
IMPACT OF ECONOMIC PARTNERSHIP AGREEMENTS (EPA) ON AFRICAN ECONOMY: A LEGAL PERSPECTIVE

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ABSTRACT

Over the years, African countries have enjoyed preferential and non-reciprocal trade treatment from the European Union. Under this relationship, the EU grants tariff free access to almost all African exports to the EU markets, without requiring African countries to give reciprocal access to the EU in return. This relationship was sustained under the EU-ACP Trade Agreement signed in Lome, Togo. However, in 2000, the EU proposed a reciprocal trade agreement in the form of Economic Partnership Agreements with African countries on the ground that the preferential trade agreements under the Lome conventions were not compatible with the WTO rules which required reciprocity. This work examines the legal framework and impact of the proposed EPAs, highlighting its fiscal implications and effect on the development of African economy. The work finds that the EU and African countries are at significantly different level of development. Therefore, signing a reciprocal trade agreement with the EU have adverse effects on African economy resulting in loss of government fiscal revenues, disruption of regional integration among African countries and extinction of infant industries which are likely to die off as a result of harsh competition from relatively cheaper and better quality products from the EU. Hence EPA should be made a development strategy to pull the people of Africa from abject poverty to respectable human development index, the EU should also provide EBA market access to all SSA countries signing EPAs.

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1.0 Introduction

Economic Partnership Agreements are legally binding bilateral contracts between the European Union and individual African countries (McDonald, 2013)

EPAs represent a fundamental shift in the trading relations between the two parties, from a non-reciprocal preferential trading regime under which ACP countries could export almost freely to the EU while maintaining their own restrictions on EU imports, to one requiring reciprocity in liberalization, albeit with a certain degree in asymmetry in commitments, in line with rules of the World Trade Organizations.

This, however, is as much a pyrrhic victory as any, since prematurely opening markets translates into African agricultural and non-agricultural production finding it very difficult to compete with the most likely cheaper, perhaps better quality and even larger supply of goods and services from European countries. For the past few years, the European Union has pressured African Union Member States to conclude EPA negotiations or face the withdrawal of the preferences they currently enjoy under the LOME conventions (Magsig, 2014; Hinkle et al, 2005). This is mainly because the non-reciprocal and preferential trade agreements under the LOME conventions are incompatible with the World Trade Organization rules (Matambalya and Wolf, 2001). On April 16, 2013, the European Parliament reversed an earlier decision to wait until the beginning of 2016; the deadline has now been brought forward to October 1, 2014 (Magsig, 2014).

Thus, since the current EU approach, ostensibly, doesn't fully consider how EPAs impact issues of global importance such as Africa's regional integration, these negotiations can be deemed fatally flawed. The arbitrary deadlines set are, first off, much too premature; and especially expose individual sub Saharan African countries much too susceptible to demands from third countries like those in Asia and America for the kind of reciprocity afforded European suppliers.

Therefore, if Africa is going to ameliorate the negative impact of EPAs, the AU must respectfully insist that deadlines, such as the October 1, 2014 one, be postponed, allowing for various prerequisites that will enable an equitable negotiated conclusion since the region will be a collective like the EU. This ample time and leeway should also allow AU Members to develop consensus between them and all major trading partners on how best to integrate Africa into global supply chains and distribution networks.

This research examines the impact of the prospective Economic Partnership Agreements (EPAs) being negotiated between African, Caribbean and Pacific countries on one hand and the European Union on the other hand. It also evaluates the potential economic and fiscal implications of such agreements on African trade to determine whether it translates to a boost or a setback on the continent's economy. The paper also considers both the economic and developmental implications of EPAs as well as Africa's regional integration. The paper however recognized the economic and fiscal backlash that would arise from EPAs and to proffer a comprehensive recommendation, there is the need for a synergy between governments of developing and least developed countries of Africa, international and intergovernmental organizations and the private sector in negotiating favourable and workable EPAs geared towards the economic growth and regional integration of African economy.

1.1 The Fundamental Questions

This paper deals with the following fundamental questions:

- First, to what extent can it be said that Economic Partnership Agreements with the European Union impacts positively on African trade and integrate African countries into the global economy? In order to address this pertinent question, we reviewed the debate surrounding the signing of the Economic Partnership Agreements by African countries and then peculiar aspects of the African economy which require critical analyses before deciding whether or not it is recommendable to adopt the EPAs. This is based on the premise that African countries are not all in the same development category being that while some are developing countries, many others are classified as least developed countries.
- Despite the traditional reasons for adoption of Economic Partnership Agreements and the acceptance by several analyst of the need for a balanced and non-discriminatory trade agreement between members of the World Trade Organization in line with Article XXIV of the General Agreement on Tariffs and Trade (GATT), these justifications may be largely inconsistent with the conditions that exist between unequal trade partners, especially those involving least developed countries.
- The arguments of the European Union that free trade EPAs are the only way to meet WTO requirements and to integrate African countries into the global economy will be

assessed. Developing countries have a right to special and differential treatment under WTO rules. Any new trade agreement between the EU and ACP countries must preserve and expand this right. The European Union argues that Economic Partnership Agreement is a remedy rather than a problem.

- Second, to what extent is the introduction of Economic Partnership Agreements influenced by the quest of the European powers to favour the European economy and its industrialization, whilst impoverishing under-developed and least developed countries that were once their colonial territories?

This focuses on the ex-British West African colonies, with emphasis and specific examples from Nigeria and Ghana.

This paper remarks that the EPA process ignored the economic structures, aspirations and ideologies of the colonies. The EU is using the EPA negotiations to push through agreements on investment, government procurement and competition policy that developing countries rejected at WTO negotiations in 2003. These agreements would reduce the policy space available to African governments. EPAs threaten regional integration, a central plank of African development strategy since political independence. This strategy has sought to ameliorate the economic problems created by the colonial fragmentation of Africa into many nation states with little economic coherence. The EPAs' configuration process has created new regional groupings that are inconsistent with, and undermine, existing African economic and political blocs. Reducing regional integration to trade liberalization destabilizes the broader socio-economic and political objectives of existing bodies.

- Third, what alternatives are available to African countries other than the Economic Partnership Agreements? This looks at other alternatives outside Economic Partnership Agreements that are available to African countries.

2.1 The Literature

Although there is a considerable body of literature on the EPAs, most papers focus on policy options rather than assess the trade and welfare effects of the EPAs. We gathered five main studies in the recent past that evaluated the impact of the EPAs:

In the first study, Hinkle and Schiff (2004) investigated the effects of an EPA on sub-Saharan African countries. They observed that the liberalization of trade in services which can be part of an EPA agreement will benefit Sub Saharan Africa in terms of consumer gains in sectors such as transportation, telecommunication and finance.

Kiringi, *et al* (2005) evaluates the gains and losses associated with EPAs for ACP countries. They predict a decrease in the production of natural resources, energy and cotton and production increases in fishing, animal products, livestock, crops, sugar, oilseeds, vegetables and cereals for Sub Saharan Africa if a Free Trade Agreement (FTA) with the European Union was signed. However, in case of full reciprocity, production losses in fishing, livestock and vegetables are to be expected. With respect to manufacturing in the SSA countries, they find a decline in heavy industry, medium tech and low tech-industry, clothing and textiles under full reciprocity, but increases in clothing, textiles and agriculture production under a FTA.

More so, Milner *et al* (2005) analyzed the impact of EPA on Tanzania, Uganda and Kenya. The authors find the expected consumer gains and production losses but, more importantly, they identify Kenya as a country where losses outweigh benefits, mainly due to the fact that Kenya's manufacturing sector will be negatively affected by EU competition.

Again, Busse and Grobmann (2007) analyzed the impact of EPAs on West African countries. They find that in most cases trade creation effects outweigh the trade diversion effects. They also find a negative impact on the government deficit.

Fontagne *et al* (2008) investigate the impact of EPAs for all six ACP regions. Their results show increased exports of vegetal production, livestock, agro food and textiles to the EU and big increases in imports from the EU in the range of 20 to 40 percent in textiles, metallurgy, primary products and other industries. Huge decreases in tariff revenue between 70 to 80 percent are found for all six regions except for the Pacific where the tariff revenue seems to be unimportant.

3.1 The Methodology

This research employs the qualitative approach. Materials such as journals, contemporary books, newspapers, internet sources and decided cases and statutes are utilized. It reviews the trade aspects of the WTO Agreement and the impact on EU-African trade relationship. We also lay

emphasis on the major drivers of the regional markets of Africa which are generally developing countries.

4.1 State of EPA Negotiations

The European Union started negotiating EPAs with six ACP regions, which were self defined by the ACP countries in 2003 (Vollmer, 2009). These regions include the Caribbean (CARIFORUM), Central Africa (CEMAC), South-East Africa (ESA), West Africa (ECOWAS), Southern Africa (SADC), and the Pacific. The trade structure of these regions often reflects dependency on just a few products. The top four exported products of the six ACP regions are West Africa: mineral oil, cocoa, fish and timber. Southern Africa: diamonds, mineral oil, aluminum and fish. Central Africa: mineral oil, timber, bananas and cocoa. East Africa: textiles, fish, diamonds and sugar. Caribbean: ships, corundum, ethanol and sugar. Pacific Region: palm oil, sugar, copper and coffee.

In most cases, these products account for at least two-thirds of total exports. The schedule for negotiations was tight, since the WTO waiver expired in December 2007. In most cases this was insufficient time to finalize full EPAs, thus interim agreements were concluded, in many cases on a sub-regional or bilateral level. Negotiations toward full EPAs continue. The course of negotiations differs between the regions. For the Caribbean region, a full EPA including trade in services has been finalized in December 2007. The agreement implies a market opening of 61 percent within 10 years and 82.7 percent within 15 years. The members are: Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Surinam, and Trinidad and Tobago.

For Eastern and Southern Africa two sub-regional interim agreements were concluded with the East African Community (EAC) and Eastern and Southern Africa (ESA). The agreement for EAC implies a market opening of 64 percent within 2 years, 80 percent within 15 years and 82 percent within 25 years. The members are: Burundi, Kenya, Rwanda, Tanzania, and Uganda. The extent of market opening differs among the members of the other agreement between 80 percent for Comoros and 97 percent for Seychelles. The members are: Comoros, Madagascar, Mauritius, Seychelles and Zimbabwe. The other countries of this region can use market access to

the EU under the Everything but Arms initiative for LDCs. They include Djibouti, Eritrea, Ethiopia, Malawi, Somalia, Sudan, and Zambia.

The sub-regional interim agreement for Southern Africa implies a market opening of 86 percent within 2 years except for Mozambique which is required to open 80.5 percent within one year. The members are: Botswana, Lesotho, Mozambique, Namibia, and Swaziland. Unfortunately South Africa did not enter the agreement yet. From a development perspective it would be extremely helpful if the major economic driver of the region formed part of the agreement. Angola can continue to use market access through Everything but Arms.

In the Pacific region a sub-regional interim agreement has been concluded with Papua New Guinea and Fiji. It implies a market opening of 88 percent within 15 years in the case of Papua New Guinea and 80 percent in the case of Fiji. The other non-LDCs of this region include Cook Islands, Marshall Islands, Micronesia, Nauru, Niue, Palau, and Tonga. Trade in goods is relatively unimportant for this region; the agreement is therefore expected to have its focus on trade in services. East Timor, Kiribati, Samoa, Solomon Islands, Tuvalu, and Vanuatu can use market access under Everything but Arms.

In Central Africa, only a bilateral agreement with Cameroon could be finalized in early 2008. The agreement includes market opening of 80% within 15 years. The remaining non-LDCs of this region are Congo-Brazzaville and Gabon, both continuing to negotiate own stepping stone agreements. Chad, Central African Republic, DR Congo, Equatorial Guinea, and Sao Tome are granted market access under Everything but Arms.

In West Africa, bilateral agreements have been signed only with Cote d'Ivoire and Ghana. The agreements imply market opening of 70 percent within 10 years for Cote d'Ivoire and 80 percent within 15 years for both Cote d'Ivoire and Ghana. The vast majority of exports of the region come from Nigeria which is a non-LDC where exports are dominated by oil and gas. The other countries of this region include Benin, Burkina Faso, Cape Verde, Gambia, Guinea, Guinea Bissau, Liberia, Mali, Mauritania, Niger, Senegal, Sierra Leone, and Togo, all of which are LDCs and can use market access under Everything but Arms.

4.2 The Legal and Legislative Framework for the Formation of Economic Partnership Agreements

The European Union and the ACP countries have a long history of development cooperation which began with post-colonial relations. The succeeding conventions, Yaoundé I&II and Lomé I-IV, formed the basis of their relationship and guided a transformation from the “right to independence” towards a “right of development” (Brown, 2002). Under the Lomé conventions, these initially mainly economic North-South relations have also become more and more political, introducing issues of human rights, democracy, good governance, and the rule of law. Despite these comprehensive development policies, the ACP countries did not perform as well as expected. They even performed worse than other developing countries outside the ACP. Together with the growing opposition in the WTO against this non-reciprocal regime, the EU was forced to rethink its development strategy. Thus, on 20 November 1996, the European Commission adopted its Green Paper on relations between the EU and the ACP countries. This paper was intended to launch a wide-ranging debate, involving all actors in the development policy area, and aimed to assure that post-Lomé relations clearly consider the multi-polar liberalizing international scene. The ultimate goal was to establish a new regime that would be WTO compatible and make development resources more efficient.

After overlong and intense debates the new EU-ACP Partnership Agreement was finally signed in Cotonou, Benin, on 23 June 2000. The Cotonou Agreement focused on four main areas: political co-operation, aims of development co-operation, use of aid and a new trade regime. The successor of the Lomé Convention implied new elements to the quite disappointing relationship between the EU and the ACP block, particularly, in the area of trade co-operation (ECDPM, 2014). The trade regime is being negotiated with six regional groups (Caribbean, Pacific and four African regions: CEMAC; East and Southern Africa; ECOWAS; and SADC), and is deliberated to change gradually. During the first phase, from 2000 to the end of 2007, the current rules under the Lomé IV Convention are to be maintained in a slightly modified form. According to Stevens (2006), this preparatory period is justified within the WTO by a waiver, and has to be used to negotiate the Economic Partnership Agreements which replace the one way trade preferences granted by the EU under Lomé with reciprocal ones. This new agreement was meant to enter into force on 1 January 2008, with a transition period to become full Free Trade Agreements (FTAs) at the latest by the end of 2020 (Rocha, 2003). Apart from joining EPAs, Least Developed

Countries (LDCs) will be entitled to maintain a non-reciprocal trade relationship under the Everything but Arms (EBA) scheme (Brenton, 2003).

ACP countries which are non-LDCs may become members of the EU's new Generalized System of Preferences (GSP+), which is unilaterally offered to all developing countries and can also be unilaterally withdrawn (Hurt, 2003). However, in practice none of these regimes will be a better alternative for the ACP countries, due to political strains and some obstacles, including more stringent rules of origin. The recent proposal of the EU, to remove all remaining quota and tariff limitations on all imports from all ACP regions as part of the EPA negotiations, backs this argument (European Commission, 2014). This offer will apply immediately following the signing of an agreement, with a phasing-in period for rice and sugar. It gives all APC countries the same full access to the EU market that all LDCs have right now under the EBA system. The only country not allowed to participate in this deal is South Africa, where a number of competitive products will still have to pay import duties.

4.3 Compatibility with WTO Laws

The compliance of the Economic Partnership Agreements with the rules of the WTO, one of the main reasons for the introduction of reciprocity into the preferential relations between the ACP countries and the European Union is still a subject of controversy.

With the expiration of the waiver which justified the Cotonou Agreement at the end of 2007 and the unlikelihood of obtaining a new one at the World Trade Organization (Bassilekin, 2007), the Economic Partnership Agreements have to be designed to be fully compatible with WTO rules, especially Article 36 (1) of Cotonou Agreement. This principle has to be seen in the light of Art. 39 (3) of the Cotonou Agreement which states that WTO rules have to be interpreted in a flexible way to take the different levels of development in the various ACP countries into account. This provision is in line with the EU's opinion that the existing WTO rules are flexible enough for the trade framework between the two parties. In contrast, ACP countries call for a modification of the WTO regime, which would not only affect EPAs, but also other North-South agreements.

The Most Favoured Nation (MFN) clause which is the cornerstone of the General Agreement on Tariffs and Trade (GATT), obliges each member state to extend any advantage given to another state unconditionally and instantly to all other WTO members (Mavroidis, 2005). This obviously

is contrary to the principle of special and differentiated treatment the EU and the ACP nations agreed on in Cotonou. An exception of this rule is the “Enabling Clause” which was adopted in 1979 as part of the Tokyo Round of the GATT. This provision allows developed countries to grant enhanced market access to developing countries that also extend the market access granted to developed countries (Bosche, 2005). However, this special and differentiated treatment applies to all developing countries and cannot be provided exclusively to the ACP block. Thus, the Enabling Clause is not applicable to EPAs (Desta, 2006).

The justification for these discriminatory agreements is contained in Article XXIV of GATT. It allows members of the WTO to establish free trade areas and custom unions within certain rules. As stated above, EPAs are designed to form FTAs between the EU and the regional ACP groups, and thus are covered by Article XXIV of GATT. There are two key requirements for the formation of FTAs under this provision which are both determined rather vaguely, viz;

- (a) The Time Frame
- (b) The Scope of Liberalization

4.4 Fundamental Principles and Objectives of EPAS

Economic Partnership Agreements are based on the principle that an open trade regime is a prerequisite for growth. This is because it increases domestic competition, attracts investment, promotes diffusion of technology, stimulates co-operation and learning processes and leads to economies of scale (Meyne, 2008). The overall goal of the Economic Partnership Agreements, which should be achieved with these principles, is the sustainable development of ACP countries, their integration into the global economy and eradication of poverty. EPAs set out to help ACP countries integrate into the world economy and share in the opportunities offered by globalization (European Commission, 2014). In specific, the trade regime should promote sustained growth, increase the production and supply capacity, encourage the structural transformation and variance of the ACP economies, and support regional integration.

In essence, Economic Partnership Agreements are FTAs with an additional financial dimension, helping to implement the trade regime, which are based on the following principles: first of all, EPAs must be development tools contributing to the goals mentioned above and not self-purposed. They also oblige ACP countries to progressively open their markets for products from

the EU. Financial aid provided by the European Development Fund and the European Investment Bank will mitigate the negative impacts of trade liberalization, e.g. loss of tax revenues (ECDPM, 2014). In addition, both parties agreed that special and differentiated treatment should be provided to all ACP countries, especially for LDCs and small, landlocked and island states (European Commission, 2014). Finally, EPAs must be compatible with WTO rules and designed in the light of evolutionary nature of these regulations, and they have to support and reinforce the regional integration process of ACP countries. The principle mechanism by which EPAs seek to achieve these goals is through opening up, or liberalizing, the trade regimes between the EU and the ACP and through promoting trade relations amongst the ACP regional groups which the EU encouraged to establish free trade areas or customs unions. Some authors have argued that the EU's motivation for promoting EPAs is rather self-serving; the aim is to secure continued access to and a privileged position in Africa's markets (Farrell, 2005). They went further and claimed that the EU aims for an enhanced market access by gradually liberalizing trade barriers with regard to imports from EU member states (Busse et al, 2004 and Dihm, 2007). Indeed, the EPAs provide for a liberalization of African markets, albeit in a much slower speed than is required by the EU.

In practical terms, EPAs can be said to be designed to benefit African countries in two major ways. First, is the integration into the world economy and secondly, the furthering of sustainable development within the countries.

4.5 Integration into the Global Economy

According to Farrell (2005), the first aspect of integration into the global economy would be facilitated by the EPAs; the marginalization of African economies would be averted. This point is supported by Borrmann and Busse (2007) who claimed that one of the major aims of the Cotonou Agreement that provides for EPA negotiations is the gradual and smooth entering of ACP countries in general and African countries in particular.

4.6 Regional Integration

A central developmental objective of developing countries in all ACP regions has been to strengthen their markets through regional integration. This priority is supported by the Cotonou Agreement, which states that EPA negotiations shall take into account ACP regional integration

processes and build on current initiatives (Article 37, number 5 of Cotonou Agreement). Simply put, regional integration entails the increase in economic, institutional and political linkages between countries that share geographic proximity (South Centre, 2007). It is the move towards greater interdependence between countries through the removal of barriers and constraints to ease co-operation, including through reduced trade barriers. In regard to economic regional integration, there are various stages of interdependence that range from relatively weak integration arrangements to relatively strong and robust arrangements.

Broadly speaking there are five stages of economic integration: a Trade bloc, a Free Trade Area (FTA), a Customs Union, a Common Market and an Economic and Monetary Union, which is the highest form of economic interdependence. In this context, the EU has argued that an EPA will enhance and rationalize regional integration by providing greater credibility to the process and by locking in policy reforms. However, there is concern whether EPA negotiations are actually supporting or undermining regional integration in Africa.

4.7 Regional Dimension of EPAS and Revenue Implications

One of the biggest concerns throughout the EPA negotiations has indeed been their regional dimension. As such, since the beginning of the negotiations in 2002 a great deal of emphasis has been put on ensuring that EPAs ultimately serve to enhance efforts at promoting intra-regional trade and furthering regional integration. Analyses on this aspect of the topic will be focused on the ECOWAS and CEMAC region.

As negotiations on the EPAs continue, some countries in each of the regions have signed interim EPAs (IEPA) with the EU. In the West African region, two countries, Ghana and Cote d'Ivoire have signed interim EPAs with the EU. This, however, disrupts the regional integration process. This is because those member states that did not sign an IEPA with the EU will have to erect new barriers against imports from Ghana and Cote d'Ivoire in order to prevent imports of EU goods through their borders. Concluding a comprehensive EPA in the ECOWAS region has been difficult owing to the fact that most of the countries in the region are LDCs which would rather remain under the EBA scheme which grants duty and quota free access to all their exports except arms. For these LDCs, opening their markets to the EU under the EPA reciprocal regime will not be of benefit to them since they already enjoy unrestricted access to the EU market under the EBA. On the other hand, Nigeria rejected the signing of an EPA. Nigeria's argument is that the

EPA will have a long-term negative impact on the continent's efforts towards industrialization and job creation (Aganga, 2014). This is in addition to the fact that the EPA will amount to huge loss of fiscal revenue and will negate the objectives provided in the Nigeria Industrial Revolution Plan (NIRP) recently launched in Nigeria. Because Nigeria refused to sign the EPA, its exports to the EU now come under the standard GSP arrangement, which entails higher tariffs. Even though the Nigerian Government has twice applied to be placed on the GSP+ status, the EU has rejected the applications purely for political reasons. Some studies have suggested that in absolute terms, the decline in tariff revenue in West Africa will range from less than US\$10 million in Guinea-Bissau to more than US\$682 million in large and protected Nigeria. However, results also show that while Nigeria is likely to lose a significant amount of revenues, accounting incidentally for more than 25% of its revenue from trade taxes, these losses are relatively marginal, given the importance of oil royalties and other resource-related revenue in the country's budget. If one considers total tax revenue therefore, Nigeria would thus appear to be among the countries the least likely to encounter important adjustment costs following trade liberalization in the case of an EPA.

4.8 The Potential Impact of Trade Liberalization on Fiscal Revenues

The expected impact of trade liberalization on fiscal revenues can be looked at in static or dynamic terms. In a static framework, the impact on import tax revenues depends on the direct impact of changes in import prices on import demand, and therefore on trade tax revenues. As customs duties on most imports from Europe decline and are ultimately eliminated under an EPA, EU imports that were previously taxed will enter ACP markets duty-free once an EPA is in place, thus potentially reducing trade tax revenues. Trade liberalization under an EPA will also make some products cheaper to import from the EU than other countries still subject to customs duties; any trade diverted from non-EPA origins to the benefit of EU imports also contributes to lower customs revenues (Bilal et al, 2012).

4.9 Obstacles to the Incorporation of Human Rights into Economic Partnership Agreements

As noted, the Cotonou Agreement explicitly incorporates human rights as an essential element of the European Union-African partnership. However, the Agreement does not explicitly

incorporate the right to development. More significantly, the Cotonou Agreement primarily restricts the scope of human rights to political dialogue and to consultations where dialogue fails. This is so because human rights concerns are not explicitly included in the other four pillars of the European Union-African partnership as contained in the Agreement. These are: involvement of civil society, the private sector and other non-State players; poverty reduction within the context of objectives and targets agreed at the international level such as the Millennium Development Goals; the economic and trade cooperation framework; and the rationalization of financial instruments and a system of flexible programming. However, as noted below, other provisions of the Cotonou Agreement could be construed to suggest that at least some human rights are intended to be cross-cutting concerns within the other pillars of the European Union-African co-operation under the Agreement.

4.10 Economic Partnership Agreements and the Right to Development

EPAs are being negotiated within the framework of the Cotonou Agreement. As an essential part of the Cotonou Agreement, EPAs have the following development objectives: poverty reduction, promotion of sustainable development and facilitation of the integration of ACP countries into the global economy through trade. The Cotonou Agreement does not specifically incorporate the right to development in its substantive text. However, the Agreement makes human rights an essential element and one of the five pillars of the European Union-ACP partnership, and it incorporates most of the rights contained in the Declaration on the Right to Development. While human rights are not explicitly made a part of the other four pillars of the partnership, certain provisions of the Agreement that positively impact human rights could, arguably, be read as cross-cutting all the five partnership pillars.

4.11 Alternatives to Economic Partnership Agreements

Although the EPAs offer considerable potential benefits for sub-Saharan African countries, implementing free trade with the EU will, as discussed earlier, pose a number of policy and administrative challenges for SSA countries, including among others, replacing lost tariff revenues, avoiding serious costly trade distortions and liberalizing internal trade within SSA's regional economic communities (RECs). Another reason to think long and hard about the development impact of the EPAs is that they may very well set the pattern for future trade

relations between SSA and other industrial and middle income countries. There is, therefore, the need for African countries to explore other alternative trade arrangements. This chapter will examine these alternatives in the light of the peculiarities of African economy, put forward recommendations that would facilitate a more development friendly trade arrangement and provide a general conclusion of the work.

5.1 Conclusion

This research examined the meaning, scope and implications of signing a reciprocal trade agreement in the form of EPAs between African countries and the EU. The work noted the legal framework of the EPAs and their compatibility with WTO rules. This study also highlighted the fiscal revenue implications of implementing an EPA and its consequences on the right to development. The work pointed out that the EPAs could be quite beneficial economically for SSA if they can be used to leverage important policy reforms. The necessity for the SSA countries to liberalize imports from the EU to improve their access to the EU market also provides an opportunity for them to integrate into the global economy, to strengthen regional integration in Africa, to accelerate their trade-related reforms under potentially favourable conditions and to lock in these reforms in a way that makes them credible to prospective investors (Hinkle and Newfarmer, 2005). Also, the technical and financial assistance from the EU could provide more generous support than is often available for countries undertaking trade reforms.

However, the EPA process also entails serious risks for Africa. This paper noted that reciprocal trade liberalization between rich developed countries and poor developing countries, is a major threat to poverty reduction and development. Developing countries governments must be allowed to protect and promote infant industries in order to develop their economies and eradicate poverty. Reciprocal trade liberalization which is at the heart of proposed economic partnership agreements between the European Union and African countries would inflict substantial damage on emerging African industrial sectors and close off the policy space governments need to ensure long-term national development.

EPAs implicate further problems, especially in the long run. The major problems here are crucial institutional incapability's inherent in most developing countries, the threatening of regional

integration, as well as the expectation to lose a considerable amount of tariff revenues due to trade liberalization. Also there are no specific dispute mechanisms provided in the event of any dispute arising between the two parties.

5.2 Recommendations

The EPAs are far apart from the original development agreements envisaged by ACP countries in the context of the Cotonou Agreement. For Africa, the major challenge in its negotiation of the EPA with the EU is to have an agreement that addresses the continent's longstanding condition of poverty and underdevelopment. In order to accomplish this, the EPA should be made to be not just a trade agreement but also a development strategy to pull the people of Africa from abject poverty to respectable human development index. The logical and fair way to achieve this objective is to benchmark EPAs with clearly defined development indicators. In other words, if signed, the agreement will only continue if defined levels of development are attained at given periods by African countries.

Since discriminating under EPAs between the exports of the LDC and non-LDC members of the same customs union or free trade area could undermine regional integration efforts in SSA, the most development-friendly option would be for the EU to provide EBA market access to all SSA countries signing EPAs.

Also, the WTO should revise the enabling clause, article xxiv and other related articles of the WTO to allow for development friendly trade agreements between developed and developing countries. Reciprocity should be based on the attainment of objective socioeconomic indicators rather than on arbitrary time frames and percentage of traded goods. An independent dispute settlement mechanism should be incorporated in the EPAs to ensure free and fair determination of disputes which may arise in the course of the EPA arrangement.

African countries should insist on the exclusion of some sensitive products which would be exposed to severe competition from relatively cheaper EU goods. These include goods which are produced by infant industries and products which attract high tariff revenues to the government. With the rapid growth of several emerging markets like China and India, African countries can also explore the opportunity of a more enhanced trading relationship with these countries.

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