

THE EUROPEAN UNION AND PARTNERSHIPS WITH DEVELOPING COUNTRIES – THE CASE OF ACP REGION

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Abstract. *The EU has developed a wide cooperation network with developing countries based on trade, cooperation, aid and other aspects. These bilateral and regional agreements serve various and specific interests of the EU and the concerned countries and cover not only trade, but also other broad issues. However, above those remain the main goals of the EU in the area of the common commercial policy, development policy and external relations policy. The trend of regional integration and regional trade agreements proliferation has influenced these relations as well. The article will examine this trend in the network of EU trade agreements with developing countries, specifically with the African, Caribbean and Pacific region. Some critical issues of the EU–ACP cooperation will be identified.*

Key words: *European Union and Developing Countries, Regional Trade Agreements, challenges of Economic Partnership agreements*

Introduction

Since the 1990s the international community has seen a surge in regional trade agreements (RTAs) and almost every country is party to at least one RTA. This trend reflects the international situation after 1989, when Eastern European countries and Central Asian countries negotiated RTAs with West European countries and each other. Regionalism is understood as trade liberalization at the regional level through free trade areas (FTAs) or customs unions (CUs).¹ As Mr. Lee concludes, 'bilateralism as much as multilateralism of the WTO shapes the international trade relations today'. Moreover, Burfisher describes the regional trade agreements as the ones granting trade preferences or partial sector agreements as well.

Generally, there are various combinations of RTAs (various profiles) as far as membership is concerned, such as bilateral (1 country and 1 country) and regional or plurilateral (1 or more countries and 1 or more countries/RTA and RTA). We can also observe the trend of RTAs proliferation in geographical means, that is North-North, North-South and South-South regionalism. This suggests that although countries trade naturally with their neighbours, trade is expanding globally regardless of common borders. Member countries may liberalize the trade flows on reciprocal or non-reciprocal /preferential basis (such as Everything But Arms (EBA) scheme of the EU towards developing country partners, (Global Economic Prospects 2005, p. 27).

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¹www.wto.org, Regional Trade Agreements: Scope of RTAs

Supporters of RTAs argue that they represent a stepping or building stone to global free trade as they increase regional and global competition and deal with issues such as agricultural subsidies and trade in services². Also, such issues as intellectual property, environmental standards, investment, and competition policies were first raised in regional negotiations and later developed at the World Trade Organization (WTO) level.³ Opponents say that RTAs hinder achieving a multilateral agreement on trade liberalization and create regional barriers towards trade.

On one hand, regionalism creates opportunities to liberalize locally and more quickly. The trade barriers are lowered or eliminated at the regional level and in some cases integration is deeper and more specific than achieved multilaterally so far. Thus regionalism may become a building block of multilateralism as regional liberalization may be expanded further to other countries or globally. On the other hand, it may contradict the non-discrimination principle and the Most Favored Nation principle (MFN) of the multilateral trading system at the WTO level, because an RTA creates more favorable trading conditions for establishing members of an RTA compared to non-members of that RTA. Especially overlapping membership in various RTAs creates complicated and multiple sets of trading rules.⁴ The result is that different countries follow different rules (customs procedures, technical standards, rules of origin and other) when entering a specific country market and therefore such

circumstances raise the business costs.

LEGAL BACKGROUND

Legally, in international business law, the conditions and rules for establishing RTAs are defined under the Article XXIV of GATT⁵ 1994 (for trade in goods in FTAs and CUs), the Enabling Clause of 1979 (preferential trade agreements for trade in goods between developing countries) and the Article V of GATS⁶ (trade in services for both developed and developing countries). Other non-reciprocal trade agreements (for example preferential agreements between developed and developing countries) require a waiver from WTO rules.

- a) *Article XXIV of GATT 1994* defines the rules for closer economic integration for countries parties to FTAs or CUs or to an interim agreement for the formation of such agreements. According to this article's par. 4, the purpose of such agreement is to facilitate trade and not to raise barriers to other partners. Duties and other regulations of commerce shall not be higher or more restrictive than prior to the agreement as par. 5 specifies. They are eliminated to substantially all the trade between the territories with respect to all the trade in products originating in these territories (par. 8) within the reasonable length of time.⁷
- b) *Enabling Clause (1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller*

² WTO Leader Calls Regional Trade Agreements Discriminatory, Bangkok Post, Feb. 5, 2004

³ www.wto.org, Regionalism: Friends or Rivals?

⁴ The so called 'spaghetti bowl'

⁵ GATT General Agreement on Tariffs and Trade

⁶ GATS General Agreement on Trade in Services

⁷ The term 'substantially all trade' is not defined as to what amount of trade it relates to. The term "reasonable length of time" is understood as being a period of 10 years. In exceptional cases it may exceed the specified period of time but the reasons for this must be explained.

Participation of Developing Countries)⁸ defines the rules for developing countries as contracting parties. It relates to 'preferential tariff treatment of developing countries by developed countries within the Generalized System of Preferences (GSP), to differential treatment concerning non-tariff measures, regional arrangements between less developed countries (reduction or elimination of tariffs and non-tariff measures) and to special treatment of the least developed countries' (par. 2). These rules are also designed to promote trade between developing countries and developed countries do not expect reciprocity from them (par. 5). It differs from the previous rule because it does not specify to reduce or eliminate tariffs on substantially all trade. So trade can be liberalized only in specific sectors or partially.

- c) *Article V of GATS* defines the rules for RTAs in trade in services for both developed and developing countries. The regional liberalization of trade in services should cover substantial sectors (understood as volumes of trade and modes of supply) (par. 1). It is defined as elimination of discriminatory measures and prohibition of new measures. For developing countries certain flexibility and more favorable treatment may apply (par. 3).

The exceptions of RTAs from the MFN principle are based on assumption that such trade arrangements might later on develop into a multilateral framework/agreement.⁹ Countries must notify the WTO

of RTAs they enter to and these are also subject the review process by the responsible authorities.

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Langhammer (1992) defines several reasons for regional economic integration between developed and developing countries. First of all, production and supply patterns of such trading partners are more complementary than between developing countries themselves. Secondly, RTAs with a developing country create development and trading opportunities for this country therefore it is supposed that the migration flows will be lower. Another reason is that as already mentioned RTAs encompass various areas not only trade and for this they create other synergy and beneficial effects.¹⁰ However North-South trade cooperation follows the pattern towards establishing reciprocal RTAs with each other and shifts away from granting non-reciprocal trade preferences.

The EU pursues this trend of regional integration with both North and South trading partners. The first European regional trade agreements with developing countries date back to the 1960s when the European Economic Community (EEC) countries reformed their cooperation with the former colonies into the Yaoundé and Arusha agreements (currently known as the ACP group of countries). Reform of the EU's trade regime and RTAs towards different partners evolved with regional and international changes such as the EU enlargement, the end of socialism, the development of multilateralism and the liberalization of international trade.

⁸ Decision of 28 November 1979

⁹ Lee, Y.S.: *Bilateralism under the World Trade Organization*, p. 358

¹⁰ Langhammer, p. 226

The concept of cooperation between the EU and the developing countries has its roots in historical ties and relations between European countries and their colonies mostly in Africa in the 50's/60's of the 20th century. These colonies at that time enjoyed special trade regime with their partners in the EEC that is non-reciprocal access of their products to the EEC market and financial flows from their governing countries in the form of investments and aid. The cooperation and relations with India, China, other Asian countries and Latin American countries are compared with the previous ones quite new and fragmented in the sense of lack of common EU strategy towards creating RTAs with developing countries (although developing countries in general had common characteristics). European integration has been based on a combination of liberalism (within the

(currently the suspended Doha Round negotiations). At the bilateral level the EU pursues the goals and its interests in different regions or countries through bilateral agreements (trade, cooperation etc.). At the third level the EU implements unilateral measures such as the GSP regime (tariff preferences for developing countries). However, the CCP is closely connected with the EU Common Agricultural Policy and its developments influence every RTA established.

Table 1 describes different types of the EU trade liberalization. The basis for multilateral trade liberalization is the GATT/WTO agreements which provide non-discriminatory approach for all countries based on the MFN clause. Another non-discriminatory approach is achieved through autonomous liberalization. Preferential approach of trade liberalization

Table 1. RTAs and types of trade liberalization of the EU

<i>Scope of beneficiaries</i>	<i>Method of implementation</i>	
	<i>Reciprocal</i>	<i>Unilateral</i>
Preferential: selected countries	EU, EPAs*, other RTAs	GSP, EBA, Cotonou
Nondiscriminatory: all countries	GATT/WTO agreements	Autonomous liberalization

Source: Global Economic Prospects 2005

* EPAs Economic Partnership Agreements

regional integration) and protectionism towards the non-members (eg. protecting the agricultural market). However, in the past years the EU follows a more outward oriented cooperation of opening its market through RTAs.

The EU trade policy towards the developing countries is implemented at three basic levels (multilateral, bilateral and unilateral). At the multilateral level the EU pursues multilateral liberalization of international trade within the WTO

includes RTAs with specific countries such as the EU itself, EPAs with ACP countries or others and other preferential regimes such as already mentioned GSP, EBA or the Cotonou agreement (described further).

BILATERALISM TOWARDS DEVELOPING COUNTRIES

By integrating its trade partners into RTAs the EU influences the trade policy of the trading partner¹¹. The EU's trade policy

¹¹ Maur, J.Ch.: Exporting Europe's Trade Policy, p. 1565

(common commercial policy - CCP) towards developing countries, its roots and interests are closely linked with the development and common foreign and security policies, as well as the neighborhood policy. Thus, the regional trade agreements encompass more than just trade issues, as result of the interference and interconnected policies. EU's regional agreements generally represent the so called "new generation of agreements" ('deep integration')¹² entailing not only trade in goods and trade related issues, but also trade in services, political and social aspects, human rights and humanitarian issues, depending also on the countries involved.

Some partner developing countries expect to establish a form of deep integration with developed countries for several reasons and potential gains. There is an expectation from an RTA that the foreign direct investment inflows increase and thus technology transfers compared to non-members increase as well (Burfisher, p. 16). The EU follows the new trend in regional integration by moving to bilateral FTAs, in order to gain market access (also with ACP countries). Some developing countries also follow the trend of opening their markets through FTAs.¹³ They also actively pursue this strategy for securing future access to major markets as the granted preferences (gained through different preferential trade arrangements, the enlargement the scope of and parties GSP, increased number of trade agreements with other developing countries) are eroded or eliminated over time.

As already mentioned no common EU strategy towards establishing new

regional arrangements with developing countries exists. The negotiation and formation of RTAs and other agreements with developing countries follows the rules laid down by the articles of CCP. Preferential or other types of agreements are fragmented. Perhaps one common characteristic is the move from non-reciprocal agreements granting one way preferences to certain developing countries (Mediterranean or ACP) towards establishing reciprocal RTAs (mostly FTAs).

We may currently distinguish the EU's preferential trade arrangements¹⁴ into:

- the *Euro-Mediterranean Agreements* with neighboring Mediterranean countries (Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestinian Authority, Syria, Tunisia, Turkey¹⁵) where an FTA should be created by 2010. The EU market is open for industrial products from Mediterranean countries which face zero tariffs and partially open for their agricultural products. The liberalization for the EU products will follow the agreed timetable. The mutual trade liberalization will include services and investment issues as well. The cooperation so far is based on individual Association Agreements (except for Syria which is not yet signed) which represent the basis for the future Euro-Mediterranean FTA and have been notified to the WTO as FTAs under A. XXIV GATT.
- the *Partnership and Cooperation Agreements* with the Western Balkan countries (Albania, Bosnia-Herzegovina, Serbia and Montenegro, Croatia and the

¹² The term 'shallow integration' refers to reducing or eliminating barriers to trade in commodities. The term 'deep integration' refers to additional issues such as harmonizing national policies, internal factor mobility, etc. (Burfisher, Robinson, Thierfelder, p. 2). The deepest integration is sometimes referred to as 'New Regionalism'.

¹³ Global Economic Prospects 2005, p. 30

¹⁴ Global Economic Prospects, p. 31

¹⁵ Customs union established between the EU and Turkey.

Former Yugoslav Republic of Montenegro) which aim to establish a stabilized and economic prosperous area within Europe. Nearly all products originating in these countries enter the EU market duty and quota free with some exceptions. The individual Stabilization and Association Agreements (SAAs)¹⁶ focus on trade liberalization of goods, services, government procurement, intellectual property protection, etc. and other issues.

- the *Economic Partnership Agreements (EPAs) with ACP region* where also FTAs will be created (analyzed below),
- already existing FTAs with South Africa (entered into force in 2000), Mexico (2000) and Chile (2003). The FTA with Chile includes trade in goods, services, public procurement, intellectual property rights, investment and capital movement and dispute settlement. Similarly, the FTA with Mexico is a type of deep integration FTA and includes partial liberalization of trade with agricultural products as well. The agreement with South Africa will establish an FTA in trade with goods over the 12-year transitional period,
- future FTAs under negotiation with the Gulf Cooperation Council (GCC) countries and the MERCOSUR countries. Negotiations with MERCOSUR started in 2000 on establishing an interregional FTA which will include trade in goods, services, public procurement and intellectual property, etc. Negotiations with GCC cover similar issues as well as human rights issues, migration, etc.

The cooperation with other developing countries is based on other types of agreements such as Partnership and cooperation agreements, Framework agreements on cooperation, Agreement on Trade and Cooperation, sector agreements etc. Other countries are beneficiaries of the GSP trade regime as well, which provides preferential access (lower tariffs applied) of their products to the EU market.

In the Global Europe Paper the EU outlined other possible bilateral agreements of its interest with Russia, Brazil, China, India, ASEAN countries which will be based on achieving its trade goals, the EU energy interests and increasing the EU competitiveness on these markets. The basic pillar of the CCP however remains the multilateral trade system and liberalization on international level.¹⁷

ECONOMIC PARTNERSHIP AGREEMENTS WITH ACP REGION

Current trade cooperation between the EU countries and the ACP countries is governed by the Cotonou Agreement. It is special in the sense of granting non-reciprocal preferences for ACP countries to access the EU market until the end of 2007. The reform of this special trading regime was also settled by in this agreement. Negotiating WTO compatible agreements was necessary for several reasons. It was difficult to rely on granting another waiver from the WTO rules (because of previous disputes) and the trade based on preferences did not result in increased exports of ACP countries to the EU but the trend was rather decreasing.¹⁸ The “Banana dispute” on the special trade regime for bananas from ACP

¹⁶ SAAs currently in force with the Former Yugoslav Republic of Macedonia and Croatia, others are negotiated or Interim and with Serbia and Montenegro the negotiations stopped.

¹⁷ Global Europe: Competing in the World, 4.10.2006

¹⁸ As the trade statistics shows - the share of ACP on the total EU imports decreased from 6,7% in 1976 to 3,1% in 2005 and the Green Paper on the relations between the EU and ACP countries on the eve of the 21st century concludes similar.

countries challenged the legal aspect of the EU-ACP trade agreement because it discriminated other exporters of this commodity from other countries. It has also been concluded that developing countries may grant preferences to all least developed countries or to all developing countries which has not been the case of the EU-ACP cooperation (because of preferences only to ACP countries). Therefore the waiver from the Article 1 GATT (MFN principle) was requested for securing the legality of this cooperation and was granted until the end of the year 2007 (when the new EPAs should be prepared to enter into force).¹⁹

The Cotonou Agreement signed in Benin in 2000 in force until 2020 represents a new type of agreement which is based on the combination of free trade, regional integration, political cooperation, democracy and aid. Trade cooperation is not the only area dealt with in the agreement. Other issues such as regional cooperation, debt relief, restructuralization, environment, culture, etc. are discussed. Previous cooperation with ACP region was governed by Yaounde, Arusha, Lome I to IV agreements which reflected the developments in the EU and the ACP regions such as new members, new financial contributions, various problems and international circumstances.

New agreements to be created which are currently in the state of negotiations and are to enter into force beginning of 2008 will establish a new form of trade cooperation with ACP countries in accordance with GATT/WTO rules. The trade liberalization

will encompass substantially all trade (within EPAs understood as 90% of trade flows in average) and will be established over the transitional period of 12 years. The Trade and Cooperation Agreement with South Africa has served as a sample agreement for creating the new EPAs. They will be established between the EU and the 6 following regions:

1. ECOWAS (Economic Community of West Africa) and Mauritania
2. CEMAC (The Central African Economic and Monetary Community) and Sao Tome and Principe
3. ESA (Eastern and Southern Africa): the East and South African countries representing COMESA (Common Market for Eastern and Southern Africa)
4. SADC (Southern African Development Community)²⁰
5. CARICOM (The Caribbean Community and Common Market) and Dominican Republic
6. PACIFIC region

So the new EPAs should be established as RTA - RTA free trade areas²¹. Although the EU is not the most important trading partner for each regional grouping and for every ACP country (eg. for CARICOM, the USA and the Latin American countries and for the Pacific countries the neighboring countries as Australia and New Zealand are important trading partners) the completion of the economic integration in the ACP regions is essential to gain benefits

¹⁹ The first waiver was granted until the end of Lome IV (2000) and was prolonged at the Doha Ministerial Conference in 2001 until the end of 2007.

²⁰ Selected countries of the SADC

²¹ The EU as 1 RTA and ECOWAS, CEMAC, COMESA, SADC, CARICOM as the other RTAs. CARICOM established trade liberalization in goods (customs union) and services under Article XXIV. SADC established a FTA under Article XXIV. ECOWAS, CEMAC, COMESA established a preferential trading area (PTA) under the Enabling Clause. The countries in the Pacific region are not integrated in any common establishment but some countries are parties to the MSG (Melanesian Spearhead Group) PTA and to SPARTECA (South Pacific Regional and Economic Cooperation Agreement) PTA.

from regional cooperation and economic complementarity.

Several alternatives in trade were suggested by the Green Paper such as continuation of the non-reciprocal trade regime, the GSP only trade regime, general reciprocity, differential reciprocity and the combination of the previous. Finally, the differential reciprocal approach was selected. It should take into account different conditions, economic and human development and circumstances of the variety of the ACP countries. The negative aspect of such arrangement would be the fragmentation of the partnership principle established already in the first agreements with the ACP and the reciprocal opening of the markets for the EU. However, no alternatives have been suggested for the countries which decide not to join the RTAs for other reasons. The question is how such situation will be dealt with. The current non-reciprocal trade regime will be in force during the entire transitional period that is until 2020.

CRITICAL ISSUES

The ACP region covers a very specific set of countries. From the 78 participating countries, 40 of them are classified as the least developed countries under the UN classification²² and approximately 40 are WTO members. Differentiation results in the income level (mostly low income countries in Africa, Caribbean and Pacific countries with mixed middle income countries) and in the level of regional integration (multiple regional agreements and some overlapping memberships)²³. However, the multiple memberships may create potential benefits for access to other regional markets. ACP countries together represent about 1 billion inhabitants and potential customers.

- The ACP dependency on the EU market has increased over the centuries exports to the EU increased from 10,5% in 1976 to 23% in 2005 and imports from the EU increased from 9,6% in 1976 to 26% in 2005. On the other hand, the share of

Table 2. Assymetry of the trade relations between the EU and ACP (% share), 2005

Region	Share on region's exports to the EU	Share on region's imports from the EU	Share on total EU exports	Share on total EU imports
ECOWAS/ Mauritania	23,00	33,00	1,25	1,16
CEMAC/STP/RDC*	33,00	54,00	0,32	0,46
COMESA	29,00	30,00	1,50	1,10
SADC	19,00	28,00	0,29	0,63
CARICOM	18,00	19,00	0,33	0,27
PACIFIC	11,00	5,00	0,05	0,11
ACP total	23,25	25,91	2,90	3,08

Source: EUROSTAT, WB

* STP Sao Tome and Principe, RDC - DR Kongo

²² UN (United Nations). Countries classified as LDCs (least developed countries) enjoy duty and quota free access to developed countries markets such as the EBA regime to access the EU market.

²³ Some ECOWAS members are also members of the West African Economic and Monetary Union (WAEMU). CEMAC integrates its members into a customs and monetary union using common currency CFA franc. COMESA integrates 20 countries into an FTA and some countries are members of East African Community (EAC), South African Development Community (SADC) and the Indian Ocean Commission (IOC). Some SADC members are also parties to South African Customs Union (SACU). CARICOM integrates the member countries into a common market.

ACP on the EU imports and exports has been very low despite of the preferences granted. A high asymmetry exists in trade flows between the EU and the ACP countries as the following table confirms.

- As already mentioned, the ACP countries do not represent the most important trading partners of the EU (with low shares of imports and exports to ACP). Energy resources have the highest share on imports from ACP to the EU, although they represent only 6% of the total energy imports to the EU. The agricultural products and manufactures have approximately the same share on imports from ACP, however the agricultural products have a 12% share on total EU imports of agricultural products. On the other side EU exports to ACP countries, the highest share is

are to enter into force at the beginning of the year 2008 negotiations with other regions rest in the second phase of solving the regional issues.

- The issues of regional integration are also in question as not all ACP countries are parties to some regional arrangements and their status and participation must be solved. Regional groupings in ACP include least developed countries (for these the EBA regime is the most convenient) and some memberships are overlapping.
- Non-diversified economies, LDCs, export and income vulnerability, commodity dependence and thus price fluctuations vulnerability, low level of interregional trade, high business costs, poor infrastructure, possible regional conflicts, and nature disasters represent potential threats to the ability to face the

Table 3 Commodity structure of EU-ACP trade, % share on total EU exports and imports (2005)

Sector	Exports to ACP	EU exports share	Imports from ACP	EU imports share
Agricultural products	12,4	6,16	27,8	12,4
Energy resources	6,9	5,48	36,6	5,9
Manufactures	75,4	2,63	27,0	1,34

Source: Eurostat

held by manufactures (machinery, transport machinery, chemicals and automobiles) which represent only 3% of EU total manufactures exports. These are followed by agricultural exports and energy resources.

- Agricultural exports, exports of minerals and oil are of crucial importance to most ACP countries. Some other countries are heavily dependant on services, particularly tourism.
- So far the final phase of negotiations was achieved only with the Caribbean region. Although the new agreements

EU competition (competition with developed countries).

- One of the main goals of the Cotonou Agreement is the elimination of poverty and creation of sustainable development. Some critics say reciprocity with the EU opposes these goals as the establishment of the FTA will cause the loss of tariff/duty government revenue for ACP countries and the introduction of the VAT (Value Added Tax) may have impact on the social sector financing such as health care, education etc. It is suggested to request

another waiver at the WTO or to push for the reform of the Article XXIV.

There are certainly more issues to be solved to create the best possible solution for reforming the EU-ACP cooperation.

CONCLUSION

The number of RTAs between North and South countries is still relatively small but new initiatives are being established. This trend is also followed by the EU. For the EPAs and the EU-ACP cooperation it is important to identify the exports and imports that are crucial and beneficial for the development of mutual trade. As potential import commodities which are also of great importance to the EU we can mention oil and minerals and certain agricultural commodities. On the other hand, as trade statistics show, the ACP countries import mostly manufactures from the EU and these represent a big potential for the EU exporters. It is also necessary to take into account the transport possibilities, transit costs, distance and import barriers for the chosen products or services.

As Van Reisen concludes, the more developed ACP countries will gain new opportunities in this new form of trade cooperation but the least developed ACP countries will be at risk of isolation and marginalization in international trade and economy. The fears arise also from facing

the competition with the EU products. Some of the potential gains include the increase of competition in the region, the increase of domestic and foreign investment, support of diversification gained through economic integration in the region and establishment of common policies.

Trade with North partners remains crucial for the South countries but is less important for North countries.²⁴ According to the World Bank report RTAs are only effective when domestic reforms in developing countries are implemented as well. The success of regional integration is also connected with increased competition and low costs of production inputs (which is not always the case in developing regions). One very important point outlined is that the agreed objectives are also actively pursued and implemented. To achieve the best results of economic integration with developing countries it is necessary that RTAs have a broad coverage of products as well as agricultural products of great importance to developing countries.

It may be concluded that liberalism and regional cooperation have become an important pillar of the EU trade policy towards developing countries. Due to low share on international trade and world exports and imports of some regional trade arrangements in developing countries, they should not create a threat to multilateral trade liberalization and agreements but rather a complementary process.

²⁴ WTO: Regional Trade Agreements and the WTO, WTO Secretariat Seminar, 14.11.2003

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