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Economic Partnership Agreements: Implications for Regional Governance and EU-ACP Development Cooperation

Summary

The controversial Economic Partnership Agreements (EPAs) are currently back on the agenda, as several African, Caribbean and Pacific (ACP) states are again faced with a loss of market access if they do not ratify their EPAs by 1 October 2016. To complicate matters, Brexit has introduced an element of uncertainty and is causing some ACP states to reconsider their decision to sign EPAs.

EPAs were introduced under the trade pillar of the Cotonou Partnership Agreement (CPA), which governs relations between the European Union (EU) and the ACP. EPAs represent a sea change in trade relations between the EU and the ACP: not only do they introduce reciprocity into trade preferences, they are organized on a regional basis, with the aim of promoting regional integration within the ACP. This Briefing Paper presents an update of the various EPA processes, and investigates the extent to which they have actually met the EU's stated aim of promoting regionalism in the ACP, as well as the EPAs alignment with the Sustainable Development Goals (SDGs), and the debate on the future of EU-ACP cooperation.

EPAs have been only partially effective in facilitating regional integration in the ACP. EPA negotiations have resulted in the conclusion of region-wide deals that align with existing integration initiatives in only three regions: the Caribbean, the East African Community (EAC), and West Africa. EPAs have acted as a 'mid-wife' to deeper integration in these regions, however it is a possibility that

the EAC and West African EPAs will not be signed by the October deadline.

In the remaining regions – the Pacific, Central Africa, Eastern and Southern Africa (ESA), and the Southern African Development Community (SADC) – EPAs have made future prospects for regional integration more difficult, and in some cases may have contributed to a 'lock-in' of fragmented regionalism.

Part of the reason for this mixed record is tension between the CPA's principles of 'regionalization', which recognizes the importance of regional integration for development; and 'differentiation', which advocates treating states differently based on their level of development. EPAs aimed to encourage groups of states to sign the agreements as regional blocs, but the EU's Everything But Arms (EBA) regime undermines regional EPAs by offering Least Developed Countries (LDCs) non-reciprocal trade preferences. This splits ACP regions into LDCs versus non-LDCs, making it difficult to conclude regional EPAs.

Given the ongoing struggle to conclude regional EPAs, and the uncertainty of Brexit, the EU should consider extending the 1 October deadline, to allow ACP states more time to consider their positions and work on further harmonising regional relations.

As regional integration is key for the economic development of ACP states, future cooperation should be aware of the need for alignment of EPAs, the SDGs, and the goal of regional integration.

EPAs: Where do we stand?

As of August 2016, only one EPA region, the Caribbean, has a full regional EPA in force, as it was the only region to conclude a comprehensive deal by the initial deadline of December 2007. Three other regions – SADC, West Africa, and the EAC – have concluded regional EPAs, but the likelihood of signature is in doubt in West Africa and the EAC. Finally, there is little hope of regional EPAs materializing in the remaining regions of Central Africa, ESA, and the Pacific. LDCs in these configurations have opted to trade under EBA, while the non-LDCs have signed and ratified individual bilateral EPAs. Regional EPAs seem an unlikely outcome for these three configurations.

Of those regions which have concluded regional EPAs and are in the signing and ratification phase, the SADC Group is making the most progress. The seven members of the SADC configuration signed their EPA in June 2016. Although their EPA is not as extensive as the Caribbean EPA, nor does it include all 15 member states of SADC (see Figure 1), the ratification process is well underway.

The five members of the EAC configuration concluded a regional EPA in 2014. A signing ceremony was scheduled for 18 July 2016, but in the wake of Brexit, Tanzania announced that it would not sign the agreement, throwing the future of the EAC EPA into doubt and jeopardizing Kenya's continued market access.

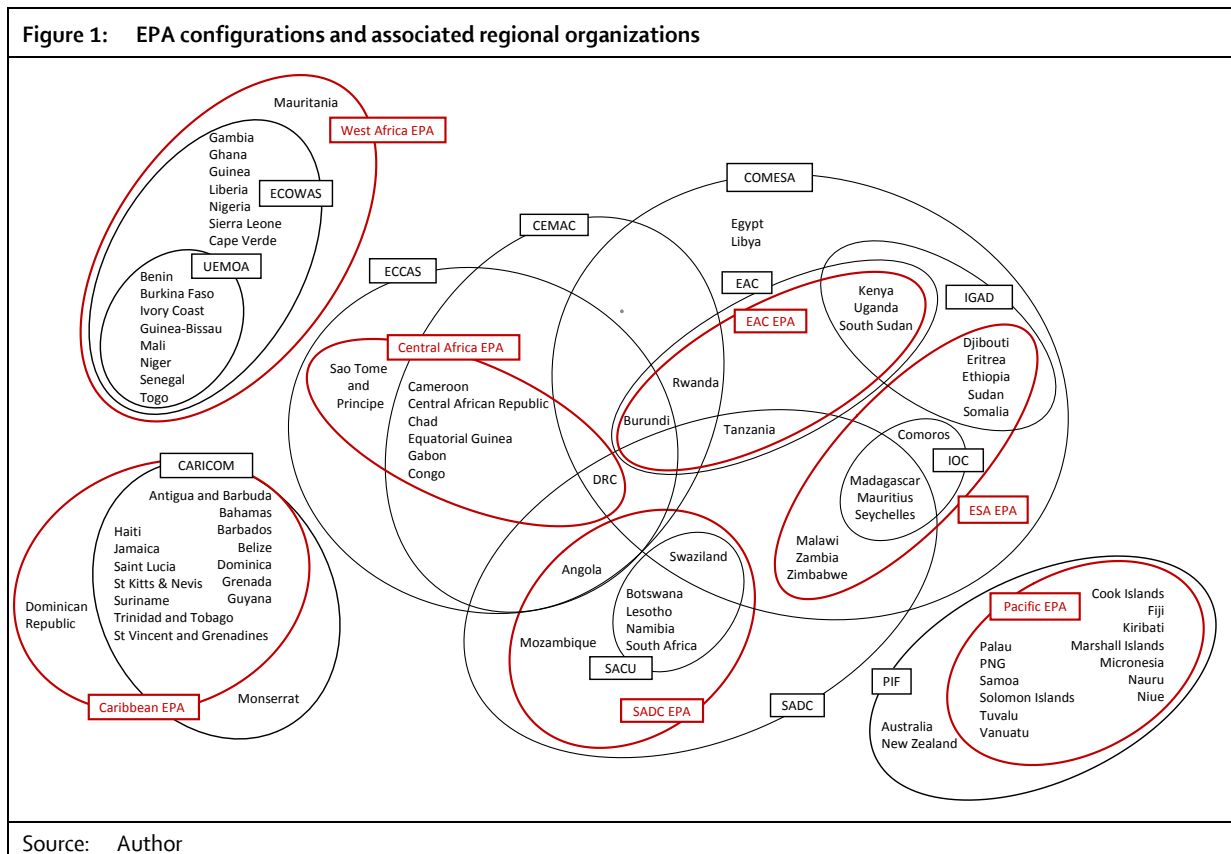
As in the EAC, uncertainty prevails within the West African configuration. Despite having negotiated a regional EPA with the lowest market opening of any ACP region and a substantial

development package, the regional EPA may still be scuppered by Nigerian opposition. Nigeria endorsed the EPA for signature in July 2014, however a change of government in May 2015 rekindled its reluctance to sign, based on domestic opposition from manufacturing and trade associations, and perceived incompatibility with its national Industrial Revolution Plan.

Regional consultations are under way to convince Nigeria and its lone supporter, Gambia, to sign. Yet it remains a possibility that Nigeria will not sign, putting the other non-LDCs in the region in a difficult position. Ghana and Ivory Coast still have their bilateral EPAs on the backburner, and will be sorely tempted to dust them off to maintain EU market access should regional consultations fail. This would undermine the Economic Community of West African States' (ECOWAS) existing level of integration, especially the recently implemented Common External Tariff (CET). The EU insists it will not be returning to the negotiating table to address Nigeria's concerns, so the following months represent a real test of regional solidarity.

Implications for regional governance

As the trade pillar of the CPA, EPAs intended to enhance regional integration in the ACP by 1) encouraging states that belong to multiple regional organizations to make difficult but decisive choices about their multiple memberships (see Fig. 1), contributing to more coherent integration; 2) putting external pressure on regions to formulate common positions on issues central to common trade policy; and 3) developing a shared culture of cooperation and balanced compromise within ACP regions through the negotiation process.



However, outcomes have not necessarily met expectations. First, EPAs did not solve the overlap problem in southern, eastern and central Africa, and may have worsened the problem by 'locking-in' fragmented regionalism. The 15 member states of SADC have made commitments to the EU across three different EPA configurations, and although there are plans to harmonize overlap through the SADC-EAC-COMESA (Common Market of Southern and Eastern Africa) Tripartite and the African Union's (AU) planned Continental Free Trade Area, it is not clear how the differing and possibly conflicting commitments made under different EPAs could be reconciled with planned customs unions. A potential solution might be for the Southern African Customs Union (SACU), a sub-set of five SADC members, to form a southern African integration hub, and the EAC (a customs union since 2005) to form an East African hub, with each hub expanding outwards as states decide which union to join. Indeed, Mozambique is currently in negotiations to join SACU, and other SADC countries may follow suit. The EU might consider delaying the October deadline to allow regions time to further harmonise these overlapping regimes, and in the long term may have to allow for some flexibility and/or renegotiation on certain EPA provisions in order to promote further harmonization.

Second, neither the CPA, nor the consultative phase of the EPAs, gave any prescription on the degree of integration required for ACP regions to enter into negotiations, nor what level of integration should be obtained by the end of the EPA process. A CET is commonly regarded as a prerequisite for regions to enter into trade negotiations with external parties, and in some cases, EPA negotiations have facilitated the emergence of a CET. Negotiations with West Africa were put on hold for almost two years while the region finalized its CET, shortly afterwards concluding a region-wide EPA. EPA negotiations also accelerated regional integration in the EAC. It signed a customs union agreement in 2005, became an official EPA configuration in 2007, signed a common market protocol in 2010 and one on monetary integration in 2013, making it one of the most ambitious and fast-moving integration initiatives in the ACP. In such regions, where the membership of EPA configurations cohered with the borders of existing regional organizations, negotiations have served as a 'mid-wife' to deeper integration. In other regions, the sharpening of the regional agenda has been less acute, as states struggled to formulate regional responses to issues thrown up by the EPAs due to overlapping memberships and disparate trade preferences.

As far as stimulating a culture of cooperation, the negotiations again represent a mixed bag and seem to have been most successful in those regions where EPAs cohered with existing integration initiatives. In West Africa, the ECOWAS Commission's role in negotiations has strengthened its authority and autonomy vis-à-vis member states, and solidified a culture of supranational cooperation within the region. One could hardly say the same of SADC, where the EPA inflamed intra-regional tensions to the extent that SACU was threatened with disintegration. This impasse was only resolved by South Africa asserting its dominance within the

group at the expense of the interests of smaller states (Murray-Evans, 2015); hardly a 'win' for establishing cultures of balanced compromise.

EPAs and the future of EU-ACP development cooperation

The EPAs were conceptualized as the trade pillar of the CPA, but they are likely to long outlive it. The CPA will expire in 2020, and both the ACP and the EU are currently contemplating the framework for post-2020 cooperation. The ACP Secretariat was not particularly visible nor influential during the negotiations, while the regionalized nature of the EPAs has led to regional organizations gaining visibility and influence at the expense of the ACP as a whole. As a result, the future of the ACP as an organization is in question. Currently its mandate overlaps with that of other organizations, and it is becoming less relevant on the international stage, as signalled by the low attendance of Heads of State at ACP summits. The shared interests of a group that were a consequence of the 'colonial hangover' no longer seems sufficient to generate collective action amongst a diverse group of 79 states. Evaluations show that the gains of political and trade cooperation within the EU-ACP framework have been limited, and the framework is ill-equipped to deal with implementing the Sustainable Development Agenda, due to its focus on traditional North-South development cooperation, and its poor record on civil society engagement, (Bossuyt, Keijzer, Medinilla, & De Tollenaere, 2016). One suggested reform is to integrate the increasingly regionalized dynamics and keep the ACP as an 'umbrella' organization, tasked with facilitating exchange of information between regions. However, the Secretariat's failure to perform even this perfunctory task during EPA negotiations makes this an unconvincing suggestion. Although there are vested interests and path dependencies advocating the continuation of EU-ACP cooperation along the lines of the CPA, the time is ripe to consider reforming cooperation along regional lines. Regional institutions are already in place throughout the ACP, and a more regionalized approach to EU-ACP cooperation would allow ACP regions to shape cooperation with the EU in a manner better suited to their regional specificities, instead of a catch-all framework intended to cover 79 states.

EPAs and Sustainable Development Goals (SDGs)

Trade is a key instrument for the delivery of the SDGs, but 'done wrong' trade liberalization can exacerbate, rather than relieve poverty. EPAs relate most strongly to Goal 17: global partnership for sustainable development (see Box 1) but, as they currently stand, there are several tensions and trade-offs between the suggested targets and the EPAs themselves.

Target 17.10 does not recognise the reality of regulatory standards being set outside of the World Trade Organization (WTO), in interregional forums such as the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP). Most developing countries do not have a voice in the setting of trade rules and standards in

Box 1: EPAs and Sustainable Development Goals

EPAs are most relevant for **Goal 17: Strengthen the means of implementation and revitalize global partnership for sustainable development.**

Relevant targets:

17.10: Promote a universal, rules-based, open, non-discriminatory and equitable multilateral trading system under the WTO.

17.11: Increase the exports of developing countries. In particular, double LDCs' share of global exports by 2020.

17.12: Grant duty free quota free market access to all LDCs, and ensure that preferential rules of origin are transparent and simple.

17.15: Respect each country's policy space to implement policies for poverty eradication and sustainable development

The EPAs are also relevant for other targets:

2.b: Correct trade distortions in world agricultural markets, through the elimination of agricultural export subsidies.

8.a: Increase Aid for Trade support for developing countries, in particular LDCs.

Source: United Nations Development Programme [UNDP] (2016)

these negotiations that will have a knock-on effect on them. Nevertheless, trade agreements outside the multilateral system can make positive contributions to SDGs. EPAs make a positive contribution to targets 17.12, 2.b, and 8.a, by granting ACP states duty-free quota-free access to EU markets, improving rules of origin, eliminating subsidies on produce exported to ACP states, and offering Aid for Trade packages to assist in implementation of the EPAs. However, a tension arises in relation to target 17.15, as EPAs have the effect of eroding policy space in signatory countries. The EU's push to include clauses restricting the use of export taxes, safeguard mechanisms, and infant industry protection were a major factor in some states' scepticism of EPAs, particularly for middle-income countries seeking to move up the industrialization ladder. EPAs do allow mechanisms to protect

some economic sectors under certain conditions, but the fact remains that restricted policy space is the price non-LDCs must pay to maintain access to EU markets.

Conclusions and recommendations

EPA negotiations have a mixed record in encouraging regional integration in the ACP. They have only achieved the stated objective of encouraging deeper integration in regions in which the EPA configuration coheres with the boundaries of pre-existing regional organizations. Even in these regions it is uncertain whether signing and ratification will proceed as planned. Tension between the CPA's principles of regional integration and differentiation when it comes to trade policy is one of the reasons for this mixed record. A post-Cotonou framework for cooperation between the EU and ACP states should try to reduce this inconsistency in order to promote greater harmonization of regional initiatives in Africa.

In the medium- to long-term, policymakers on both sides should consider reformulating post-2020 relations along more regionalised lines. The ACP Secretariat proved to be an ineffectual actor in EPA negotiations and there is little material interest to bind together countries as diverse as Swaziland, Chad and Tuvalu. Regional organizations such as the Caribbean Community (CARICOM), ECOWAS and EAC, even continental organizations such as the AU, are better placed to serve their member states' interests and solve collective action problems than an organization as unwieldy as the ACP.

In the short term, given African states' ongoing efforts to harmonize various overlapping initiatives, and the uncertainty caused by Brexit, the EU should consider extending the October 2016 deadline. Enforcing the deadline risks pushing non-LDCs in West Africa and the EAC into breaking away from their regional EPAs in favour of bilateral EPAs, which will only serve to introduce an extra layer of complexity to the 'spaghetti bowl' of African regionalism.

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