



EC/ACP EPAs Debates: Prospects and Challenges for the SADC Group  
8 February, 2007  
Summary of discussions

2007 is the crunch year for the conclusion of Economic Partnership Agreements (EPA) negotiations between the European Commission (EC) and six groups of African Caribbean and Pacific (ACP) countries. EPAs are set to replace the long-standing, unilateral preferences offered by the European Union to the ACP, with contractual, reciprocal agreements from 2008 onwards.

The EPA negotiations have not been easy, particularly in the 'SADC minus' group (Angola, Botswana, Namibia, Swaziland, Lesotho, Mozambique, and Tanzania – South Africa recently switched status from observer to participant) where the prospects of securing an agreement before the end of this year look particularly dim. SAIIA's Development through Trade Project hosted a roundtable discussion focusing on what will happen if the SADC minus group fails to have an EPA in place by the end of this year, as required by the Cotonou Agreement.

Dr Yenkong Ngangjoh-Hodu from the Nordic Africa Institute gave the key note presentation. He outlined the legal framework governing the EU-ACP trade relations, particularly the provisions of the Cotonou Partnership Agreement (CPA) of 2000. He pointed out that challenges in the EU-SADC-minus group also arise from the fact that South Africa already has a Trade Development and Cooperation Agreement (TDCA) with the EC which de facto governs trade with Botswana, Lesotho, Namibia, and Swaziland (BLNS) too. The major challenge now is how to integrate the SACU EPA into the TDCA – in other words should the TDCA review accommodate SACU? If so, how to deal with Mozambique, Angola and Tanzania?

Ngangjoh-Hodu outlined the following alternatives to EPAs based on Article 37 of the CPA: reliance on EU GSP; extension of GSP to incorporate CPA equivalent preferences; extension of EBA to all ACP, G90, or all developing countries; extension of CPA beyond 2007; and the conclusion of an incomplete FTA - total liberalisation of EU market and partial liberalisation from ACP provided GATT Article XXIV is amended. He also noted the failure to have an EPA by January 2008 would inter alia raise the following critical questions: can the SADC-minus group continue receiving Lome preferences? If not, will this amount to violation of an international treaty by the EU? If so can SADC sue and what would be the proper jurisdiction? Due to time constraints these questions were not addressed but posed as food for thought for the participants.

The second speaker was Mr Jorge Peydro Aznar, Head of the Political and Economic Section, in the Delegation of the EC to South Africa. He stressed that though there are some challenges in the negotiations the EPAs largely present a unique opportunity to

foster development in SADC. He emphasised the need for both parties to approach these challenges in the spirit of partnership and avoid counter-productive “blame games”.

Mr. Xavier Carim, South Africa’s Chief Trade Negotiator provided the views of the SADC-minus group and a general update on the current state of the negotiations. To contextualise his presentation, he alluded to the fact that South Africa had initially wanted to join the Lome Convention (the EU’s unilateral preference scheme for the ACP), but the EC refused on the grounds that it was not a typical ACP country so it had to be treated differently. Again, when the TDCA talks were initiated South Africa wanted to bring in the BLNS but the same reason was also used – i.e. it is not a “typical” ACP country. Mr Carim noted that though the TDCA has been positive for economic growth it continues to divide the region vis-à-vis its relations with the EC.

To try and resolve some of the difficulties posed by the TDCA the SADC-minus group presented to the EC in 2006 a joint proposal, which has four key elements:

- First consolidate SACU-EU trade arrangements – i.e. the BLNS offer to accept the TDCA subject to renegotiating some of its provisions in accordance with their sensitivities.
- Bind current market access through the EU’s “Everything but Arms” preference scheme for the LDCs in the SADC-minus group (Mozambique, Angola, and Tanzania). This would be a transitional arrangement pending the realisation of a SADC customs union.
- Have a single trade regime that provides duty free and quota free access to the EC for SADC EPA members. This is because, on actually traded items, the difference between Cotonou and the TDCA is only 10 key items. So a single set of entry conditions to the EU for all SADC EPA countries is the objective, but sensitivities in the EU need to be taken into account.
- Cooperate on new generation trade issues – their importance is recognised but proper sequencing of potential commitments tailored to SADC levels of development is required.

He lamented the fact that the EC had taken so long to respond; the proposal was tabled in March 2006 and a year has been lost in the meantime. On a positive note, the EC has indicated that they welcome SA into the negotiations as a full participant. There was however still a wish to treat SA differently. He also pointed out that the Cotonou Agreement allows a range of possibilities/alternatives but the EC interpretations have only narrowed them down to EPAs and they do not wish to seriously consider other options.

In conclusion, the roundtable was highly successful and was attended by more than 80 participants, including government representatives, members of the diplomatic community, research institutions (from SA and the SADC region), the private sector, and NGOs. The workshop provided an update on the state of play in SADC minus EPA group’s negotiations with the EC; demonstrated that as long as both parties are committed to the process a win-win solution can still be found in 2007; and showed that there are various options that the parties may consider in the event of a failure to conclude EPAs on time.