sup> It is characterized by the description and

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<sup>15</sup> Neuman, L.W. (2000): *The meaning of Methodology*. Retrieved on July 2, 2008 from <http://nilufernarti.com/...BUCourse-outline%20Introduction%20to%20method%5BI%5D>

<sup>16</sup> Leedy, P.D. & Ormrod, J.E. (2001): *The Pratical Research: Planing and Design*. Retrieved on September 7,2008 from <http://www.cluteinstitute-onlinejournals.com/PDFs/200768.pdf>

<sup>17</sup> Efreteuei, E.O. (2006): *The New Partnership For Africa’s Development(NEPAD):Emerging Conditions Impacting on the Implementation Process*. A Thesis for the Degree of Doctor of Philosophy(PhD)in Publics Affairs. University of Pretoria. Retrieved on July 1,2008 from <http://upetdup.ac.za/thesis/available/etd-08242006.../02chapter2.pd>

interpretation of phenomena in order to share meaning with others.<sup>18</sup> In addition, interpretativists seek to explore individuals' subjective perceptions. A qualitative approach will be employed to collect data. Observations, interviews and questionnaires will be used for this purpose. Macmillan and Schumacher note that, "the goal of research is to collect information that will investigate a research problem or question."<sup>19</sup> This goal is attained only if the research is conceived and executed in such a manner that the data collected is accurate and directly relevant to the question posed. Qualitative researchers go to the particular setting under study because they are concerned with the context in which the setting occurs. A detailed description of the research design, key informants, research instruments, and procedure and data analysis follows:

### **1.7.1 Research Design**

Due to the nature of the topic, the study will use a summative evaluation and qualitative approach which entails assessing the design of EPAs, the implementation and expected outcomes of the policy. By definition, the summative evaluation approach is done at the end of a process.<sup>20</sup> A qualitative approach study is an outcome of analysis and interpretation of collected facts, information, proof and the ideas of the experts about the

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<sup>18</sup> Bassey, M. (1995). *Creating Education through Research: A global for the 21<sup>st</sup> century*. Newark, Kirklington Moor Press, in association with the British Educational Research Association.

<sup>19</sup> Macmillan, J. H. & Schumacher, S. S. (1997). *Research in Education: A Conceptual Introduction*. New York: Longman.p.161.

<sup>20</sup> Simataa, M. E. (2003). *The African Growth and Opportunity Act: Is it an appropriate response to Africa's development predicament*. Master of laws (LLM). Windhoek, University of Namibia. p.9.

subjects.<sup>21</sup> In the EU's version, the EPA is conceived as a development and growth vehicle for Namibia. This research will employ both of these methods.

### **1.7. 2 Key informants**

This research is comprised of national and international experts in trade law and policy. According to the Oxford English Dictionary,<sup>22</sup> an expert is “someone who has great knowledge or skill in a particular area.” The target population of this study aims at experts in trade law and policy operating in different regional, national and international institutions, e. g. ministries, governmental and non-governmental organisations.

### **1.7. 3 Research instruments**

The study will rely on both primary and to a large extent secondary data sources that are relevant to explore the research question. Sources of data:

- Literature research: the research will also use other published works especially from developing and developed countries such as books, international trade journals and articles, the press, the African economic journals, reviews of literature from dissertations and theses.
- Documents: documents from the Ministry of Justice, the Ministry of Trade and Industry (International Trade Directorates), the Ministry of Finance (Tax Customs) will be studied and the discussion papers already published will be consulted.

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<sup>21</sup> Bell, J. (2007). *Doing your Research Project: A guide for first-time Researcher in Education and Social Science*. Buckingham, Open University Press.

<sup>22</sup> Oxford English Dictionary. (2005). *Compact Oxford English Dictionary for students*. 3<sup>rd</sup> Ed. Oxford University Press.

- Internet: the internet will be used as a vital and important source of information due to the nature of the subject. The researcher will depend on the websites of international organisations.
- Questionnaires: the fundamental reason for choosing a questionnaire is due to its potential to elicit first-hand information from the respondents. The researcher will design structured questionnaires on the subject. The questionnaires will address the following questions among others:
  - 1) Why were IEPAs proposed?
  - 2) Why should EPAs work any better than the existing arrangements?
  - 3) What will Namibia gain from EPAs?
  - 4) How will Namibia replace the revenue it loses by reducing tariffs and at the same time continue to pay for public services?
- Interviews: The interviews are the most important source of information for this study. Structured and non-structured interviews will be conducted with experts from different institutions in Namibia. According to Alreck and Settle, the advantage of using a personal interview is that detailed qualitative and descriptive information can be collected which has a high degree of reliability and accuracy.<sup>23</sup> The information will assist in formulating an opinion on the reasons behind the implementation and impact of EPAs in Namibia. Some institutions, government departments and organisations will be approached for interviews: Namibian Economy Policy Research Unit (NEPRU), Southern African Customs Union

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<sup>23</sup> Alrek, P. L. & Settle, R. B. (1995). *The Survey Research Hand Book*. 2<sup>nd</sup> Ed. Boston: Irwin/Mc Graw-Hill.

(SACU) Headquarter, Ministry of Trade and Industry of Namibia, Ministry of Justice of Namibia, Ministry of Finance of Namibia, SADC (Namibia Office).

#### **1.7. 4 Procedure**

The research will analyse the documents of the previous conventions like the Yaoundé of 1963, Lomé Convention of 1975 and Cotonou agreement of 2000, for each clarification. The different websites from regional and international institutions will be used as a source of information. The press, journals and research from the library, such as books will also be used. Interviews will also conducted with experts from the ministries, non-governmental organizations and international and regional institutions on the subject. The interviews with the experts will be recorded on an audiotape and later transcribed.

#### **1.7. 5 Data analysis**

According to Best and Kahn,<sup>24</sup> data analysis is a process that entails three special steps. The first step involves organising the collection of information followed by the second step, which involves synthesis, evaluation and integration of data. The final and most crucial phase is interpretation in the form of drawing deductions and conclusions relevant to the existing facts.<sup>25</sup> Most of the data collected from the interviews, literature, documents and internet will be subjected to a thorough analysis.

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<sup>24</sup> Best, J. W. & Kahn, J. V. (2006). *Research in Education*. 10<sup>th</sup> Ed. Boston: Pearson Education Inc.

<sup>25</sup> Ibid p. 270.

Becoming a party to the EPAs may not be desirable for Namibia. Namibian producers will face increased competition in their home market, SACU, and this competition may have adverse implications for Namibian production and its market share. Aggravating this concern is the fact that some of the EU imports, especially agricultural products, are subsidized. This implies an unfair advantage of their products over Namibian products, which are not subsidized.

Furthermore, the main effect will be fiscal as revenue from international trade will be reduced, although the extent of such reduction will depend largely on tariff cuts. The IEPAs provide for tariff cuts on more than 80% of products imported into the SACU market. The potential loss of revenue therefore constitutes a central policy issue for Namibia, as dependence on this source of revenue is extremely high and significant.<sup>26</sup> The study will show the dangers of those potential negative implications.

### **1. 8 Research ethics**

The research conducted for this study aims to uphold the highest ethical standards. It is set out to be objective and non-fabricated. The EPA negotiations are characterized by confidentiality. This aspect calls upon the researcher to respect the confidentiality and integrity of the interviewed parties involved in the negotiation process in order not to negatively affect its outcome.

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<sup>26</sup> Bank of Namibia. (2007, January)

## CHAPTER 2

### THEORETICAL BACKGROUND AND LITERATURE REVIEW

Different authors have postulated various theories on international trade. In undertaking a study on EPAs, a few theories were considered to see how EPAs conform to them. This chapter highlights a theory on international trade. The study proceeds by consulting and analyzing different views, opinions and literature on EPAs. These views, opinions and literature will be used to support the theory in the final analysis of this study.

#### 2.1 Assumption of the dependency theory

The Dependency Theory had its peak as an acknowledged theory in the 1960s. It arose mainly from Latin American scientists such as Raúl Prebisch, but was also supported by some western academics, for example, Dieter Senghaas.<sup>27</sup>

What is dependency? Ghosh provides a coherent answer to the question: “Dependency is a form of unequal international relationship between two sets of countries. One set is called the centre or metropolitan centre, and the other is called the periphery or satellite. The centre represents developed capitalism and the periphery represents underdeveloped region. The dependency is a type of mechanism which can explain the causes of economic development and an underdevelopment. The theory of dependency argues that the social and economic development of less developed countries (LDCs) is conditioned by external forces which are nothing but central capitalism. The metropolitan countries

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<sup>27</sup> Ferraro, V. (1996).

are more powerful capitalist countries but LDCs are weaker and are not mature capitalist countries. According to the dependency theory, underdevelopment can be explained by the fact of relations of dominance over the LDCs.”<sup>28</sup>

The dependency theory school views trade relationships with developed countries, at the core of the world economic system, as harmful to the long-term economic growth of developing nations at the periphery. It considers that the penetration of peripheral economies by large companies allowed them to control resources that might otherwise have been used for national development. It asserts that first world nations, here the EU, have become wealthy by extracting labour and material resources from the third World. This kind of capitalism perpetuates a global division of labour that causes distortion, hinders growth, and increases income inequality in developing countries. The dependency theory argues that developing countries are inadequately compensated for their natural resources and are thereby sentenced to conditions of poverty.<sup>29</sup>

Haynes also speaks of the theory as focussing “on the allegedly baleful legacy for developing countries, not only of imperialism, but also for the Western-dominated international economic system, while showing little or no concern for domestic factors”.<sup>30</sup> He, furthermore, describes the downfall of the theory in the 1970s (especially

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<sup>28</sup> Gosh, B. N. (2001). *Dependency theory Revisited*. Ashgate Retrieved on September 20, 2009 , from [http://www.adb.org/documents/ERD/Working\\_Papers/wp033.pdf](http://www.adb.org/documents/ERD/Working_Papers/wp033.pdf)

<sup>29</sup> Ibid

<sup>30</sup> Haynes, J. (2002). *Politics in the Development World- A Concise introduction*. Blackwell. Retrieved on September 20, 2009 from <Http:upetd.up.za/thesis/available/etd-08242006-123538/unrestricted>

because developing countries such as Taiwan and South Korea enjoyed economic growth) and its reappearance in the early 1980s in the form of the neo-dependency theory. The “neo-dependency theory pointed to a new – or at least dramatically extended – component of actual relations between rich western countries and poorer developing ones: the international debt crisis that occurred in the early 1980s.”

## **2.2 Review at related Literature**

Rugumamu, the University Consultancy Bureau of the University of Dar es Salaam, Tanzania, states that trade is widely perceived as an important engine of economic growth. It can play a dynamic role in poverty reduction but some of the rules that govern international trade are geared towards the corporate and political interests of the powerful figures in the global economy. This results in a highly unequal distribution of the benefits of world trade.<sup>31</sup>

The implementation of EPAs impose severe challenges on ACP countries, such as how to manage the expected losses of fiscal revenue in some ACP countries; how to cope with increased competition expected to arise from the reciprocal trade; how to ascertain nett benefits from EPAs.<sup>32</sup>

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<sup>31</sup> Rugumanu, S. (2000). *The new Partnership between ACP and EU: Unresolved issues*. Co-operation South. Vol. 2.

<sup>32</sup> Karingui, S. (2005). *Economic and welfare impact of the EU-Africa Economic Partnership Agreements*. Trade Negotiations Insights, Vol.4, No.5.

Karingui opened the debate by focusing on the methodological approaches to analyse the potential impact of the EPAs. He makes it clear that the policy instruments, such as tariffs and quotas, affect the relative prices of commodities. He added that as the mix of goods and services produced change, the demands for factors of production also change. Consequently, a change in trade policy is likely to affect more than one sector of the economy.<sup>33</sup>

Szepesi discusses mutually reinforcing conditions together with this much-needed institutional development. Firstly, institutional development is a long-term and evolutionary process. Successful institutional development builds on local conditions. The case studies suggest that replacing existing institutions and building institutions from scratch does not work; incremental changes are more likely to yield results. Also, institutional development is dependent on support from the political leadership, a sense of ownership by both government and non-states actors and high degree of inclusiveness involving all stakeholders. In the context of EPA negotiations, the support programmers the EU funds have several features that may reduce their overall impact. First of all, the programmers have a similar timeframe as the EPA negotiation and hence focus on the shorter-term rather than the long-term. Secondly, since the EPA process is still predominantly driven by the EC rather than by the ACP countries, the EPA support programmers that lack sufficient local ownership or political support. Also, these

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<sup>33</sup> Ibid

programmers usually focus on the regional level, but it could be argued that the national level is more appropriate to undertake institutional reform.<sup>34</sup>

Among the arguments against EPAs by the *StopEPA* initiative, which is built by several ACP and EU organisations from the civil society, is that trade liberalisation itself cannot be a satisfying substitute for a comprehensive development strategy. Wolf, an economist working for the Financial Times, explained that trade liberalisation itself can never produce growth.<sup>35</sup> According to the advocates of the initiative, trade in agriculture suggests that the greatest problems for ACPs are due to the CAP of the EU: an average EU farmer receives annual subventions which account for 100 times what the average ACP farmer earns in one year. Furthermore, it is publicly accepted that in countries which liberalize trade before stable economies have been established, deindustrialization is a regular result.<sup>36</sup>

Within the *StopEPA* paper, Kofi Annan is cited, as saying that it is expected that EPAs will cause dramatic results on the ACP countries' national budgets as they are now strongly dependent on tariff incomes.<sup>37</sup> In many ACP countries, tariff incomes account for one third or more of the national revenues. The EU has made it clear, a couple of times, that even development assistance cannot be extended substantially because of the

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<sup>34</sup> Szepesi, S. (2004). *Coercion or engagement? Economics and institutions in ACP-EU. Trade Negotiations*. Retrieved on April 19, 2009, from <http://www.ecdpm.org/dp56discussion> paper no. 56

<sup>35</sup> Stop-EPA Campaign. (2004). *African Agenda*. Retrieved on September 20, 2009 from [http://www.twinafrica.org/news\\_detail.asp?twiID=842](http://www.twinafrica.org/news_detail.asp?twiID=842)

<sup>36</sup> Ibid

<sup>37</sup> Ibid

challenges from the EPA.<sup>38</sup> The supporters of the *StopEPA* campaign asked the EU to fulfil its promise to explore alternative trade possibilities based on non-reciprocity. The idea had always been to foster cooperation with developing countries and not to promote their self interests in topics which were strictly opposed by the ACPs, especially the topics mentioned in Singapore: investment, competition policy and public procurement.<sup>39</sup>

Mbaye also speaks of various studies, including one by the United Nations Economic Commission for Africa (UNECA), which has been sceptical about the EPA agreements' positive impact on development in sub-Saharan Africa. "There are good reasons to fear that the EPA agreements will not only destroy the existing industrial network but that they will also greatly limit, or completely thwart, the countries' efforts to industrialise. [...] Far from the goal of reducing and eradicating poverty, the EPA agreements, in their present form, pose unparalleled challenges to the ACP states' fragile economies. It is probable that the most unequal trade negotiations in history could produce the most disastrous results for development."<sup>40</sup>

Indeed, Perez of UNECA compares the impact of the EPAs and underlines that it has negative effects on tax revenues, lower incomes, an increased trade deficit and

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<sup>38</sup> Ibid

<sup>39</sup> Ibid

<sup>40</sup> Mbaye, B. (2006). *Economic Partnership for Development: The Paradox of EPAs*. Perjantai16. Kesakuu .Retrieved on September 21, 2009, from <http://fi.oneworld.net/article/view/135003/1/>

unemployment for Sub-Saharan Africa (SSA).<sup>41</sup> So far, recent research by the International Food Policy Research (IFPRI) suggested that the EPAs can cause more harm than good to these poor countries and this could also be detrimental to the interests of other trading nations.<sup>42</sup> Even the World Bank made amends in its World Development Report 2006. It emphasizes that most policy advice given to developing countries over the recent past, including that by the World Bank itself, has emphasised the advantages of participating in the global economy. But global markets are far from equitable, and the rules governing their functioning have a disproportionately negative effect on developing countries. The World Bank judged that multilateral liberalisation has been harmful to poor people, and even more so for wider bilateral liberalisation.<sup>43</sup>

Olsen gives one of the crucial arguments from the aid motivation debate, namely that, “the amount of aid received by any low-income country is proportional to the level of interest by the donor.”<sup>44</sup> The decreasing level of interest in ACP by the EU can then be noticed by the drop in percentage of the ACP share in total European aid, which decreased from 60% to 34% in the 1990s. Olsen also names two theories which shall explain the motivation of the EU to provide development aid. The first one is Ravenhills’ theory of “collective clientelism” (with the EU being the collective patron to

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<sup>41</sup> Perez, R. (2006). *Are the Economic Partnership Agreements a first-best optimum for the Africa, Caribbean and Pacific countries*. Journal of World Trade, Vol.40, No. 6.pp.999-1019.

<sup>42</sup> Bouet, A., Laborde, D. & Mevel, S. (2007, December). *Searching for an alternative to Economic Partnership Agreements*. International Food Policy Research Institute, Forthcoming, pp.7-9.

<sup>43</sup> World Bank. (2006). *Equity and development 2005*. World Development Report. Retrieved August 9, 2008, from <http://econ.worldbank.org>

<sup>44</sup> Olsen, G.R. (2005). *The European Union’s development policy: shifting Priorities in a Rapidly Changing World*. Eds Hoebink. P. & Stokke .Retrieved August 2, 2009, from [http://www.ed.ac.uk/...reading\\_list\\_200809\\_18\\_Dec.pdf](http://www.ed.ac.uk/...reading_list_200809_18_Dec.pdf)

the developing countries who are the clients) which argues that a mixture of psychological, political and economic factors explains the EC's aid relationship with the ACP. The second theory states that the motives are mainly selfish donor interests such as trade, access to raw materials and security<sup>45</sup>. He argues that during the Cold War, the EU had economic interests (to secure the supply of raw materials from its former colonies, especially those raw materials which the EU could not produce itself), security interests (in times of bipolarity between the two superpowers, the EU needed to maintain a friendship with neutral Africa) and psychological interests ("the community gains a certain psychological satisfaction...").

Farrell explains the geopolitical change of the EU: "Within the EU during the 1990s the strategic interests of the individual member states and the union as a whole had changed from those that motivated the original Lomé agreement almost 30 thirty years earlier."<sup>46</sup> The External relations with numerous regions became more important (Eastern Europe, Asia, Latin America) so that the relationship with Africa no longer held the political salience of the past, and the EU's political priorities now lie closer to home. Considering the shift in the geo-strategic interests of the EU as a whole – Africa had fallen on the list of priorities for the Union.<sup>47</sup> These changes explain very well the European interest in now offering the Cotonou Agreement. By offering preferences to the ACP, they have

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<sup>45</sup> Ibid p.577.

<sup>46</sup> Farrell, M. (2004). *A Triumph of Realism over idealism? Cooperation between European Union and Africa*. Paper prepared for the ECPR standing Group international Relation Conference. The Hague, September 2004. Retrieved September 4,2009, from <http://www.sgir.org/conference2004/papers/Farell%20A%20triumph%20of%20Realism%20over%20idealism.pdf>

<sup>47</sup> Ibid pp. 8-11.

secured access to raw materials and ‘friendship’ to neutral Africa; by steering towards trade liberalisation, they are encouraging the ACPs to open their markets for exports from the EU. Furthermore, discrimination against other developing countries is reduced and more financial resources are free to engage in cooperation with other interesting regions.

According to Berthelot, despite the opposition statements of the EU, shared by most commentators, several WTO provisions do not impose the end of the non-reciprocal trade preferences. He added to the debate by mentioning that the EU has hidden itself behind the so-called WTO constraints to impose on the poorest countries in the world the drastic remedy of the bilateral trade. He argued that above all, the EU cheated brazenly by using the WTO rules which allowed it to practice massive agriculture dumping, highly detrimental to ACP countries. He concluded that the EU narrowed down the Cotonou objectives of poverty eradication and sustainable development to a self-serving trade and investment liberalisation agenda.<sup>48</sup> The EPAs will increase the domination and the concentration of the European firms, goods and services.<sup>49</sup> Dickson concludes that: “The EU, in not challenging the WTO interpretation, has contributed to the likely increase in poverty of the affected ACP countries and to regional instability despite its declared commitment to do otherwise. As the world’s largest trading bloc, it seems unlikely that the EU did not have the capacity to alter or adjust the interpretation

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<sup>48</sup> Berthelot, J. (2006).

<sup>49</sup> World Bank. (2006). *Equity and development 2005*. World Development Report. Retrieved August 9, 2008, from <http://econ.worldbank.org>

of WTO rules to benefit more developing countries. It seems that the political will was lacking.”<sup>50</sup> At the same time, R. Blein, French Development Advisor for the ECOWAS, emphasises that even if the impact of the EPAs would be modest, it is clear that the EU is trying to expand its market share in the ACP countries.<sup>51</sup> Blein asserts, “When the EC says that Europe doesn’t have any economic interest in the EPAs negotiations, it is lying.”<sup>52</sup>

Khumalo, a researcher with the South African Institute for International Affairs (SAIIA), stressed that the EPA talks caused serious problems and threatened the very existence of the SACU.<sup>53</sup> The fact that Botswana, Swaziland, Lesotho and Namibia have signed IEPAs and South Africa has not signed, could undermine the integrity of the customs union and could lead to two different external tariff regimes. In SACU, as a result of some SACU countries signing IEPAs and others not signing, this could precipitate its dissolution.<sup>54</sup> It is true that the EU’s latest tactic to target vulnerable individual countries within EPAs is contrary to the regional integration principle. Furthermore, Art. 31.2 of the SACU 2002 Agreement explicitly stipulates that the members shall establish a common negotiating mechanism when negotiating agreements with third parties.<sup>55</sup> It is clear that the stipulation in Art. 31. 2 was never followed. Even the Civil Society

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<sup>50</sup> Dickson, A.K. (2004). *The unimportance of trade preferences: in Arts, K and Dickson. EU Development cooperation: From model to symbol*. Ed Dickson. Retrieved July 6, 2009, from <http://books.google.com.na/books?isbn=0415426278>

<sup>51</sup> Godoy, J. ( 2008 ). *Ongoing trade negotiation-EPAs*. Inter Press Service. p 3.Johannesburg

<sup>52</sup> Ibid

<sup>53</sup> Khumalo, N. (2008). *Southern Africa: European trade deals challenge unity*. Guest Column, Johannesburg. Retrieved April 26, 2008, from <http://allafrica.com/stories/200803060179.html>

<sup>54</sup> Ibid pp.12.

<sup>55</sup> Roux, W.(2004). p.17.

Organization of the SADC agreed with that viewpoint and in their letter to the EU, it warns “the EU to stop trying to re-colonize Africa.”<sup>56</sup> Furthermore, the Permanent Secretary in the Ministry of Trade and Industry of Namibia, M. Lindeque, in the Namibian Newspaper, said clearly that Namibia has to think long-term and the fact that there would be cheap EU maize, fruits and vegetables coming to Namibia is detrimental to local farmers. He added that the EPAs will have a negative impact in Namibia’s industrialization process and Vision 2030.<sup>57</sup> It becomes obvious that the EPA, in its reciprocity of market access, sees contrast and rejection in Lindeque’s notion of economic growth.

In line with the traditional World Bank position, however, Brenton et al. emphasise that EPAs must foster SSA international competitiveness: for this the EPAs must design a way that supports integration into the global economy. SSA counties must therefore reduce external tariff peak barriers on a MFN basis to ensure that when preferences for the EU are implemented after transitional periods, they do not lead to substantial losses from trade diversion.<sup>58</sup>

Indeed, these fiscal losses are highlighted by the detailed assessment of the impact of EPAs achieved by Fontagne et al., thanks to a dynamic partial equilibrium model that

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<sup>56</sup> Weidlich, B. (2008). *EPAs’ might threatens regional integration. The Namibian*, 15 February, Windhoek, pp.2-3.

<sup>57</sup> Ibid pp. 1-2.

<sup>58</sup> Brenton, P., Mombert, H. & Richard, N. (2008), *Economic Partnership Agreements and the Export Competitiveness of Africa*, Washington D. C., the World Bank, policy research working paper 4627

includes two alternative lists of sensitive products (one giving priority to the agricultural sectors and the other focusing on tariff revenue preservation) and the criterion of WTO-compatibility of EPAs, i.e. at least 90% of bilateral trade must be fully liberalized. The study separates the effects on tariff revenue into a direct effect arising from trade liberalization vis-à-vis the EU and an indirect effect in terms of trade diversion. The result, which refers not to SSA alone, but to all ACP countries, reveals that on average ACP countries will lose 70% of tariff revenues on EU imports in the long run. ACP countries, however, will receive tariff revenue from imports from other regions of the world: therefore, if computed on total ACP imports, tariff revenue losses are limited to 26% on average in the long run and even less in certain conditions.<sup>59</sup> Fontagne et al. finds that the most affected regions are Central Africa and West Africa, with the least affected regions being the Caribbean and the SADC. A key point emphasized by Fontagne et al. is that the final impact of EPAs depends on the weight of tariffs, government revenue and on compensatory effects that may occur given the specific trade structure of each ACP country. They find that the capacity of each ACP country to reorganize its fiscal base will be crucial in the mitigating of fiscal losses.

The simulations of the impact of the EPA on SADC countries by Keck and Piermartini, based on a general equilibrum model (an extension of the standard Global Trade Analysis Project/GTAP model), show that this EPA is welfare-enhancing for SADC and will lead to significant increases in real GDP (Gross Domestic Products). For most countries,

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<sup>59</sup> Fontagné, L., David, L. & Cristina M. (2008). April). *An Impact Study of the EU-ACP Economic Partnership Agreements (EPAs) in the Six ACP Regions*, Paris, CEPII, working paper 2008-04

further gains may arise from intra-SADC liberalization. At the sectoral level, the largest expansion in the SADC economies takes place in the animal agriculture and processed food sectors. Keck and Piermartini acknowledge that EU-SADC liberalization will not promote manufacturing activities, which are rather fostered by multilateral liberalization (e.g., textile, clothing and light manufacturing).<sup>60</sup>

The EPAs introduce additional complexity in the already complex ‘spaghetti bowl’ of trade arrangements in SSA. As underscored by Stevens, the dominant impression is that ‘they are a mess’, with their full implications being likely to take a long time to unravel, perhaps more than a decade – some negotiations were moreover “particularly tortuous” (such as in SADC).<sup>61</sup>

As highlighted by the ODI-ECDPM (European Centre For Development Policy Management) study (Stevens et al.), the EPAs in the SSAs are all different and in only one region, the East African Community (EAC) does more than one country have the same commitments as the others. On the other hand, in West Africa, only two EPA countries have initialed significantly different texts with different liberalization

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<sup>60</sup> Keck, A. & Roberta, P. (2005). *The Economic Impact of EPAs in SADC Countries*, Geneva, WTO, Economic Research and Statistics Division, Staff Working Paper ERSD-2005-04 Retrieved on July 7, 2009 from <http://www.sia-acp.org/acp/download/20070516-Rapport-SIA-Roo.pdf>

<sup>61</sup> Stevens, C. (2008), *Economic Partnership Agreements: What Can we Learn*, New Political Economy, vol. 13, No.2, June, pp. 211-223.

commitments.<sup>62</sup> Similarly, Brenton et al. underscores that EPAs are currently a patchwork of agreements that will undermine regional integration.<sup>63</sup>

As emphasised by Davies, relying on Stevens et al. ODI-ECDPM study (2008), the EPAs liberalization schedules did not consider whether they were in line with those submitted by their neighbours. In Southern Africa, members of the SADC have found themselves divided into five separate negotiating entities, involving different obligations towards the EU. Even within the SADC EPA- eight members of the SACU plus Mozambique and Angola and one other country initialed late last year, whilst one other did so later, under protest. Two have not signed on at all to an arrangement, which for Davies, is not likely to enhance regional integration. The SADC EPA, by adapting the Trade Development and Cooperation Agreement (TDCA) signed by South Africa with the EU in 1999, and through the SACU extended de facto to Botswana, Lesotho, Namibia and Swaziland, reached an agreement with the EU on a schedule for reciprocal liberalization of trade in goods. Under this, most countries would receive duty-free quota-free access into the EU markets for all products except rice and sugar, while South Africa would have received some improved access for products that were not favorably

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<sup>62</sup> Stevens, C., Mareike, M., Jane K., Bilal, S., Braun-Munzinger C., Jerosch, F., Makhan, D. & Rampa, F. (ECDPM) (2008), *The new EPAs: Comparative Analysis of their Content and the Challenges for 2008*, London, Retrieved on June 4,2009 from <http://www.eadi.org/publications/e-newsletter/enews2-2008.html>

<sup>63</sup> Brenton, P., Mombert, H. & Richard, N. (.2008. May.) *Economic Partnership Agreements and the Export Competitiveness of Africa*, Washington D. C., the World Bank, Policy Research Working Paper 4627 Retrieved on setptember 4,2009 from <http://ideas.repec.org/n/nep-all/2008-9-13.html>

treated under the TDCA.<sup>64</sup> In return, SACU would have improved access for EU products in around 500 tariff lines over the arrangements agreed in the TDCA. At the same time, Mozambique, despite being an LDC, agreed also to reciprocate. In the SADC region, however, the EU moved the EPAs beyond WTO-compatible free trade agreements covering trade in goods, to agreements also embracing trade in services and new generation's issues (investment, government procurement, competition policy). The interim EPA also included legal obligations that would extend EU competence on issues of economic governance in ACP countries. For Davies, technical provisions in the interim EPA legal text relating to the definition of parties, concerning protection of infant industries, export taxes, and MFN clause, were key issues of dissent between all in the SADC EPA group and the EU.

The South Center goes even further in arguing that interim EPAs with individual ACP countries in SSA, will not only foster regional integration, but could have the opposite effect. As shown, only the EAC has maintained a coherent configuration: but the impact of a separate interim EPA is uncertain since some EAC countries are also part of other regional integration processes, e.g., the case of Tanzania, which is a member of SADC, and of Burundi, Kenya, Rwanda and Uganda, which are also members of COMESA. A

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<sup>64</sup> Davies, R. (2008). *Bridging the Divide: the SADC EPA*, Geneva, Retrieved on September 19, 2009 from <http://www.ecdpm.org/web...nsf/.../ACP-EU%20News%2014.05.08.pdf>

common market and custom union among COMESA countries is therefore threatened by the separate agreement by EAC countries as well as by individual COMESA countries.<sup>65</sup>

Likewise, Zouhon-Bi and Nielson model the fiscal revenue implications of the prospective EPA on ECOWAS and the EU and found that eliminating tariffs on all imports from the EU would increase ECOWAS 'imports from the EU by 10.5-11.5% for certain countries but that total government revenues would also decrease by 2.4-5.6% due to lower fiscal revenues. Revenue losses differ between countries.<sup>66</sup> However, analysing the impact of EPA on Senegal, Berisha-Krasniqi et al. also confirms through a computable general equilibrium model that EPA will generate a loss of tariff revenues from liberalization.<sup>67</sup>

Hinkle and Newfarmer confirm that for EPAs to have positive effects on SSA economies, they need to be associated with an improvement of domestic tax systems.<sup>68</sup>

Milner et al. measures the short-run welfare consequences and the static effects on trade flows and tariff revenue for ACP countries, which with EPAs retain preferential access

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<sup>65</sup> South Centre (2008 February), *EPA Negotiations: State of Play and Strategic Considerations for the Way Forward*, Geneva, Retrieved on September 7, 2009 from <http://www.iadb.org/intal/intalcdi/PE/2008/01924.pdf>

<sup>66</sup> Zouhon-Bi, S. G. & Lyngé, N. (2007. April). *ECOWAS–Fiscal Revenue Implications of the Prospective Economic Partnership Agreement with the EU*, Washington D. C., The World Bank, Africa Region Working Paper 103. Retrieved on August 4, 2009 from <http://www.worldbank.org/afr/wps/wp103.pdf>

<sup>67</sup> Berisha-Krasniqi, V., Bouët, A. & Mevel, S. (2008), *Economic Partnership Agreements between the European Union and African, Caribbean, and Pacific Countries: What Is at Stake for Senegal?*, Washington D. C., International Food Policy Research Institute, IFPRI Discussion Paper 765. Retrieved on September 24, 2009 from <http://www.ifpri.org/pubs/dp/IFPRIDP00781.pdf>

<sup>68</sup> Hinkle, L. E. & Newfarmer, S. R. (2005), *Risks and Rewards of Regional Trading Arrangements in Africa: Economic Partnership Agreements (EPAs) between the EU and SSA*, mimeo, Dakar, World Bank Annual Conference on Development Economics.

to the EU market, but on a reciprocal basis: the case of the EAC (Kenya, Tanzania and Uganda) shows that the welfare effects (excluding revenue effects) are small, whether positive or negative: an important point is that ACP countries will experience short-run adjustment costs, especially in the form of revenue losses.<sup>69</sup>

EPAs' uncertain outcomes are also highlighted by Perez and Njuguna Karingi. SSA exporters enjoyed quasi-duty-free access to the EU through the Cotonou Scheme for non-LDC ACP exporters, and via the Everything But Arms (EBA) Initiative for LDCs. European exporters will increase their sales in SSA markets, but whether ACP exporters will be able to do the same in the European markets is highly problematic. This is less so because of market access issues than because producers face high transaction costs and supply-side rigidities. Symmetrically, the cost of the agreement could be high since local and regional producers may lose market shares to the benefit of European firms, resulting in a decline in output and shrinkage in intra-African trade, which may be aggravated by the loss in revenues.<sup>70</sup> This is why Perez and Njuguna Karingi view the integration of the intra-SSA markets (elimination of regional tariffs and the constitution of custom unions) as a prerequisite for EPAs.

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<sup>69</sup> Milner, C., Morrissey, O. & McKay, A. (2005), *Some Simple Analytics of the Trade and Welfare Effects of Economic Partnership Agreements*, Journal of African Economies, Vol. 14, No3. Retrieved on August 3, 2009 from [http://www.uneca.org/.../Louise%20Curran\\_Lars%20Nilson\\_Douglas%20Brew.pdf](http://www.uneca.org/.../Louise%20Curran_Lars%20Nilson_Douglas%20Brew.pdf)

<sup>70</sup> Perez, R. & Karingi, S. N. (2007), *How to Balance the Outcomes of the Economic Partnership Agreements for Sub-Saharan African Economies?*, World Economy, Vol. 30, No12, December, pp. 1877–1899

Similarly, Stevens and Kennan built scenarios on the assumption that ‘substantially all’ trade with the EU must be liberalized if the EPAs are to be compatible with WTO rules on regional trade agreements: they show that EPAs may affect the ability of 6 countries in SSA to continue to provide protection to their domestic agro-food sectors. EPAs may not require major changes in existing levels of border protection to domestic agriculture in Ethiopia, Lesotho, and Mozambique.<sup>71</sup>

The development dimension of EPAs has been considered as insufficient by several observers, including the EPA ‘sustainability impact assessment’ launched by the EC at the beginning of the process. For the SIA (PriceWaterhouseCoopers), development cooperation should focus on priority needs for diversification of production and exports towards higher value-added products, and reinforce the economic and industrial sectors impacted by the EPAs.<sup>72</sup> Many Non-Governmental Organisations (NGOs) consider that the EPAs are insufficiently focused on the industrial and technological development of ACP countries.<sup>73</sup>

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<sup>71</sup> Stevens, C. & Kennan, J. (2006), *Agricultural Reciprocity under Economic Partnership Agreements*, Dublin, University of Dublin, Trinity College, Institute for International Integration Studies/IIIS discussion paper 111.

<sup>72</sup> PriceWaterHouseCoopers (2007), *Sustainability Impact Assessment of the EU-ACP Economic Partnership Agreements: Summary of Key Findings, Policy Recommendations, and Lessons Learned*. Retrieved on May 4, 2008 <http://www.siaacp.org/acp/download/20070516-Rapport-SIA-EU-ACP-UK..pdf>

<sup>73</sup> South Centre (2007March), *Development and Intellectual Property under the EPA Negotiations*, Geneva, Policy Brief 6 . Retrieved on June 3,2009 from [http://www.southcenter.org/index.php?option=com\\_docman](http://www.southcenter.org/index.php?option=com_docman)

As underscored by Gavin, EPAs may reinforce the EU's economic leverage to impose comprehensive trade and investment liberalization, which will benefit European firms but not contribute to the growth and industrialization of the concerned countries.<sup>74</sup> EPAs are sometimes viewed as European "offensive strategy": e.g., for Davies, the inclusion of new generation issues and economic governance in the interim EPAs, i.e., the promotion, tariffs, types of regulations that secure market access, is less the expression of a desire to help ACP countries in attracting investment than global strategies to promote the interest of European firms.<sup>75</sup>

In Namibia, ODI confirmed that if Namibia refused to initial the EPAs text by the end of 2007, it would lose its preferential market access to the EU, which may cost the country forty five million EUR or approximately six hundred and seventy-five million Namibian dollars. This amount is four times the money that Namibia received from EU in development aid.<sup>76</sup>

In countering these allegations, the EU Commissioner for Trade, Peter Mandelson defended the EPAs as trade and development tools.<sup>77</sup> He described the EPAs, during a speech in 2005, as potentially crucial and a hugely positive contribution that Europe can and must make to trade and aid the development in Africa. He continued to say that "the

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<sup>74</sup> Gavin, B. (2007), *The EU-ACP Economic Partnership Agreements: What Impact on Development?*, Dublin, Trinity College, International Institute of Integration Studies (IIIS). Retrieved on July 4, 2009 from [http://www.europafrika.info/file.../critical\\_issues\\_paper\\_090828](http://www.europafrika.info/file.../critical_issues_paper_090828)

<sup>75</sup> Ibid

<sup>76</sup> Tjaronda, W. (2007, May). *Namibia: Meat exporters in panic over EU*. New Era, Windhoek.

<sup>77</sup> Godoy, J. (2008, January). *Ongoing Trade Negotiation-EPAs*. Inter Press Service, Johannesburg

purpose of the EPAs is the successful integration of the ACP economies in the global economy.” By this, he means putting the ACP countries on the ladder of prosperity that will end the grinding poverty, which is the daily experience of so many ACP citizens.<sup>78</sup> In the EU’s perspective, the Agreements will bring about much-needed development and growth in ACP countries. The EPAs are the result of an ambitious vision. The ACP countries would be given the chance to stamp-out poverty by reforming their economies, adjusting their infrastructure and production capacities.

The EC also aims to include many trade-related issues in the EPAs through which procedures related to trade can be harmonised and simplified in the ACP regions. Finally, the EC claims that the EU-EPA groupings, rather than the various and overlapping South-South regional groupings, will constitute more credible regional integration initiatives and can hence be used to lock-in reforms, making them effectively irreversible. The EC is adamant that because of these benefits and because of the parallel development cooperation which will accompany the EPAs, the agreements are ‘above all about development.’<sup>79</sup>

EPAs may increase ACP exports to the EU. The model elaborated by Fontagne et al. thus forecast that under the WTO-compatibility, conditions of at least 90% of bilateral

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<sup>78</sup> Goodison, P. (2005). *Six months on: What shift is there in the EU approach to EPAs negotiation?* Review of African Political Economic, Vol.32, Issue 104-105. pp.295-308. Brussels.

<sup>79</sup> EC. (2005): *White Paper on Market Access for Developing Countries: Opening the Door to Development*. Retrieved on September 20, 2009 from [http://www.europa-eu-un.org/articles/en/article\\_4725\\_en.htm](http://www.europa-eu-un.org/articles/en/article_4725_en.htm)

trade will be fully liberalized - ACP exports will be 10% higher with the EPAs than under the Generalised System Preferences (GSP)/Everything But Arms (EBA) Option. They estimated the benefits from trade creation to be approximately twice as large as the losses from trade diversion for the ACP as a whole. At regional level the effects are largest from central Africa which will see almost three times more trade created than diverted and smallest for the SADC where trade creation is 1.5 times greater than trade diversion. This indicates ( but does not confirm) positive welfare impacts of the EPAs. The volume of ACP exports to the EU in 2022 is expected to increase by close to 11% compared to the situation under the GSP. Compared to the current situation, the increase would be about 5.5%. in percentage terms; the largest gains would accrue to exporters in the livestock sector (exports forecasts to increase by 140% ) and vegetable products and textile. ( exports forecasted to increase by 40%).<sup>80</sup>

Commenting about the interests of EPAs, Juergen Hoffman, Trade Adviser to the Agricultural Forum of Namibia, insisted “on the implementation of the EPAs in Namibia before the deadline of the current preferences.”<sup>81</sup> He advised that the social implication at the end of the preferences would be the highest as it would affect the livelihood of about 3000 farmers in the northern communal areas who benefit from the stable prices offered by the Meat Corporation (Meatco) of Namibia. He also emphasised that the loss

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<sup>80</sup> Fontane & al.(2008)

<sup>81</sup> Roux, M. L. (2007, December). *Africa: Europe-Africa talk hits fresh low*. Businessday, p 1. Johannesburg.

of preferences was to endanger the entire industry. For this reason many countries in Africa have initiated the EPAs before the deadline of the end of the preferences.<sup>82</sup>

According to ODI, the economic and social impact of the EPAs will be disastrous in case no agreement was reached. ODI's research found that the most seriously affected countries will be those with a relatively high proportion of exports in products such as the Kenyan horticultural industry, which will find it hard to continue exporting to the EU. Its collapse would not only have severe social consequences, but also undermine the EU development aid programme as well as those of the United Kingdom(UK) and Denmark which are supporting the horticultural business service market.<sup>83</sup>

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<sup>82</sup> Ibid p. 4.

<sup>83</sup> ODI. (2007). *Economic Partnership Agreements: What happens in 2008?* Briefing Paper No. 23, p.1. Retrieved on November 5,2008 from <http://www.odi.org.uk/...details.asp?....economic-partnership-agreements-happens-2008>

## CHAPTER 3

### ORIGINS AND BACKGROUND OF THE EPAs

#### 3.1 From Lomé Convention to Cotonou Partnership Agreement

The historical trading relationship between the ACP countries and the EU dates back to the Yaoundé I agreement, the first Lomé Convention of 1975. Its principles of asymmetry and non-reciprocity were applied to the Cotonou Agreement of 2000.<sup>84</sup> The relationship is entering a new phase designed to establish the EPAs by 2008. Why have these changes occurred gradually over the last forty years? In order to explain this, let's go back to the year 1975.

The Lomé Convention was the most ambitious North-South trade agreements to date, covering non-reciprocal trade preferences. The first Lomé Convention was extended three times to produce three more Conventions namely Lomé II, III and IV.<sup>85</sup>

Namibia became a signatory to the Lomé IV Convention in December 1990. This included signing into the Beef Protocol of Lomé IV, which afforded the country preferential access for beef to the European markets.<sup>86</sup> This preferential access applied to beef primal cuts that could be exported to the European markets with a zero duty and an

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<sup>84</sup> Avafia, T. & Hansohm, D. (2004, February). *Political conditions in the Cotonou Agreement: Economic and legal implications*. Nepru Working Paper No. 93, pp 1-3.

<sup>85</sup> EC. 2000. *ACP-EU Partnership Agreement signed in Cotonou on 23 June 2000*. Supplement to Courier Iss 1013- 7335. Brussels, pp 2-5.

<sup>86</sup> Schade, K. (2001). January. *The Lome Convention, The Cotonou Convention and Namibia*. Nepru Viewpoint No 31. pp. 1-2. Windhoek)

8% special levy. This means duty-free and 92% subsidization of the special levy.<sup>87</sup> At the same time, Namibia was allocated a total export quota of 10500 tonnes of deboned beef for the first two years. The annual quota was increased to a total of 13000 tonnes of deboned beef from year three onwards and this quota remained in place until the end of the 2007.<sup>88</sup>

What began as an economic partnership was turning into a list of demands and conditions far beyond the scope of an economic partnership. It was clear that the Lomé trade regime did not achieve its expected result.<sup>89</sup> Despite preferential access to the European markets for most products, the ACP countries' share in Europe imports dwindled from nearly 8% in 1975 to 2.8% in 2000.<sup>90</sup> The mechanisms for stabilizing export prices and the commodity protocols did not promote export diversification in the ACP countries. Half of all ACP countries' exports to the EU are still concentrated in just a few products. Some of the non-ACP developing countries that did not benefit from the Lomé trade preferences actually outperformed the ACP countries in exports to the EU.<sup>91</sup>

Due to the disappointing results of the trade regime, the tensions grew between the preferences and the WTO rules. Thus, formal negotiations began between the ACP

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<sup>87</sup> Roux, W. (2008). p 2.

<sup>88</sup> Ibid

<sup>89</sup> Ozden, C. & Reinhardt, E. (2003). *The Perversity of Preferences: GSP and developing country trade policies, 1976-2000*. Policy Recherche Working Paper, Series 2955, The World Bank retrieved on July 28, 2009 ,<http://ideas.repec.org/e/poz39.html>

<sup>90</sup> Laport, G. (2007). *The Cotonou Partnership Agreement: What role in changing world?* Policy Management . Report No. 13. p 21. Retrieved on May 12, 2008, <http://www.ecdpm.org/pmr13>

<sup>91</sup> Ibid, pp. 22-24.

countries and the EU in 1998 and concluded with the signing of the Cotonou Agreement in June 2000. The shift from Lomé to Cotonou was more than a change of names. It was the intention of the new partnership agreement to mark a clear break with the past and to modernize the overall approach to ACP-EU co-operation.<sup>92</sup>

When the Cotonou Agreement was signed in 2000, it was heralded as an innovative framework for development, adapted to the needs of international co-operation in the early 21<sup>st</sup> century. The Cotonou Agreement will be valid until 2020, but after one third of its life-span, it is good to assess to what extent it delivers on its multiple promises. Did the Cotonou Agreement really contribute to more and better development in the ACP countries? What did it realize in terms of implementation after 7 years of existence?

Apparently the Cotonou Agreement provided a process for determining a new set of trading rules with the objective of moving closer to trade liberation and the provision<sup>93</sup> of the world share of ACP exports to Europe. The ACP share of the EU market has fallen drastically in comparison to other developing countries over this period and the majority of exports come from new emergent countries like South Africa and the mineral-rich Nigeria.<sup>94</sup>

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<sup>92</sup> Ibid

<sup>93</sup> Schade, K. (2001, January). *The Lomé Convention, The Cotonou Convention and Namibia*. Nepru, Viewpoint, No. 31, pp. 1-2.

<sup>94</sup> Kabuleeta, P. & Hanson, V. 2008. *Good from far but far from good*. Trade Negotiations Insights, Vol. 6, No. 8, pp. 1-2. Retrieved on 19 May 2008, from <http://www.ictsd.org/tni>

Against this background, the EU and the ACP countries agreed, in the Cotonou Agreement, to make profound changes in the trade regime by negotiating WTO compatible Economic Partnership Agreements (EPAs).

In SADC, the EPA negotiations were launched in July 2004 and the IEPA text was initialed on 23 November 2007 by the EC and four SADC EPA countries namely: Botswana, Lesotho, Mozambique and Swaziland. At the time, South Africa and Namibia had reservations on some issues. Tanzania had decided to sign with EAC and Angola remained committed to the configuration.<sup>95</sup> Namibia held-out longer than the majority of its counterparts in southern Africa before initialing an IEPA on 13 December 2007 with EC, because the country was faced with a list of unresolved issues that could have a detrimental effect on its long-term economic development. Namibia preferred not to limit its policy space for future development, thereby *squeezing some concessions* from Brussels.<sup>96</sup>

### **3.2 Why EPAs?**

Below, it will explain the different reasons for EPAs.

#### **3.2.1 Outcomes of the EC bananas dispute I, II, and III**

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<sup>95</sup> Bank of Namibia.(2007, January)

<sup>96</sup> Roux, W. (2008). p. 16.

### 3.2.1.1 EC bananas dispute I and II

On 1 July 1993, the EU introduced Regulation 404/03<sup>97</sup> which favored imports from domestic producers and ACP countries<sup>98</sup>. The regulations created a tariff quota system. Before the introduction of the new regulation, 62% of the EC's banana import came from Latin America, as opposed to 18% which came from ACP countries. At the behest of unhappy Latin American countries (Colombian, Costa Rica, Guatemala, Nicaragua and Venezuela), two General Agreement in Trade and Tariff (GATT) Panels were established to determine the validity of the new banana regime.<sup>99</sup>

The panel concluded in un-adopted reports in 1993 and 1994 panel reports that the pre-deferential treatment was not justified under GATT. The 1993 report found that certain aspects of the regime of some of the EC member states under which bananas were imported were not consistent with some GATT rules. Likewise, the 1994 report found certain aspects of the common organization of the banana market after 1 July 1993 to be incompatible with GATT. The 1994 Panel report stated that the Lomé Convention involved non-GATT contracting parts, and was not covered by Art. XXVI of GATT. Therefore the Lomé convention could not be used to justify inconsistencies of trade preferences for bananas imported from ACP countries with Art. 1 of XXVI of GATT

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<sup>97</sup> The Council Regulation EEC No 403/93 of 13 February 1993 on common organisation for the market in bananas. Retrieved July 7, 2009 from <http://eur-lex.europa.eu/notice.do?mode=db&lang=en&lng1=en,nl&lng2=cs>

<sup>98</sup> Gruger, P. (2007): *The Extension of the Cotonou Trade Preferences after Expiry of Waiver*. Retrieved on August 13, 2009 Retrieved from

[http://www.tralac.org/cgi-bin/giga.cgi?cmd=cause\\_dir\\_news\\_items&cause\\_id=1694&news\\_id42559](http://www.tralac.org/cgi-bin/giga.cgi?cmd=cause_dir_news_items&cause_id=1694&news_id42559)

<sup>99</sup> Grimmett, J. (2006): *Trade Preferences for Developing Countries and the WTO*. CRS Report for Congress. p 2. Retrieved on September 4, 2009 from <http://fpc.state.gov/documents/organisation/57641.pdf>

because they were non-reciprocal and the trade regime did not lead to liberalization of substantially all trade between the EC and ACP states.<sup>100</sup> Neither of the two reports was adopted by GATT because of the lack of consensus by the EC and those GATT contracted parties which benefit from the Lomé Convention. Consensus was necessary under the GATT procedure to adopt a decision made by the panels.<sup>101</sup>

The result of the Panel decision was a further modification of the EC import regime of bananas. Four of the complaining parties reached an agreement with the EC, the Framework Agreement on Bananas (BFA), which Guatemala did not accept. The four Latin American countries agreed not to request the adoption of the Panel decision in return for certain concessions. The tariff quota for third country and non-traditional ACP bananas was expanded to 2.2 million tons. The four countries were allocated specific quota certificates. As a result, some of the income of EU importers was transferred to the Latin American exporters.<sup>102</sup>

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<sup>100</sup> Panel Report, EEC (1994)- *Import Regime Bananas*, 156-164, DS38/R(1994) Retrieved August 12, 2009 from <http://www.usembassy.it/pdf/other/R522183.pdf>

<sup>101</sup> Simi, T.B & Atul Kaushik (2008): *The Banana War at the GATT/WTO*. Trade Law Brief. No1. Retrieved August 16, 2009 from <http://www.cuts-citee.org/pdf/TLB08-01.pdf>

<sup>102</sup> Regulation 3290/94 of 22 December 1994, OJ L349/105. The framework Agreement on Bananas (BFA) was an agreement between EC and the four Latin American countries (Colombia, Costa Rica, Nicaragua and Venezuela) which had brought complaint about the EC Banana regime under GATT. They agreed not to request the adoption of the panel, in return for certain concessions.

### 3.2.1.2 Summary of the dispute banana III

**Table 1**<sup>103</sup>: EC-Banana III : first phase of dispute settlement

Parties		Agreements	Timeline of the dispute	
Complainants	Ecuador, Guatemala, Mexico, United States	GATT Arts. I, III, X, XIII	Establishment of Panel	8 May 1996
		GATS Arts.II,XVII  Licensing Ag Art. 1.3  Lomé Waiver	Circulation of Panel Report	22 May 1997
Respondent	European Communities		Circulation of AB Report	9 September 1997
		Adoption	25 September 1997	

Measures at Issue: The EC regime for the importation, distribution and sale of bananas, introduced on 1 July 1993 and established by council Regulation 404/93.

Products at issue: bananas imported from third world.

#### 3.2.1.3 Findings:

GATT Art. X III : The appellate body upheld the Panel's finding that the allocation of tariff quota shares to some members not having a substantial interest in supplying bananas, but not to others, was inconsistent with Art. XIII:1. The appellate body also agreed with the panel that BFA tariff quota allocation rules, under which a portion of a tariff quota share was not used by one BFA country, were inconsistent with Art XIII:1 and XIII:2.<sup>104</sup>

<sup>103</sup> European Communities- *Regime for the importation, Sale and Distribution of Banana*. Retrieved on September 7,2009 from [http://www.law.georgetown.edu/iitel/cases/EC-Bananas\(abs\)\(ab\).pdf](http://www.law.georgetown.edu/iitel/cases/EC-Bananas(abs)(ab).pdf)

<sup>104</sup> Dispute Body27: *EC-Bananas IIII(DS27)*. Retrieved on September 27,2009 from [http://www.wto.org/english/tratop\\_e/dispu\\_e/cases...ds27sum\\_e.pdf](http://www.wto.org/english/tratop_e/dispu_e/cases...ds27sum_e.pdf)

Lomé Waiver: The appellate body reversed the panel's findings and found that the Lomé waiver is not a waiver and must be narrowly interpreted and be subject to "strict discipline."<sup>105</sup>

GATT Art. I: The appellate body upheld the panel's findings that the activity function rules, which applied only to license allocation rules for imports from other traditional ACP countries, were inconsistent with Art. I:1. The appellate body also agreed with the panel that the EC export certificate requirement accorded an advantage to some members only, i.e the BFA countries, in violation of Art. I: 1. In an issue not appealed to the appellate body, the panel found that tariff preferences for ACP countries were inconsistent with Art. I: 1, but that they were justified by the Lomé Waiver.

GATT Art.III:4: The appellate body agreed with the panel that the EC procedures and requirements for the distribution of licenses for importing bananas from non-traditional ACP suppliers were inconsistent with Art. III: 4.<sup>106</sup>

GATT Art. X.3(a) licensing agreement Art.1:3: The appellate body reversed the panel's findings of violation of GATT Art X:3(a) and licensing agreement Art 1:3, on the

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<sup>105</sup> Ibid

<sup>106</sup> WTO/WTO analytical index: *Guide to WTO Law and Practice*. Retrieved on September 27, 2009 from [http://www.wto/english/res\\_e/booksp\\_e/.../trims\\_01\\_e.htm](http://www.wto/english/res_e/booksp_e/.../trims_01_e.htm)

grounds that the provisions supplied only to the administrative procedures for rules, not the rules themselves.<sup>107</sup>

GATT Arts.II and XVII: The appellate body upheld the panel's finding that the EC measures were inconsistent with GATT Art. II and XVII because they were discriminatory and clarified that the "Aim and effect" of a measure is irrelevant under GATS Arts. I and XVIII.<sup>108</sup>

### 3.2.1.4 EC Bananas III and Recourse to Art. 21.5 By Ecuador

**Table 2<sup>109</sup>**: EC-Banana III: second phase of dispute settlement

Parties		Agreements	Timeline of the dispute	
Complainants	Ecuador	GATT Arts. I and XIII	Referred to the original Panel	12 January 1999
			Circulation of Panel Report	12 April 1999
Respondent	European Communities	GATS Arts.II and XVII	Circulation of AB Report	N/A
			Adoption	6 May 1999

The EC Regulation 1637/98 was adopted to amend Regulation (EEC) No.404/93 i.e the measure at issue in the original dispute, together with Regulation No. 2362/98, which laid down implementing rules for amended regulations. The Regulation pertained to imports of bananas into European Communities and access to the EC market for three categories of bananas.

<sup>107</sup> Dispute Body27

<sup>108</sup> Ibid

<sup>109</sup> European communities-Regime for Importation,Sale and distribution of Banana.

As there continues to be a disagreement between Ecuador and the EC over the WTO-consistency of the EC banana measures taken to comply with Banana III and Art. 21.5(Ecuador) and subsequent related rulings, Ecuador respectfully requests that this matter be referred to a Panel, if possible the original panel, in accordance with Art. 21.5 of the DSB.<sup>110</sup>

### **3.2.1.5 The key panel findings (Source)<sup>111</sup>**

GATT Art.XIII:1: the panel found that the regulation was inconsistent with Art XIII:1 as it resulted in disparate treatment between the traditional ACP suppliers and other non-substantial suppliers and the third world by not being similarly restricted as required by the GATT.

GATT Art. XIII: 2: the panel also found a violation of Art. XIII:2 as the EC banana regime provided for a large quota to ACP countries of which , collectively they used only 80% over a two year period while the MFN quota had always been filled and even some out of quota imports had been made. Therefore, the panel found that the regime did not aim at a distribution of trade that would represent, as closely as possible, the market share those countries would have had in the absence of restrictions.

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<sup>110</sup> European Communities-Regime for the Importation, Sale and Distribution of bananas-Recourse to Art. 21.5 of the Dispute settlement Body(DSB) by Ecuador, WT/DS27/65/Rev.1, 29 November 2006.

Retrieved on September 27,2009 from [http://www.worldtradelaw.net/pr/ds27-80\\_\(pr\).pdf](http://www.worldtradelaw.net/pr/ds27-80_(pr).pdf)

<sup>111</sup> European communities-Regime for Importation,Sale and distribution of Banana, p.9.

GATT Art. XIII: 2 (d): In the case of the tariff quota allocated to Ecuador under the revised EC regime, the panel also found a violation of Art.XIII:2(d), as the EC regulation under which the basis period was calculated to determine future quota allocations was WTO-inconsistent.

GATT Art.I:1: the panel found that a quota level more favorable for ACP countries was a requirement under the Lomé convention. However, it found a violation of Art:1 in the collective allocation of the quota to the ACP countries, calculated on the basis of individual countries' pre-1991 best-ever export volume, which would not have been justified under the Lomé Waiver. As for the preferential zero tariff for non-traditional ACP countries' imports, the panel found no violation since the Lomé Convention allows the EC to grant preferential treatment to ACP countries as well as discretion to the form of that preferential treatment.

GATS Arts. II and XVII: Having found that the EC had committed to accord no less favourable treatment within the meaning of Art II and XII to the range of Principle and subordinate "wholesale trade services", the panel, after examining the design, architecture and revealing structure of the measure at issue, concluded that Ecuador's suppliers of wholesale services were de facto granted less favourable treatment than the EC and ACP suppliers, in violation of arts and XVII. The panel also found that the "newcomer" licences scheme and the "single pot" licensing rules challenged by Ecuador

were violated Art.XVII, as both measures also resulted in less favourable conditions of competition than, for example, to the EC service suppliers.<sup>112</sup>

In general, the implications of this dispute are significant, though the focus is on the conditions of the grant of trade preferences. This means that the future of the entire system on trade preferences on which African countries rely heavily on market access opportunities can be called into question.<sup>113</sup>

### **3.2.2 EU policy position paper of 1996**

Another reason for the EU policy shift in the trade relations with ACP countries, from non-reciprocity to reciprocity, was highlighted in the EU policy position paper of 1996.<sup>114</sup> In that paper, it was observed that nearly forty years of preferential non-reciprocal market access had not yielded the expected gains in terms of economic development for many of the ACP countries.<sup>115</sup>

Furthermore, the paper pointed to the changing geo-political interest of the EU in the 21<sup>st</sup> century, pointing to the EU enlargement, the new strategic trade alliances with other regions such as the Mediterranean and South American regions as other reasons to

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<sup>112</sup> Ibid

<sup>113</sup> Mosoti, V. (2006): *Africa in the First Decade of WTO Dispute Settlement*. Journal of International Economic Law Vol.9, No.2, p.35.

<sup>114</sup> EC. (1996): *Green Paper on Relations between the European Union and the ACP countries on the eve of the 21<sup>st</sup> century-Challenges and options for a new partnership. Reflection Document*. Brussels. Retrieved September 9, 2009 from <http://www.euforic.org/greenpap/intro.htm>

<sup>115</sup> Mwebeiha, C. (2004): *Legal issues of Economic integration*. ISSN, 1566-6573, Vol. 31, No4 pp.243-256

reform the EU-ACP relationship.<sup>116</sup> The Green Paper was followed by another discussion paper which provided guidelines for the negotiation of a new cooperation agreement between the EU and ACP.<sup>117</sup>

Preferential market access as portrayed in the Green Paper and other documents is always blamed for not achieving the desired effects for the ACP. However, what is not mentioned is that in order to qualify for these preferences, only primary products (or commodities) may be exported. Value-added products do not qualify as they attract higher tariffs. Also omitted in terms of the Cotonou Agreement, is the influence of the Common Agricultural Policy (CAP) reforms on the EU market prices, especially the resultant decline in real market prices of primary products or commodities.

### **3.3 Objectives of EPAs**

The general objectives are sustainable development of the ACP states, their smooth, gradual integration in the world market, eradication of poverty and enhancing sustainable growth, increasing production and supply capacities of the ACP countries. They are promoting structural processing and economic diversification of the ACP states while supporting regional integration.<sup>118</sup>

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<sup>116</sup> EC.(1996). p.8.

<sup>117</sup> EC. (1997): *Guidelines for the Negotiation of New Cooperation Agreements with the African, Caribbean and Pacific Countries*. Commission Document. Retrieved September 26, 2009 from <http://aie.pitt.edu/1207/>

<sup>118</sup> EC. (2006 September). *Partnership Agreement ACP-EU-signed in Cotonou on 23 June 2000*. Revised in Luxembourg on 25 June 2005. Directorate General for development

Conceptualized as a development instrument, the main objectives of EPA should consolidate the regional integration process and foster growth and development in the regions, as well as establish a new-compliant legal basis for governing bi-regional trade relations.<sup>119</sup> The full EPAs should build on these objectives and consolidate even further the regional and development dimension of the ACP countries.<sup>120</sup> The EU removed all remaining quota and tariff limitations on access to the EU market for all ACP regions as part of the EPAs negotiations. This offer gives ACP countries the same full access to the EU markets that Least Developed Countries (LDCs) have under the EU free-market system. This means the ACP countries would have the same market access conditions, encouraging the ACP countries to collaborate and build regional markets.

The most fundamental objective of the EPAs is to create a regime that is compatible with the requirements of Art. XXIV of the GATT and Art. V of the General Agreement on Trade in Services (GATS). Both require that the ACP countries liberalise towards the EU.<sup>121</sup> The EPAs offer an opportunity to dovetail trade policy in order to stimulate important reform processes, facilitate sustainable development and help reduce poverty in ACP countries. The close link between trade and development envisaged in the Cotonou Agreement will be achieved first and foremost by increasing the coherence

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<sup>119</sup> Sasman., C. (2008, March.) *Southern Africa: EPAs a stepping stone-SADC.*, New Era, Windhoek, p1

<sup>120</sup> Hinkle, L. E. & Schiff. (2005, January) *Risks and reward of regional trading arrangements in Africa: Economic Partnership agreements (EPAs) between the European Union and sub-Saharan Africa.* Draft for Discussion. pp 1-5. Retrieved April 8, 2008, <http://www.acp-eu-trade.org/SSA.php>

<sup>121</sup> ODI. (2006). *Economic Partnership Agreements (EPAs): Where we are*, ODI briefing paper 4, June 2006

between the trade policy and the development policy.<sup>122</sup> The EPA as a trade agreement with development components, is designed to open up and enhance trade between the EU and Namibia by improving Namibia's capacity to trade competitively.<sup>123</sup>

In line with the Cotonou principle of differentiation and regionalization, ACP countries have negotiated under several regional groupings in which they intended to enter into EPAs with the EU. These regional groupings were: West Africa, Central Africa, SADC, East and Southern Africa (ESA), EAC, and the Caribbean Forum of African, the Caribbean and Pacific States (CARIFORUM).

### 3.4 The Principles

By signing the Cotonou Agreement in 2000, the two parties agreed to the “phasing-out” of the trade preferences which were granted since 1975 under the Lomé Conventions to the ACP group and to a progressive removal of trade barriers between the ACP and EU, with the goal of liberalisation of reciprocal trade starting in 2008.<sup>124</sup> “Since substantially all imports from the ACP countries to the EU are already de facto duty and quota free

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<sup>122</sup> Federal Ministry for Economic Cooperation and Development. (2007). *Trade for Development ACP/EU Economic Partnership Agreements*. Topic 175. Berlin, Germany. <http://www.bmz.de/en/service/infothek/fach/materialien/materialie175.pdf>

<sup>123</sup> Caribbean Regional Negotiating Machinery. (2009). *Overview of the Cariforum-EC Economic Partnership Agreements( EPA)*. Trade Wins. Vol.1 No.1. <http://www.carib-export.com/SiteAssets/TradeWins%20EPA%20Overview%20Final.pdf>

<sup>124</sup> Bilal, S.& Rampa, F. (2006):*Alternative to EPAs: Possible scenarios for the Future ACP trade relation with the EU*. Policy Management Report 11, p. 15.

(96.5% = all industrial products and 80% of agricultural products), most of the trade liberalisation will have to come from the ACP.”<sup>125</sup>

The Cotonou Agreement sets out four principles upon which EPAs should be formed: *Development* (EPAs should be development-oriented trade arrangements that ensure sustainable development and economic growth in ACP countries that contribute to poverty eradication), *Reciprocity* (with the establishment of Free Trade Agreements (FTA), for the first time, ACP countries will have to open-up, on a reciprocal basis, their own markets to EU products in order to retain their preferential access to the EU market), *Regionalisation* (the principle of basing the future trade cooperation on regional integration initiatives stems from the conviction that regional integration is a key stepping stone towards further integration into the world economy, as well as a main instrument to stimulate investment and to lock-in the necessary trade reforms), and *Differentiation* (EPAs should provide sufficient scope for flexibility, special and differential treatment and asymmetry; in particular LDCs, small and vulnerable economies, landlocked countries and small islands should be able to benefit from special and differential treatment).<sup>126</sup>

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<sup>125</sup> Ibid, p.15.

<sup>126</sup> Bilal, S. (2002): *Implications of the Doha Development Agenda on the EPA negotiations*. European Centre for Development Policy & Overseas Development Institute. Retrieved on October 2, 2008 from <http://www.-acp-eu-trade.org>

### 3.5 EPAs: Trade regime

Apart from the internal reasons, the Lomé Conventions also expired because they are not compatible with the WTO principles of MFN and non-discrimination that forbid preferential treatment to selected countries and apply favourable conditions to all trading partners.<sup>127</sup>

The Cotonou Agreement, which entered into force in 2000, established a new trading regime between the EU and ACP countries by creating reciprocal trade relations in conformity with the WTO trade rules from 2008 onwards.<sup>128</sup> According to the Cotonou Agreement, the EU-ACP cooperation shall foster ACP countries through:

- Sustainable economic and social development;
- Smooth and gradual integration into the world economy;
- Efforts to alleviate poverty.

This should initially be achieved by economic and trade cooperation with the EU that is supposed to address supply-side constraints, to enhance production capacities, and to attract investment (Art 34).

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<sup>127</sup> Lang, R. (2006). *Negotiating GATT Article XXIV- a priority for African countries engaged in North-South trade Agreements*. African Trade Policy Centre, Work in Progress Report No. 33. February 2006

<sup>128</sup> EC. (2005): *Economic Partnership Agreements: Putting a rigorous priority on development*. Memo, 20 January 2005, EC: Brussels.

On the other hand, it could be argued that, since the ACP countries are not ready to liberalise their markets unilaterally, an FTA with EU offers the chance to “lock-in” economic policies, as it would make it costly for ACP countries to reverse their policies. A reciprocal trade agreement with their main trading partner could act like an “agency of restraint” and signal willingness of ACP countries to economic reform, thus offering the chance to attract foreign direct investment.<sup>129</sup> However, it must be borne in mind that an FTA is only a potential but not sufficient condition for reaping foreign direct investment. Furthermore, ACP countries have not aspired to enter into EPAs with the EU but had to agree because they want to keep market access. The contractual affirmation of current and future market access to the EU is the main motivation for ACP countries to negotiate EPAs.

The EU considers regional integration schemes and processes as a “key instrument” for ACP countries’ integration into the world economy, which shall be “encouraged and supported.”<sup>130</sup> That is why the EU decided to negotiate EPAs with countries “...which consider themselves in a position to do so.”<sup>131</sup> However, this freedom of choice includes consideration of the fact that non- LDC ACP countries as Namibia, would face a substantial deterioration of the EU preferences if they rejected entering into EPAs negotiations.

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<sup>129</sup> Collier, P. & Gunning, J. W. ( 1999). *The IMF’s role in Structural adjustment*. The Economic Journal, Vol 109(459) p. 634.

<sup>130</sup> EC 2000, Art. 35

<sup>131</sup> Roux, W. (2008) p.5.

### 3.6 The need to trade: EU-Namibia partnership

The ACP countries have become marginalized in the EU trade and many members face serious economic problems that, often, can be resolved only if their policies change.<sup>132</sup>

The EU-Namibia partnership was established at the independence of Namibia in 1990, under the third Lomé Convention, one in a series of treaties which defined the relationship between the ACP countries and the EU, of which Namibia is a member.<sup>133</sup>

The Cotonou Agreement implies that the way the EU is providing development assistance is changing, and that Namibia needs to redefine its trade relationship with the EU.<sup>134</sup> Technically, Namibia's access to the lucrative EU markets would have ceased when the Cotonou Agreement lapsed at the end of 2007, unless it entered into an EPA with the EU. But various concerns stopped Namibia from signing, and after intense negotiations, the country decided to only provisionally initial the interim EPAs. Without this, Namibia would have had to pay taxes to the tune of forty-five million EUR, nearly five-hundred million Namibian Dollars. Such high tariffs, and the fact that Namibia would have to compete with its major competitors who are advanced economies, would probably have forced Namibia to stop all exports to the EU.<sup>135</sup>

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<sup>132</sup> ODI. (2006) *Development dimension: Matching Problems and Solutions*. Briefing Paper 6.

<sup>133</sup> EU: *The delegation of the European Commission to Namibia*. Retrieved September 26, 2009 from <http://delnam.ec.europa.eu/general.htm>

<sup>134</sup> Ibid

<sup>135</sup> Duddy, J. (2009): *No penalty for not signing EPA*. *The Namibian*, 9 June. Retrieved on September 2, 2009 from <http://allafrica.com/stories/200906090487.htm>

Economically the following questions arise: Will entering an EPA with the EU bring benefits for Namibia? How can Namibia get better access to the EU market and maintain its interest in SADC and SACU countries especially in South Africa?

It is important to clarify that South Africa is a member of both SACU and SADC, and is Namibia's most important trading partner, next to the EU. In 2000, 86 percent of Namibia's imports came from neighbouring South Africa and 26 percent of Namibia's went there. Exports to the EU came to 55 percent the same year.<sup>136</sup> South Africa refused to sign an interim EPAs with the EU because it has an existing trade agreement with the EU, the TDCA. South Africa enjoys strong trade with the EU, and could expand its market share at the expense of other SADC countries if they snub the EPA's deal. South Africa issued a warning that it may be forced to strengthen customs controls within the region in order to avoid transshipment of the EU exports to the South African market through Botswana, Lesotho and Swaziland, all of which signed interim EPAs with the EU recently.<sup>137</sup> That is the fundamental point. Namibia needs to evaluate the political and economic arguments carefully to make the right decision. The EPAs' opponents said such non-tariff liberalization will re-colonize southern Africa because it will benefit the established economy of the EU infinitely more than the developing market of SADC

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<sup>136</sup> Meyn, M. (2004): *Are Economic Partnership Agreements likely to promote or constrain Regional Integration in Southern Africa*. Retrieved on September 29, 2009 from <http://www.nepru.org.na/index.php?id=126>

<sup>137</sup> Zwane, Teetee. (2009, June). *South Africa adamant to defend itself*. *Swazi Observer*. South Africa. Retrieved on 25 June from [www.tralac.org/cgi%2Dbin/giga.cgi](http://www.tralac.org/cgi%2Dbin/giga.cgi)

countries. Others, however, maintained that beefed-up market access is exactly what the region needs.<sup>138</sup>

### **3.6 Complexity of the EPA negotiations process**

#### **3.6.1 Overview of the SADC-EU EPA negotiations**

The negotiations were officially launched in July 2004 and it was agreed that preparations will be undertaken until December 2004 after which substantive negotiations would take place from January 2005 to July 2007.<sup>139</sup> In December 2004, the first meeting of senior trade officials took place and parties agreed on the following priorities for negotiations in 2005: Sanitary and Phytosanitary measures (SPS), Technical Barriers to Trade (TBT) and regional integration.

In March 2006, the SADC-EPA group presented an adopted framework document to the EU which set out the principles, objectives and key elements to define their new approach to the EPA negotiations.<sup>140</sup> Thus, on February 2007, the EU released their response to the SADC strategic framework proposals. In the response, the EU accepted the SADC request to include South Africa as the full member of the SADC- EPA negotiations group but rejected its request to contractualise non- reciprocal market

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<sup>138</sup> Van den Bosh, S. (2009 April). *European Union pushes trade deal on Africa*. Finalcall.com. Retrieved on 27 June from [www.finalcall.com/artman/published/article\\_5922.shtml](http://www.finalcall.com/artman/published/article_5922.shtml)

<sup>139</sup> SADC Update. Retrieved June 6, 2008 from [www.tralac.org](http://www.tralac.org)

<sup>140</sup> Ibid

access for Mozambique, Angola and Tanzania and to leave trade and services issues off the negotiating agenda.<sup>141</sup>

From 17 to 23 June 2007, talks between representatives from the EU and members of the SADC-EPA configuration were held in Walvis Bay, Namibia. The meeting considered the possibility to negotiate new trade issues at a later stage and to first conclude EPAs on trade, rules of origin, sanitary issues trade facilitation by December 2007.<sup>142</sup>

A quarterly meeting of the council and commissioners of the SACU took place in Windhoek, Namibia, with the objective to approach negotiations with the EU regarding the signing of the EPAs. The relationship within the bloc deteriorated when some SACU members signed IEPAs with the EU while others refused. The EU also needed to consider the impact of the legality of the IEPA on the future integration process in SACU and given that three (Botswana, Lesotho and Swaziland) of five SACU members have signed IEPA, there is a “clear violation of the SACU agreement”, which now has to be dealt with.<sup>143</sup> Following several rounds of negotiations in the SADC regions and Brussels throughout 2008 and 2009, an interim Agreement and final act was signed between the EU and Botswana, Lesotho and Swaziland on 4 June 2009 in Brussels.

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<sup>141</sup> INSAT. ( 2007, March): *Around Southern Africa*. Issue 8. P.2 Retrieved on September 29, 2009 from <http://www.sarpn.org.za/documents/d0002487>

<sup>142</sup> Weidlich, B. (2007 July): *Trade talk deadline closer, but EU and SADC far apart*. The Namibian, Windhoek.

<sup>143</sup> Vand Der Merwe, C. (2009 July): *SACU Trade negotiators to EPA in Namibia*. Creamer Media’s Engineering New Online, Johannesburg Retrieved July 8, 2009 from [www.tralac.org/cgi\\_bin/giga.cgi?cmd=cause\\_dir\\_news\\_items&caus\\_id=1694&news](http://www.tralac.org/cgi_bin/giga.cgi?cmd=cause_dir_news_items&caus_id=1694&news)

Shortly after that, on 15 June 2009, Mozambique added its signature with the EU in Maputo. The EU hopes that Namibia will sign in the near future and will continue to work with Namibia, Angola and South Africa on outstanding issues.<sup>144</sup> According to Namibian Minister of Trade and Industry, Hage Geingob “our concern is of course... that, if the issues agreed at Swakopmund, Namibia, are not reflected in the binding document, it does not bind the parties to take these issues into account during the negotiations of the final EPA.” He emphasised that Namibia “will sign...when our interests are adequately considered.”<sup>145</sup> In addition, the Namibian President Hifikepunye Pohamba and cabinet have requested for a comprehensive report on the derailed negotiations with the EU before deciding whether or not to sign the contentious EPAs with the bloc.<sup>146</sup>

### **3.6.2 Concerns raised during the SADC – EU EPA negotiations: The case of Namibia**

Namibia raised concerns and initialled on 5 December 2007 on the understanding that its concerns will be addressed through negotiation in the next step.<sup>147</sup> This suggests that Namibia will sign and ratify the interim EPAs only if her concerns are accommodated.

These concerns were set out in the statement from the Namibian government, which highlighted:

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<sup>144</sup> EC. (2009): *Africa, Caribbean and Pacific: Regional Negotiation on Economic Partnership Agreement*. Retrieved September 4, 2009 from [http://ec.europa.eu/trade/issues/bilateral/regions/acp/regneg\\_eu.htm](http://ec.europa.eu/trade/issues/bilateral/regions/acp/regneg_eu.htm)

<sup>145</sup> Duddy.J.M. ( 2009, June): *Namibia govt to review EPA deal*. The Namibian Retrieved September 2, 2009 from [http://www.tralac.org/cgi-bin/giga.cgi?cmd=print\\_articl&news\\_id](http://www.tralac.org/cgi-bin/giga.cgi?cmd=print_articl&news_id)

<sup>146</sup> Ibid

<sup>147</sup> Bank of Namibia.(2007, January), p. 112.

- The EU Commission's insistence on a clause requiring SADC members to "immediately freeze any measures concerning the use of export taxes and levies."
- The EU Commission's insistence on a non-negotiable demand for a provision which ensures free movement of goods with eight SADC countries.
- The implication of the Most Favoured Nation provision which the EU has included in the interim EPA,
- The EU Commission's rejection of the SADC-EPA proposal for infant industry protection, based on the current regional arrangements.<sup>148</sup>

In each of these areas, it is necessary to revisit the provisions already included in the SADC-EU interim EPA to ensure regional realities and needs are fully accommodated. Throughout the negotiations, the EU interpreted development to mean liberalization of the market and the inclusion of the Singapore issues (investment, government procurement, trade facilitation and competition) in the negotiations. In their strategic framework proposal submitted to the EU in March 2006, SADC-EPA of which Namibia is a member, trade ministers recommended the exclusion of the Singapore issues from the negotiations since they were not requirements for WTO compliance.<sup>149</sup>

In order to ensure uninterrupted access to its market by products from ACP states of which SADC is a member, and to implement the IEPA, the EU adopted a regulation

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<sup>148</sup> ODI & ECDPM. (2008, April). *Interim EPAs in Africa: what's in them? And what's next*. Trade Negotiation Insight, volume 7. Number 3.

<sup>149</sup> Roux, W. (2007). *EU-SADC post 2007 trade: The final wake up call for Namibia and the rest of the SADC region*. Retrieved on 3 September 2008 from <http://www.tralac.org/scripts/content.php?id=6224>

which came into force on 1 January 2008.<sup>150</sup> The Legal implication of this regulation is that it ensures continuous access for SADC goods imported into EU after 1 January 2008. This regulation also provided for the withdrawal of preferences which means when the ACP countries, in the SADC region, signal the intention not to ratify the initialled agreement; where ratification does not take place within a reasonable period of time; or where the agreement (Art. 2 (3) of the EPA regulation is terminated.<sup>151</sup>

### **3.6. 3 The legal notion of provisional application and ratification processes**

In June 2009, the state representatives of Botswana, Lesotho, Mozambique and Swaziland (BLMS) signed an IEPAs with the member states of the EU after years of negotiations. The Agreement provides, in article 105 of the EPAs, that signature and ratification or approvals are required to express the party's consent to be bound.<sup>152</sup> The terms "signature" and "ratification" bear specific legal meaning.

The signature is one of the first steps in the process of becoming a party to a treaty. The IEPA provides, in Art. 105, that a signatory State will become a party to the agreement through ratification or approval. In addition, Art. 18 (a) of the VCLT 1969 determines that the signature of the agreement confers an obligation on the contracting parties to

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<sup>150</sup> Council of the EU. ( 2007, December): *Council Regulation (EC) No 1528/2007 of 20 December 2007*. Retrieved September 7, 2009 from [http://www.acp-eu-trade.org/library/library\\_detail.php?doc](http://www.acp-eu-trade.org/library/library_detail.php?doc)

<sup>151</sup> Ibid

<sup>152</sup> Cronje, J. B. (2009, June) *The Signing of the Economic Partnership Agreements*. Tralac Newsletter. Retrieved September 5, 2009 from <http://www...org/cgi--bin/giga.cgi?cmd>

refrain from an act which would defeat the object and purpose of the agreement in the period prior to its entry into force.<sup>153</sup>

The ratification or approval of an agreement represents an international act whereby a State established on the international plane indicates its consent to be bound by the treaty. In this instance, the parties are required to deposit an instrument of ratification or approval to the Secretary General of the council of the EU.

The ratification process will be lengthy. It took almost three years for the Cotonou Agreement, signed on 23 June 2000, to be ratified by the 15 EU member states and the EC and two thirds of the ACP states to enter into force in April 2003.<sup>154</sup>

The process of the EPA is unlikely to be completed in less than a couple of years, at least far beyond the date of entry into force of EPA, envisaged by the Cotonou Agreement.<sup>155</sup> The case of Namibia is more complicated. Namibia decided not to sign the IEPAs due to the inability of the negotiating partners to address the concerns it had raised upon initialling the IEPAs text. The situation is less clear, as it depends on the regional and domestic legal setting, as discussed on its concerns during the SADC-EU

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<sup>153</sup> Vienna Convention on the Law of Treaties. (1969). *Treaty Series*. Vol. 1155. United Nations.

<sup>154</sup> EC (2000). *ACP-EU Partnership Agreement Signed in Cotonou on June 2000*. Supplement to Courier. Brussels, pp. 3-5.

<sup>155</sup> *East African Council- EABC Newsflash*, Retrieved on April 13, 2007 , [http:// www.eabc-online.com](http://www.eabc-online.com)  
[www.acp-eu-trade.org/sadc.php](http://www.acp-eu-trade.org/sadc.php)

EPA negotiations.<sup>156</sup> The Namibian Government signed under the condition that its concerns will be addressed during the extended EPA.

### **3.7 The major conflicting arguments between the EU and Namibia**

#### **3.7.1 The use of export taxes**

The export taxes in Namibia have been widely used to address some of the challenges facing a small country in a region dominated by a much larger and economically powerful neighbour. The use of taxes can prove worthwhile in maintaining supplies to the processing industry. These taxes are meant to encourage value-added processing and promote industrialization.<sup>157</sup> For example, the value addition policy export taxes have proved a valuable tool for helping Namibian companies to survive some very rough competition practices. In the early 1990s South African Breweries attempted to undermine Namib Breweries by selling bottled beer cheaply in Namibia. Under SACU rules, Namibia could not impose an import duty, but it could impose an export tax on the empty beer bottles. Given the economics of the bottled beer trade, the threat of a high export tax on the empty beer bottles effectively halted this predatory practice by South African Breweries and helped Namib Breweries to remain in operation; and fifteen years later, Namib Breweries have grown into exporting premium brand beers to some 25

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<sup>156</sup> ECDPM. (2009, July): *EPA Negotiations: Where do we Stand?* Retrieved on September 29,2009 from <http://www.acp-eu-trade.org/>

<sup>157</sup> ODI & ECDPM. ( 2008, April ). *Interim EPAs in Africa: What's in them? And what's next?* Trade Negotiations Insights, Vol 7, N.3.

countries and competing with South African Breweries in the beer market throughout southern Africa.<sup>158</sup>

For Namibia, the use of export taxes goes beyond simple public revenue considerations and is fundamentally about maintaining policy tools which can help to foster structural economic development in difficult circumstances. From such a perspective, giving up these tools does not make sense for Namibia.

### **3.7. 2 Free movement of goods**

The EU's insistence on what is seen by the Namibian Government as "a non-negotiable demand for a provision to ensure free goods to the eight SADC countries," is regarded as a problematical issue because that demand, according to Namibia, ignores the current regional trade arrangement under SACU. For example, in the wheat sector the provisions of the SACU agreement allows Namibia to ban imports of wheat and wheat flour during the period of the wheat harvest, until such time as a market has been found for all Namibian wheat. This applies to all wheat including that produced in South Africa. This use of internal barriers to trade within the SACU for sensitive sectors, ensures the continued existence of an irrigated wheat-farming industry in Namibia. The EU demands could lead to the demise of the Namibian wheat industry.<sup>159</sup>

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<sup>158</sup> Ibid, p.6.

<sup>159</sup> Ibid, p.7.

This is not a good provision for Namibia. The main issue is how to ensure the primacy of intra-regional trade arrangements, which have been designed to take into account local regional realities and regional policy objectives with regard to the promotion of regional development.

### **3.7.3 The Most favoured Nation ( MFN) provisions**

The demand by the EU to include an MFN clause in the EPA severely undermines the scope for SADC EPA countries to make their own decisions about their market opening with a third party. The inclusion of the clause, therefore, obliges SADC EPA states to extend to the EU any favourable treatment it may offer or negotiate with third parties.<sup>160</sup>

The current MFN provisions would mean any new trade preferences extended to Brazil or India would automatically need to be extended to the EU.<sup>161</sup>

From the EU viewpoint, the provision can be seen as equally unhelpful for European exporters if the SADC were to offer the EU's competitors the same tariff preferences which the EU has negotiated with them.<sup>162</sup>

However, Namibia could not accept the EU's demand for MFN treatment for the EU in all future free trade agreements between SADC EPAs countries and third parties.<sup>163</sup>

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<sup>160</sup> Ministry of Trade and Industry of Namibia. (December 2007): *Interim Economic Partnership Agreements With the European Union initialed by Namibia*. Media Release from the Ministry of Trade and industry of Namibia of 13 December 2007. Retrieved on September 29, 2009 from [http://www.fesnam.org/pdf/2008/events/No1\\_2008MTI\\_MediaRelease\\_IEPA\\_13Dec07.pdf](http://www.fesnam.org/pdf/2008/events/No1_2008MTI_MediaRelease_IEPA_13Dec07.pdf)

<sup>161</sup> Dieye, C.T & Hanson,V. (2008, March): *MNF in EPA: A treat to South-South trade*. Trade Negotiations Insight , Vol.7, No.2.

<sup>162</sup> ODI & ECDPM.(2008, April), p.7.

According to the regional preferential arrangement of GATT 1994, Art. XXIV, exception to the MFN clause allows tariff and other barriers to trade on a preferential basis among members of a regional arrangement without extending it to other countries. The MFN clause, as proposed by the EU, is therefore not in line with the provision of GATT 1994, Art. XXIV. The clause will take into account SADC EPA countries' sovereignty on their trade policy regime with third parties.<sup>164</sup> Acceptance of such a provision would preempt SADC EPA countries negotiating space, as EPA- plus preferential treatment will be accorded to the EU without any further concession from the EU side. Such a situation carries the potential to negate the balance of benefits of the negotiated EPAs. In addition, such a provision would preempt the WTO provision for special and differential treatment with respect to any future preferential treatment SADC EPA countries may want to accord to developing or least developed countries with whom they decide to enter into a preferential trade arrangement.<sup>165</sup>

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<sup>163</sup> Bank of Namibia (2008, January)

<sup>164</sup> Dieye, C.T & Hanson, V. (2008, March)

<sup>165</sup> Bank of Namibia (2007, January)

## CHAPTER 4

### THE COHERENCE BETWEEN EPAs AND THE DEPENDENCY THEORY: THE NAMIBIAN PERSPECTIVE

#### 4.1 External Influences

##### 4.1.1 WTO compatibility and reciprocity

EU-ACP trade relations have traditionally been governed by EU granting different forms of non-reciprocal trade schemes resembling or improving upon GSP to the ACP countries. But according to Cotonou, this has to change, which means that EU-ACP trade relations shall be WTO-compatible and thereby lead to reciprocal EPAs.<sup>166</sup> As Martenczuk stated, Cotonou attempts ‘to set out objectives and principles that will guide ACP-EU development cooperation well into the 21st century. At the same time, it represents a major overhaul of instruments and policies in all fields of ACP-EC development cooperation.’<sup>167</sup> The main external reason for the replacement of Lomé with Cotonou and EPAs has been the WTO rulings in the so-called Banana disputes, where parts of the Lomé Conventions were found to be WTO-incompatible because they favored ACP countries against other developing countries.<sup>168</sup> The current trade regime between EU and ACP countries is based on a WTO waiver obtained in 2001, which runs until 31 December 2007. From that date, WTO-compatible EPAs are supposed to come

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<sup>166</sup> Martenczuk, B. (2000): *From Lomé to Cotonou: The ACP-EC Partnership Agreement in legal perspective*. European foreigner Affairs Review, pp. 461-487.

<sup>167</sup> Ibid, p.462.

<sup>168</sup> Meyn, M. (2006): *The Impact of EU Free Trade Agreements on Economic Developments and Regional Integration in Southern Africa: The example of EU-SACU Trade Relation*. Retrieved on September 4, 2009 from [http://www.nepru.org.na/uploads/.../MR/2006\\_Ch5\\_Meyn\\_23Apr07.pdf](http://www.nepru.org.na/uploads/.../MR/2006_Ch5_Meyn_23Apr07.pdf)

into force. According to the EU, “the aim of the EPAs is to reduce trade barriers between the EU and ACP countries.”

In empirical research done for the World Bank, Freund Caroline asserts that the notion of reciprocity is being detrimental to the overall terms of trade currently accorded to the African continent. The reciprocity may be especially damaging in North-South Agreements, where asymmetries in size and bargaining power suggest that developing countries will have to make relatively larger trade concessions to achieve an agreement with a high income country; and Northern countries extract significantly more market access in Southern countries.<sup>169</sup>

#### **4.1.2 The Suspension of Doha Development**

The Doha Development Round was the latest ministerial round of the WTO and was launched in 2001.<sup>170</sup> Its aim is to strengthen the international trade regime, to promote further market liberalisation and to include developing countries better into the world economy. The Doha Round, which was seen as an important agenda for the developing countries, was suspended on 24 July, 2006. That 24 July was a “black Monday” for the Doha Development Agenda (DDA), when WTO Director General Pascal Lamy recommended a “time out” and infinite suspensions of the negotiations across the round

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<sup>169</sup> Freund, C. (2003): *Reciprocity in free trade Agreements*. World Bank. Retrieved on July 26,2009 from <http://www..wds.worldbank.org/serlvet/.../IB2003/07/.../multi0page.pdf>

<sup>170</sup> WTO. (2001, November):*Ministerial Declaration, adopted on 14 November 2001* Retrieved July 28,2009 from [Http://www.org/english/thewto\\_e/minist\\_e/min01\\_e/mindecla\\_e.pdf](Http://www.org/english/thewto_e/minist_e/min01_e/mindecla_e.pdf)

as a whole.<sup>171</sup> The reason for the suspension was mainly that the USA and EU did not agree to further reduction of the agricultural subsidies. The Doha round, especially with concessions the EU would have made in terms of improving access to the European market through the GSP, the EBA initiative, EPAs and other bilateral agreements, would have had an enormous influence upon the exact conditions for each ACP country as well as in terms of their competitors. Nevertheless, the suspension of the round is still seen as a loss for most developing countries. It is noted that it would be unwise to demarcate those issues important for developing countries, such as the quota-free and duty-free access for LDCs and the Aid for Trade initiative, from the key negotiating areas.<sup>172</sup>

In Doha, the low tariff profile South Africa was applying to the other smaller member states of SACU affected them adversely by making it easy for cheaper imports to enter the SACU market. This had caused enormous damage to industries in the textile and apparel sectors, automobile, furniture and leather products. South Africa and its partners (SACU members) needed 23% of additional flexibilities to ensure that their sensitive industrial tariff lines were subjected to low or zero tariff cuts. However, the industrialized countries said they could not consider more than 16% of flexibilities on the grounds that any concessions to South Africa and its SACU partners would cause

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<sup>171</sup> Grammling, S. ( 2006, August ): *WTO's Doha Development Agenda: Suspension of Negotiations reveals the underlying problems of the Round*. Fact Sheet No.9. Retrieved May 6,2008 from [Library.fes.de/pdf-files/bueros/genf/04363.pdf](http://Library.fes.de/pdf-files/bueros/genf/04363.pdf)

<sup>172</sup> Ibid

“systemic” problems in the global trading system.<sup>173</sup> The Namibian trade envoy to the WTO, Mr Benjamin Katjipula, said in an interview with IPS: “ the big boys (USA and EU) are behaving like gluttons who want to consume and pocket everything without appreciating that the situation of SACU members demands flexible treatment.”<sup>174</sup>

#### **4.1.3 The failed experience of EC financial assistance support for EPAs**

The Financing Agreement for the *SADC Economic Partnership Agreement (EPA) Support Facility Project Number 9 ACP SADC ( 006)* was signed on 12 August 2005. The project itself was started on 1 May 2006, and will end on 30 September 2009. The legal basis for this project stems from the Cotonou Agreement. The Cotonou Agreement (Chapter 2, Art. 37) provides for the negotiation of EPAs between the EU and the various ACP regions based on reciprocal trading arrangements – originally it was anticipated that these Agreements would be concluded by 31 December 2007. The indicative Programme € 7.5 million was allocated to the EPA Support Facility.<sup>175</sup>

By the end of the programme in June 2006, the moves to establish both a revenue authority and VAT (Value Added Tax) system were some four years behind schedule. Dependence on customs revenues increased from 54% in 2004/05 to 62% in 2006/07,

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<sup>173</sup> Devarakonda, R.K. ( 2008, November): *Trade: Rich Countries apply Double Standards in WTO Doha Round*. World Prout Assembly. Retrieved September 17, 2009 from [http://www.worldproutassembly.org/archives200811/trade\\_rich\\_coun.html](http://www.worldproutassembly.org/archives200811/trade_rich_coun.html)

<sup>174</sup> Ibid, p.3.

<sup>175</sup> EC. (2009): *The Final Evaluation of the EPAs Support Facility*. Request Nr. 2009/216 522 Retrieved September 22, 2009 from <http://www..resources/fw11-SADC-216522%20TOR%20final%Evaluation%20%20EPA20%facility.doc>

even though, under the TDCA implementation scheme, revenues from customs duties were expected to fall by 23% in 2012.<sup>176</sup>

Experiences from Namibia offer an equally bleak picture. In 2003, the Government and the EC worked up to N\$ 8 million (funds) in support of public financial management reform. However, in 2004, it was reported that funds were “insufficient to cover other programmed interventions... and the funding of the newly identified Public Finance Management Support Programme.”<sup>177</sup> The programme was therefore shelved, despite a growing dependence on customs revenue transfers (up to 43% in 2006/07 from 30% in 1997/98) and the impending decline in customs revenue collection, as a result of the implementation of the EU-South Africa TDCA from 2012 onwards.<sup>178</sup> That is why a brief policy on the “aid for trade” debate notes that the “aide for trade” initiatives “have often not been translated into a set of clear and concrete actions”. Rather they have focused on establishing “the right institutional framework.”<sup>179</sup>

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<sup>176</sup> ICCO Enterprising To Support People.(2006): *Lessons For the EPA Negotiations*. Document. Retrieved September 16,2009 from <http://www.acici.org/ailic/aidfortrade/doc/11rappforaidtradeA4fc.pdf>

<sup>177</sup> Ibid

<sup>178</sup> Ibid

<sup>179</sup> IDS.( 2009, March ): *In Focus Policy Briefing* . Issue No 06. Retrieved September 16, 2009 from [http://www.acp-eu-trade.org/library/files/cirera\\_en\\_0309\\_IDS\\_changing](http://www.acp-eu-trade.org/library/files/cirera_en_0309_IDS_changing)

#### 4.1.4 Discretionary Negotiation powers of the EC

Goodison argues that the discretionary powers the European Commission has over aid allocations provides it with considerable leverage in the EPA negotiations.<sup>180</sup> He foresees that with 'the engineered convergence of the process of programming of the 10th EDF with the final stages of the EPA negotiations process...the programming of the 10<sup>th</sup> European Development Fund (EDF) could well come to constitute the single largest 'institutional bribe' in history, with ACP finance ministers being 'encouraged' to 'put the arm' on reluctant trade ministers who remain unconvinced of the economic value of the type of EPAs which the EU is proposing.'<sup>181</sup> In other words, the EU will wait the ACP countries out and provide some face-saving sweeteners (e.g. expanded EPA-related adjustment support) to make ACP countries sign the European Commission's version of EPAs.

In the same paper, Goodison argues that the European Commission is being hypocritical when calling for simultaneous sequencing of aid and trade reforms in the EPA-process, while at the same time pursuing a policy of reform and restructuring first followed by market reforms internally in the EU particularly in regard to the agricultural sector. Thus, in relation to its own market, the European Commission is following the same type of policies, which the ACP countries are requesting in relation to the EPAs, but are denied by the European Commission.

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<sup>180</sup> Goodison, P. (2007): *The future of Africa's trade with Europe: New EU Trade policy*. Review of African Political Economy. Retrieved on September 21, 2009 from [http://mpra.ub.uni-muenchen.de/9434/1/MPRA\\_Paper.pdf](http://mpra.ub.uni-muenchen.de/9434/1/MPRA_Paper.pdf)

<sup>181</sup> Ibid, p. 147.

## 4.2 Disappointing Results of the previous Agreements

### 4.2.1 Failure of the Lomé Convention

Lomé was the decreasing share of imports from ACP countries to the EU. The share, after years of preferences, has fallen from 6.7% in 1976 to 3.11% in 2002.<sup>182</sup> When the first Lomé Convention was signed, ACP exports accounted for the 3.4% of total EU imports. However, ACP states failed to keep pace with the growth in EC trade, declining to 3.2 % of EC imports by 1985 and 1.5 % by 1992. Average EC import growth between 1985 and 1991 amounted to more than 12% per annum, while ACP exports to the EU expanded by less than 7% per annum over the same period. The Lomé Convention, therefore, did not provide the essential supporting infrastructure to enable the ACP states to maintain their market share.<sup>183</sup> Within Lomé, it was widely agreed that one could not actually speak of a partnership. Farrell notes that the asymmetrical trading relationship was clearly visible in the unbalanced nature of political dialogue between the two partner regions. The ACP group never had the necessary political weight to exercise influence within the partnership. He says their bargaining strength was clearly limited to what could be negotiated with the EU by appealing to the conscience of individual countries or by upsetting the EU into extending the agreement.<sup>184</sup>

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<sup>182</sup> Manchin, M. (2004): *Preference Utilisation and Tariff Reduction in EU Imports from ACP Countries*. Discussion Paper. TI 2004-132/2 Retrieved May 3,2008 from <http://www.tinbergen.nl/discussionpapers/04/32.pdf>

<sup>183</sup> Cosgrove, C. (1994): *Has the Lomé Convention failed ACP Trade*. *Journal of international Affairs*. Vol.48. Retrieved September 9,2009 from <http://www.questia.googleScholar,qst:jsessionid>

<sup>184</sup> Farrell, M. (2004). *A Triumph of Realism over idealism? Cooperation between European Union and Africa*. Paper prepared for the ECPR standing Group international Relation Conference. The Hague, September 2004. Retrieved September 4,2009, from <http://www.sgir.org/conference2004/papers/Farell%20A%20triumph%20of%20Realism%20over%20idealism.pdf>

“It was a relationship based less on partnership than on inequality and general institutional inertia...”<sup>185</sup> Holland notes that “the leitmotiv of Lomé was always its claim of partnership. The 1999 negotiation process, however, was marked more by inequality and conditionality than by parity.” He describes the negotiations as a “situation of total power asymmetry.”<sup>186</sup> When looking at the negotiation process for the Cotonou Agreement, this inequality is unlikely to change.

#### **4.2.2 Short lifetime of Cotonou Agreements**

The objectives of the Cotonou Agreement, which was signed in 2000, are more concrete than in its forerunner convention: “The partnership shall be centred on the objective of reducing and eventually eradicating poverty consistent with the objectives of sustainable development and the gradual integration of the ACP countries into the world economy.”<sup>187</sup> The new agreement demands to fulfil WTO standards as well as entrust the ACP countries with greater responsibilities. The three main dimensions, which should function together, are politics, trade, and development.<sup>188</sup>

The political dimension incorporates some conditions: violations of the basic principles of human rights, democracy, the rule of law and good governance “could lead to a

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<sup>185</sup> Ibid pp.7-8.

<sup>186</sup> Holland, M. (2002): *The European Union and the Third World*. Palgrave

<sup>187</sup> Europe/2000/483/EC: *Cotonou Agreement + Summary*. Retrieved on October 2,2008 from <http://europa.eu.int/scadplus/leg/en/lvb/r12101.htm>

<sup>188</sup> Ibid

suspension of cooperation (or, of aid) under a non-execution clause that was inserted by the EU and against the wishes of the ACP states.”<sup>189</sup>

According to Elijah Munyuki, in his paper, reciprocal trade arrangements in the ACP-EU Cotonou Agreements; *Were ACP Countries Duped?* he states that the Cotonou Agreements is an unfair treaty and is flawed in favour of the EU states. In particular, he cites the notion of reciprocal trade as a key facet that gives the developed countries of the EU an upper hand as the contentious clause gives the EU bloc licence to aggressively push for larger volumes of their exports into ACP countries due to their capacity which is unrivalled by the ACP states.<sup>190</sup>

According to the EU’s official pamphlet, Cotonou, along with the EPAs, is the “EU’s global response to the needs of the ACP Group.”<sup>191</sup> Bensah E.K argues that the Cotonou Agreement is not quite an agreement but, rather, a neo-liberal agenda of the EU imposed on the African continent.<sup>192</sup>

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<sup>189</sup> Farrell, M. (2004). p.12.

<sup>190</sup> Munyuki, E. (2004):*Reciprocal Trade arrangements in the ACP-EU Cotonou Agreement: Were ACP countries duped?* Southern and Eastern Africa Trade Information and Negotiations Institute(SATINI)

<sup>191</sup> EC. (2002): *Economic Partnership Agreements. Start of Negotiations*. Directorate General For Trade. P.1

<sup>192</sup> Bensah, E.K. (2003, May):*Cotonou Agreements: Who is agreeing?* Risk Review. Retrieved September 17, 2009 from [http://www.risq.org/article92.html#\\_edn41](http://www.risq.org/article92.html#_edn41)

### 4.3 Application of the theory

The dependency theory will be assessed, in how far, according to the theory, the EPA entails further dependency. It is therefore not looked at as a measure of poverty but as another reason for poverty or underdevelopment.

The dependency theory suggests that underdevelopment is a result of external factors – more concrete as a result of the industrialized countries using the underdeveloped countries economically to reach and hold on to their own prosperity. From this point of view, the EU, in accordance with the WTO would only impose the EPA to reach further trade liberalisation in order to exploit the ACP countries. In this part, the external influences and previous agreements will be considered from a dependency point of view.

Most dependency theorists regard international capitalism as the motive force behind dependency relationships. Andre Gunder Frank, one of the earliest dependency theorists, is quite clear on this point: The historical research demonstrates that contemporary underdevelopment is largely part of the historical product of past and continuing economic and other relations between the satellite underdeveloped and the now developed metropolitan countries.<sup>193</sup> Furthermore, these relations are an essential part of the capitalist system on a world scale as a whole.

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<sup>193</sup> Gunder, A.F. (1972): *The development of Underdevelopment*. P.2 James D. Cockcroft, Andre Gunder Frank and Dale Johnson eds. Garden City New York.

According to this view, the capitalist system has enforced a rigid international division of labour which is responsible for the underdevelopment of many areas of the world. The dependent states supply cheap minerals, agricultural commodities, and cheap labour, and also serve as the repositories of surplus capital, obsolescent technologies, and manufactured goods. These functions influence the economies of the dependent states on the outside: money, goods, and services do flow into dependent states, but the allocation of these resources is determined by the economic interests of the dominant states, and not by the economic interests of the dependent state. This division of labour is ultimately the explanation for poverty and there is little question but that capitalism regards the division of labour as a necessary condition for the efficient allocation of resources.

Concerning the theoretical considerations, dependency theorists clearly go in line with the mercantilist trade theory. The main argument is the deterioration in terms of trade, meaning that the primary goods produced in developing countries continuously decrease in value compared to the industrialized goods produced in industrial countries. This argument is based on the assumption of different price elasticity of primary and industrial goods (e.g. if the prices of primary goods rise, the demand for those in industrial countries decline more than the demand in developing countries for industrial goods) and the unequal diffusion of technical advancement.<sup>194</sup> Another argument is the strong difference in wages. Because wages in the South are low, the prices of goods stay low;

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<sup>194</sup> Wu Wien, W. & Sozialgeschichte: *Modul 7:Depenz- & Welt-System Theorie-Die Entwicklung der Unlerentwicklung*. Retrieved on October 2,2008 from <http://www.wu-wien.ac.at/inst/w3/telematik/download/wsg7.pdf>

because wages in the North are high (15-30 times higher) and climb even higher, logically the prices for their products rise as well. More and more products from the South are needed in order to import a constant amount of products from the North.<sup>195</sup> Concerning Cotonou, the erosion of preferences for ACP goods into the EU and the establishment of EPAs will strengthen this tendency as the total amount of trade between the two blocks will be increased. Also, the high competition of products originating from the EU will demolish infant industries in the South and therefore undermine all efforts of industrial development. The elimination of import substitution, through free trade, and the abolishment of trade barriers in the ACP countries will increase the dependency of products from the EU – which brings new markets for the EU.

For dependency theorists, the effects of international influences are clear. The international economic institutions are driving trade liberalisation forward as it opens new markets for the industrial countries which dominate these institutions. This happens through laws, as in the WTO, and through conditionality, in the form of Structural Adjustment Programme; the EU is part of both these developments and Cotonou goes along. These arguments can be interpreted as being in line with the main tenor of the dependency theory: the industrialised countries wanting to profit while using the underdevelopment of poor countries. One of the arguments is describing the pressure to export more, with no growing demand for these goods – this situation leads to a decline of prices and therefore a worsening in terms of trade. The dependency of many countries

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<sup>195</sup> Ibid

on exports of only a small range of primary goods makes them extremely vulnerable to price fluctuations on the world market. The pressure to produce and export more, increases not only the specialisation on only a few primary goods, but reduces also the efforts towards a sustainable economy. The increase of imports, and therefore competition, destroys weak national companies which have often been supported by development assistance. A decline of growth, high unemployment and poverty are the results.<sup>196</sup> Another important argument is the decline of national revenues through import tariffs, which nearly make half of the national budgets for some LDCs. Since many countries do not have an efficient tax system or other incomes, the cutback of tariffs decreases their scope for the reduction of debts and the fight against poverty.<sup>197</sup>

That is why Trebilock says “The existing specialisation patterns of many developing countries could, with justification, be viewed as the historically contingent product of colonialism – developing countries served as ready sources of raw materials on the one hand, and as markets for the finished products of colonial powers, on the other..., but also its foundation in fundamentally unjust power relationships.”<sup>198</sup>

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<sup>196</sup> Nuschler, F. (2004): *Lern-und Arbeitsbuch Entwicklungspolitik. 5.* Revised edition. Bonn: J.H.W.Diez Nachf. GmbH

<sup>197</sup> Ibid p. 380.

<sup>198</sup> Trebilock, M. J. & Howse, R. (1999): *The Regulation of International Trade.* 2<sup>nd</sup> Eds. Routledge

the EU will demolish infant industries in the South and therefore undermine all efforts of industrial development. The elimination of import substitution through free trade, and the abolishment of trade barriers in the ACP countries will increase the dependency on products from the EU – which brings new markets for the EU.

These arguments are also supported when one considers the discretionary negotiation power. It was shown, that the motivation to change Lomé to Cotonou came mainly from the side of the EU. From the perspective of a dependency theorist, the following aspects support his point of view: the EU is changing the relationship basically according to its own interests, by providing open markets for their own goods and gaining resources and power to engage with other developing countries which have become more important. While doing this, the EU still protects its own agricultural markets and sells surpluses on the world market for dumping prices. The EU has pushed its interests with its stronger negotiation power, as the ACP countries are dependent on the aid sector of the relationship.<sup>199</sup>

#### **4.4 Summary of theoretical arguments**

Different perspectives were applied to the theory. The following table provides an overview of the main findings.

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<sup>199</sup> Goodison, P. (2007).

**Table 3:** Coherence between EPA and Dependency theory

	<b>DEPENDENCY THEORY</b>
<b>INTERNATIONAL INFLUENCES OF RELATIONSHIP</b>	
<b>WTO conformity and reciprocity</b>	It is not compatibility which needed to be regarded first; but the human welfare. The reciprocity may be damaging EU-ACP countries Agreements. “the fact that there would be cheap EU maize, fruits and vegetables coming to Namibia is detrimental to local farmers”(cf. Literature review p.25)
<b>Suspension of Doha development</b>	The Doha agenda failed because of the EU and the United States of America (USA) did not agree to reduce agriculture subsidies. It was a self-interest question. “the big boys (USA and EU) are behaving like gluttons who want to consume and pocket everything without appreciating that the situation of SACU members demands flexible treatment” (cf. p.69)
<b>Failed experience of EU financial assistance support</b>	Aid for trade has often not been translated into a set of clear and concrete actions. It failed because donor countries don't have enough money to pay the adjustment costs.( cf. p. 70 Experience from Namibia)
<b>Discretionary negotiation powers of the EU</b>	The EU has strong negotiation power because ACP countries are dependent on the aid sector. “the EC's refusal to amend the interim EPA text or add an annex to the existing one in order to safeguard Namibia's interests has caused a deadlock in the negotiations”(cf. p.60)
<b>DISAPPOINTING RESULTS OF THE PREVIOUS AGREEMENTS</b>	
<b>Failure of Lomé</b>	The share of imports from ACP to the EU has declined during Lomé Convention. The ACP countries are not much better off after 25 years of Lomé cooperation. (cf. p.72)
<b>Short lifetime of Cotonou</b>	The Cotonou Agreement is not quite an agreement, but a neo-liberal agenda of the EU imposed on the African continent. It is an unfair treaty.(cf. p.73)
<b>THE NEW AGREEMENT</b>	
<b>EPA</b>	EPA will bring high adjustment costs and unemployment will rise in Namibia. Further destruction of infant industries through competition of EU products.

## CHAPTER 5

### CONCLUSION, REFLECTIONS AND THE WAY FORWARD

#### 5.1 Conclusion

By looking at the table above, it becomes clear that nearly all aspects which need to be considered in order to analyse the new agreement, contain arguments favouring the theory. The main research question of this study is: **Will EPAs help to integrate Namibia into the global economy; will Namibia have a sustainable economy that reduces poverty among its people?** Before answering this question, it must be understood, that subjectively, the hypothesis has been proven correct. Objectively, it can be concluded that the EPAs, in accordance with the international dominant system, is seen as a negative development initiative for Namibia for the following reasons: EPAs for Namibia may not be desirable because they will have a massive impact on its productive sectors. The Namibian producers will face increased competition in their home market, SACU, and this competition, may have adverse implications for Namibian production and its market share. Aggravating this concern is the fact that some of the EU imports, especially agricultural products, are subsidized. This implies an unfair advantage of their products over Namibian products, which are not subsidized. In addition, economics of scale of EU producers are simply not available to a small economy like Namibia's.

Furthermore, the main effect will be fiscal, as revenue from international trade will be reduced, although the extent of such reduction will depend largely on the tariff cuts. The

IEPAs provide for tariff cuts on more than 80 percent of products imported into the SACU market. The loss of revenue, therefore, constitutes a central policy issue for Namibia, as dependence on this source of revenue is extremely high and significant; finding a new alternative source of revenue would be a challenge for Namibia.

## **5.2 Reflections**

The objective of this research was the critical analysis of EPAs from a developmental perspective. The theory was used to consider different aspects which relate to the EU-Namibia trade relationship. The theory has helped to clarify that the agreement can be understood as a negative measure concerning the development process of Namibia. Nevertheless, it must be admitted that the dependency theory has clearly explained the relationship. Not many details of the relationship can actually be explained by findings of the theory due to more new theories explaining underdevelopment or providing the baselines for effective development. The understanding of such a complex issue does not only contain one correct viewpoint or solution.

In the following, some recommendations are provided which can help to make further research about this topic more comprehensive. It has underscored some of the problems that were inherent in the EPA negotiations and has shown that most of these problems recur in the IEPA. It is submitted that entering into full EPAs will entail substantial costs, like job losses and deindustrialisation for Namibia. Failure to conclude full EPAs or absence of the legal text with the EU will lead to trade disruption. Such an absence

would mean that Namibia would not be in a position to challenge the EU tariff. For instance, the agreement still requires signature and ratification before it enters into force in Namibia. But it still remains questionable whether Namibia will have the motivation to subscribe to the final agreement. The question, of course, remains whether the EU, faced with the rejection of EPAs across Namibia, will finally address the issue of an alternative. To better understand the relationship, it might be useful to not only study the core objective of the EPA, but also to critically consider the political and legal dimension, the promotion of participatory approaches, the development strategies and the reform of the financial support cooperation which are equally, important components of the relationship.

The question is whether the EU is willing and able, first, to support re-balancing changes to the SADC rules, and second, to put its resources into programmes that directly address the constraints the SADC countries face beyond seeking to comply with their obligations to equitably or competitively benefit from opportunities the multilateral trading system is supposed to avail.

## **5.2 The Way forward**

What has become obvious in this study is the complexity, contradiction and uncertainty of present development cooperation between developed and developing countries, here, especially between the EU and Namibia. From a developmental perspective, it is not clear yet whether the method of theory used and the path adopted by this study will

prove to be correct. According to Dr Severine Rugumamu, it is “unrealistic to advance the idea that liberalization of ACP economies will lead to competition against products from the EU, efficiency and greater investment.”<sup>200</sup> He maintains that such “imprudent liberalization will most likely have adverse consequences on government revenues and balance of payments, as well as promote de-industrialization and massive unemployment.” So far, Farrell tries to shed some light on the relationship and agrees the findings of study. He adds that: “In fact, what the EU is promoting is a model of economic liberalisation across the African continent and in the process attempting to secure for itself continued market access and a privileged economic status in the continent’s emerging markets. However, the European policy is much less active in addressing the real problems of poverty and instability that are likely to place severe limitations on either achieving economic liberalization or securing broad-based societal benefits in the long-term.”<sup>201</sup>

It is also important to clarify that relationship based on the dependency theory. It should be questioned whether it is appropriate to argue with such an old concept which has so far hardly worked in developing countries. As emphasised by Farrell “...dependency has always characterized the European’s relation with the third world.”<sup>202</sup>

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<sup>200</sup> Rugumamu, S. (2000).

<sup>201</sup> Farrell, M. (2004), p.5.

<sup>202</sup> Ibid

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