

## **EU-ACP Economic Partnership Agreements and the Development Question: Which Way Now?**

### **1. EPAs: Legalistic Trade Accords or Development Agreements?**

The global trade environment is increasingly characterised by regional integration agreements, including continental economic regionalisation (the European Union, the American Hemispheric Economic Compact, the Asian Economic Cooperation Organisation and the African Economic Community (WTO, 2000; Schiff & Winters, 2003; Matthews, 2003; Dutta, 2004). Some are trade focused (mostly, regional trade agreements) while others are based on cooperation on a broader range of economic and political issues. Regional trade agreements (RTAs) are increasingly more complex and comprehensive in their coverage, (scope), design and depth. Where in the past they were typically limited to trade in goods and mainly involved South-South or North-North countries, they now include North-South agreements and increasingly cover services, investment, intellectual property, competition policy, government procurement, policy integration, labour and environmental standards (Matthews, 2003).

Despite this increasing interest in regionalism, there are differing viewpoints on the desirability and design of agreements for development. Broadly, these differences revolve around two choices: 1) trade focused regional integration and 2) development-based integration arrangements whose objectives are much broader than trade integration. Opponents of trade focused integration argue that 1) the development objectives sought through trade integration can be targeted more directly by focusing on a broader set of economic ‘fundamentals’ (e.g. structural diversification of developing country economies, development of infrastructure and human capital), 2) static welfare gains from regional trade integration are typically modest, 3) the performance of trade focused regional integration in developing countries has been dismal and 4) the trade specific objectives of RTAs are best achieved through multilateral (WTO) agreements, which are considered more welfare enhancing than RTAs (Collier & Gunning, 1995; Collier, 1998; Baldwin, 1997; Fine & Yeo, 1997; Helleiner, 1999; Oyejide, 1997: 2000; ADB, 1999; Matthews, 2003, Karingi, 2005, KASA et al, 2005, Bilal & Rampa, 2006). Proponents counter that broad-based regional integration agreements tend to lack resolve/commitment and policy harmonisation and/or ‘lock in’ of policy reforms (i.e. inability to catalyse trade liberalisation) needed to assure private investors (UNECA, 2004; Hess & Hess, 2004; Kandelwal, 2004). It is argued that this partly accounts for the continued existence of overlapping memberships in numerous regional agreements (especially in Africa) and their historically dismal performance.

## 2. Development and Legal Problems with North-South Agreements

North-South trade agreements, like the proposed Economic partnership Agreements (EPAs) between the EU and six regional groupings of ACP countries provoke additional set of arguments to the above. Proponents claim that they are more likely to result in gains to developing countries as compared to South-South Agreements - allegedly because they maximise gains from 'policy credibility or lock in' and minimise trade diversion costs. Opponents contend that positive economic outcomes from such agreements depend on how they are designed (their scope and coverage) and cannot simply be assumed or asserted from conventional trade theory (Matthews, 2003, viii). They challenge the ever widening scope of such agreements, especially their inclusion of issues such as a) environmental regulations and labour standards and b) services, investment, competition policy, trade facilitation and public procurement. The former (a) is problematic because the same set of regulations and standards is 1) not optimal in all countries and 2) can and is increasingly used as barriers to trade by developed countries<sup>1</sup>. Due to development constraints, lower standards may be appropriate (on efficiency grounds) for developing countries in order to avoid diversion of resources away from poverty reduction programmes. *'The costs to developing countries of harmonizing inappropriate policy regulations may exceed the benefits of encouraging greater market access'*, (Matthews, 2003, viii). It is for this reason that the Commission for Africa (CfA 2005) proposed the EU should only introduce new sanitary and phytosanitary standards (SPS) regulations that pass a 'development test'. It is feared that the latter (b) may create lopsided rules that would curtail the policy options (space) available to developing countries in pursuit of their national development goals – tools that were employed rather successfully by the now developed countries (Singh, 2001; Chang, 2002).

It is not surprising that these are some of the core arguments at the heart of the ongoing EPA negotiations between the European Union (EU) and groupings of African, Caribbean and Pacific (ACP) countries. EPAs, which seek to replace (by January 2008) the Lome Conventions (and since 2000, the Cotonou Agreement) that have governed EU-ACP trade over the last 30 years, introduces new and fundamental principles with respect to EU-ACP trade relations: a) replacing non-reciprocal preferential market access which ACP economies have enjoyed in the EU market over the last 3 decades with 'reciprocity' (ACP countries will now have to open up their markets – *on substantially all trade* – between them and the EU), b) moving beyond trade in goods and seeking agreements on services and investment, competition policy, trade facilitation and government procurement (Keck, 2005, Stevens & Kennan, 2005). They seek to create (North-South) FTAs between the EU and regional groupings of ACP countries that are much deeper and wider in scope

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<sup>1</sup> The Commission for Africa (CfA 2005) is concerned for instance that the EU's sanitary and phytosanitary standards (SPS) go beyond international standards and might not be conducive to Africa's development.

and design – than anything that has governed EU-ACP trade relations since the decolonization of ACP countries. This has the EU and the ACP, supported by a coalition of NGOs (e.g. the Stop EPA Campaign) about a) the design of pro-development EPAs and b) the desirability of such greater scope and depth (i.e. the inclusion of ‘Singapore Issues’ – investment, competition policy, trade facilitation and government procurement - in the negotiations) for ACP development and poverty reduction prospects.

### **2.1. Divergences in EPA Negotiations over the Development and Legal Questions: The EU vs ACP and NGOs**

Despite a convergence in *rhetoric* – everybody<sup>2</sup> agrees that EPAs must fundamentally be development oriented – in *practice* there seems to be a divergence as to *what type of EPAs would be appropriate for achieving ACP development objectives; how such EPAs should be designed and implemented, and what should constitute their proper scope and depth*. Substantive negotiations are only just beginning, but at the heart of these disagreements is the development question: how to translate the *rhetoric* into the substance of the *design, scope and depth* of EPAs. The divergence (between the EC negotiators on the one hand, and ACP countries and a coalition of civil society groups on the other) is reflected in different interpretations of, and/or the desirability of reciprocity, and the ‘Singapore Issues’.

The most contentious – and arguably the most fundamental item of *divergence* in the negotiations - has been over the *desirability* and/or *degree of reciprocity*<sup>3</sup> as far as the long term ACP development prospects are concerned. This divergence, both over the interpretation and desirability of reciprocity is a critical one for a number of reasons. Firstly, the desirability and interpretation of reciprocity has implications on the legality or WTO compatibility of the new agreements. The most robust, but by no means watertight case for reciprocity in EPAs is a legal one – to ensure WTO compatibility and thereby introduce certainty in EU-ACP trade relations. This is because in the early 1990s, the Lome conventions that have governed EU-ACP trade relations were increasingly vulnerable to a legal challenge at the WTO as they were seen to discriminate against non-ACP countries at similar levels of development (to ACPs), contrary to certain WTO rules.

This was the legal context within which EPAs were proposed – as a pragmatic fix to a WTO legal problem (ActionAid, 2004, ODI, 2006). As regional trade agreements, EPAs fall under Article XXIV of the WTO. This article sets out the requirements for a free trade agreement (FTA) as encompassing 1) elimination of duties and other restrictive regulations of commerce on ‘*substantially all trade*’ between the parties to such agreement, 2) within a ‘*reasonable length of time*’, (where reasonable length of time should exceed 10 years only in exceptional cases – WTO, 1994). The interpretation of

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<sup>2</sup> The EU, ACP countries and coalition of civil society groups

<sup>3</sup> whether EPAs should be based on ‘full reciprocity’, ‘sufficiently asymmetrical reciprocity’ or ‘non-reciprocity’.

these two clauses is subject to much controversy – in a number of FTAs, substantially all trade has been defined as ranging from 86 % to 90%, (average of the trade between the partners or coverage of tariff lines, whilst reasonable length of time has been defined as ranging from 10 to 18 years<sup>4</sup>). These various ranges encompass both full and asymmetrical reciprocity. Based on its trade and cooperation agreement (TDCA) with South Africa, the EU seems to interpret Article XXIV to mean that 90 percent of all the trade in goods between signatory parties must be liberalised over a period of 10 – 12 years, with the EU allowing some provision of ‘*asymmetrical liberalisation*’ within these limited confines (the possibility of developing countries making tariff cuts on under 90 percent of their traded products over a slightly longer period of time, provided the EU makes slightly deeper cuts (over 90 percent).

ACP countries and aid agencies have long voiced objections to this interpretation viewing it as too restrictive, with potentially negative consequences on broader developmental objectives (Mauritius, 2002, WTO 2004, ActionAid, 2004, Christian Aid, 2005). They seek substantially more flexibility than currently provided for by the EU’s interpretation of WTO rules arguing that the extent to which developing countries should liberalise their trade should be determined by their trade, development and financial needs, rather than arbitrary timeframes and figures. Although part of the discussions between the EU and some ACP groupings is on the interpretation of reciprocity (Article XXIV) interpretation is only one part of the legal problem as far as reciprocal North-South trade agreements are concerned. The other part of the legal argument over reciprocity is over its desirability or applicability in North-South trade agreements. Caroline Freund (2002) has argued for example that the principle of reciprocity as intended in the GATT/WTO does not necessarily carry over to North-South trade agreements, an argument supported by a number of provisions within GATT/WTO. GATT’s 1979 *Enabling Clause* for instance calls upon industrial countries not to seek reciprocal concessions inconsistent with the development, financial and trade needs of individual developing countries, and the WTO itself recognizes that developed and developing countries are different and reflects this in its rules on *Special and Differential Treatment* (SDT). It is for this reason that in April 2004, ACP countries tabled a submission at the WTO seeking more flexibility with regard to the interpretation of reciprocity in FTAs between developed and developing countries (WTO, 2004). An examination of all SDT related provisions is in fact part of the stalled Doha Round. This makes the WTO compatibility standard – which EPAs seek for legal purposes, an uncertain and contested standard.

The legal implications of reciprocity in EPAs are enormous and could have far reaching consequences not only on the global trading system but also on the long term development prospects of all developing countries. ACP countries constitute some of the poorest countries in the

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<sup>4</sup> See for instance TDCA, NAFTA and US-Australia FTA.

world – the very countries for which provisions like the Enabling Clause and the SDT exist within the WTO. If EPAs were to be conceived under the very restrictive definition of Article XXIV that the EU prefers, and given that the EU is the world’s largest trading partner of the ACPs, many of the provisions for poor countries within the WTO will be of little practical use to the very countries that need them the most. The EU-ACP fight over both the definition and desirability of reciprocity in EPAs should be seen in this broader development context.

The EU’s case for reciprocity in EPAs does not solely lie in legal arguments, however. The EU repeatedly defends reciprocity on *development* grounds – that liberalization of ACP markets towards the EU will stimulate economic development in ACP countries, by increasing competition within ACP countries, reducing prices for consumers, stimulating investment and the transfer of technology and fostering the necessary structural adjustments of ACP economies (Lamy, 2004, Bilal & Rampa, 2006, 41). The EU likes to point out to the declining share of ACP in global trade as evidence that the non-reciprocal preferences regime had failed to integrate ACP countries into the global economy and are unlikely to do so due now to increasing preference erosion – or a decline in the value of Lome preferences as a result of multilateral trade liberalization (ActionAid 2004, 6). With the exception of a few countries (Mauritius, Barbados and Botswana for instance), the EU is right on this score. As the ODI (2006) has shown, in 1975, the ACP accounted for over six percent of the EU’s trade with the rest of the world - today, it accounts for less than half that figure. ACP’s share of trade with the rest of the world has also fallen over the same period.

This was the economic context within which a new trade agreement between the EU and ACP countries was mooted in the mid 1990s. Article 34: 1- of the Cotonou Partnership Agreement sets out the objective of EPAs as follows: *Economic and trade cooperation shall aim at fostering the smooth and gradual integration of the ACP States into the world economy, with due regard for their political choices and development priorities, thereby promoting sustainable development and contributing to poverty eradication in the ACP countries*?. Although there are no public disagreements over the interpretation of this objective, in its design of EPAs, the EU seems to focus on the first part of this objective (trade integration) whilst most ACP countries seem to put more premium on the latter part (promoting sustainable development and contributing to poverty reduction). This is a useful distinction, because as shall be shown shortly, trade integration is a necessary but not sufficient condition for sustainable development or poverty alleviation.

The point of contention here therefore is whether reciprocity based EPAs, as narrowly construed by the EU, (essentially as trade integration arrangements) is the best way to achieve the objective outlined in Article 34.1 of the Cotonou Partnership Agreement. Taking the case of Africa for illustration, there is widespread consensus that the trade focused model of regional integration has not succeeded in expanding intra-African trade, increasing Africa’s share of global trade or

enhancing the region's overall economic growth (Oyejide, 1997, 2000; Collier, 1998; Yeats, 1998; Helleiner, 1999; ADB, 2000; UNECA, 2004; Kandelwal, 2004). Despite several trade-based integration arrangements (e.g. PTA/COMESA, SACU, SADC, CEMAC, ECOWAS, EAC) Africa's share of world trade in goods and services dropped from more than 5.5% in 1980 to around 2% in 2003 (IMF, 2004). Intra-regional (African) trade has also remained low, amounting to only 6 percent of total foreign trade of African nations in 1990 (IMF 2004), with intra-African trade being lower than that of any region in the world (Oyejide 2000, 7).

A considerable number of scholars point out that little, if any, significant gains may be expected from essentially trade focused regional integration in Africa given the structures of African economies. They single out the high degree of non-complementarity of Africa's exports and imports as a major reason for the low intra-African trade. There has been limited, if any, significant change in the structure of African economies since independence. Exports are still confined to basic minerals and primary agricultural commodities and the proliferation of regional trade arrangements has not been matched by the development of pre requisite regional infrastructure (Oyejide, 2000). Africa's intra-regional trade is not necessarily low because African governments are biased against regional integration, rather it is low due to structural factors like poor infrastructure, limited physical and human capital, low incomes, large intra-country distances, et cetera. Thus, to achieve even the narrow objectives of trade focused integration (increased intra-African trade and Africa's trade with the rest of the world) some basic 'economic fundamentals' must first be addressed.

Dani Rodrik (1999, 2001, 2002), has shown that there is little evidence that trade liberalization is correlated with economic growth. He has shown that whilst no country has developed successfully by turning its back on international trade, none has developed by simply liberalizing its trade either. The critical balance lies in each country adopting its own trade and investment policies and strategies, in line with its development needs. The Africa Economic Report (UNECA, 2004) concludes that trade liberalization alone will not boost growth and poverty reduction in Africa. Instead, the report argues that the successful integration of Africa into the world economy will require better-educated and healthier workforces, improved economic and political governance, better quality infrastructure, and dynamic trade policies, including gradual and targeted trade liberalization.

A recent report by the United Nations Conference on Trade and Development (UNCTAD, 2004) draws a similar conclusion. Trade liberalization plus enhanced market access does not necessarily equal poverty reduction: most poor counties undertook extensive trade liberalization in the 1990s, and also received some degree of preferential market access from developed countries, but performed dismally in reducing poverty. UNCTAD warns that if past trends continue, the poorest

countries in the world will continue to lag behind the rest in 2015, the year by which the international community hopes to halve the proportion of the global population living in extreme poverty

Evidence from successful developers include the US, UK, other European countries and the 'Asian tigers' shows that protecting infant industrial was an important part of early trade and industrial policy. Careful use of protection together with other policies to encourage backward and forward linkages, learning and adoption of technology will be needed by African countries to overcome the many market failures that exist in their economies. Successful developed countries did not accept the economists' notion of fixed comparative advantage in production and exporting particular goods; rather, they developed comparative advantage as they went along. For example, Taiwan was transformed from a tiny Japanese colony in the 1940s to a global leader in steel and micro-processors in a single generation. Successful development needs a dynamic, long-term policy approach, which Africa will lose if it locks itself into free trade with Europe.

Trade focused regional integration implies a problematic unidirectional hypothesis '*suggesting that trade (or more particularly, intra-regional trade) stimulates overall economic growth and development*' (Oyejide, 2000, 12). Whatever the correlation between trade and growth, there are more important factors which affect both trade and growth. Paul Collier (1998) argues that new approaches to regional integration and cooperation in Africa should directly target overall economic growth by focusing on basic 'fundamentals': reduction of transaction costs, rapid accumulation of human and physical capital and maintenance of macro-economic stability. Collier and others attribute a significant part of Africa's poor trade and economic growth to exceptionally high transaction costs on the continent, as a result of among others: high transport costs, high costs of information, poor quality of ancillary public services and poor contract enforcement mechanisms due to weak judicial systems (Collier & Gunning, 1995; Collier, 1998; Baldwin, 1997; Fine & Yeo, 1997; Helleiner, 1999; Oyejide, 1997; ADB, 2000).

A recent high level conference on infrastructure and poverty reduction estimated that in many African countries, lost growth due to poor infrastructure outweighs actual growth (PPIAF, 2005). Not long ago the World Bank (1998) concluded that freight costs were far more restrictive barriers to African exports than tariffs. The Commission for Africa (CfA, 2005) estimates that nearly half of farmers' harvests in Africa are lost due to poor post-harvest handling, storage and transport facilities. High insurance costs, cumbersome customs procedures and bureaucratic red-tape also contribute to the transaction costs of doing business in Africa. An African Ministerial Roundtable on Infrastructure Development and Regional Integration recently held in Ouagadougou, Bourkina Faso, summed the problem thus: *'The importance of regional infrastructure development cannot be overemphasized. Transport infrastructure is at the heart of regional integration as it supports the movement of people and goods across borders. An efficient and integrated transport system will facilitate national and international trade and factor mobility. An integrated communications system in the continent will spur growth of trade and finance and reduce production and service costs by enhancing the accessibility and affordability of information, and linking Africa regionally and with the rest of the world...Africa's needs are many and varied.... Underpinning the various needs is the development of infrastructure, which appears imperative... The high transaction costs arising from poor infrastructure adversely affects development of the African economies, hinders private sector development, and the flow of Foreign Direct Investment (FDI), and seriously affects the social services coverage, particularly for the rural population (ADB 2006, 1).*

High transaction costs, most notably linked to poor infrastructure, constrain economic growth and poverty reduction in Africa. Reducing these costs potentially has the multiplier effect of attracting foreign direct investment inducing the expansion of Africa's export of manufactured goods and stimulating the continent's economic growth. As Collier (1998, 159) has argued, by reducing Africa's transaction costs to world levels, policymakers can turn '*Africa into the most competitive region in the world for labour intensive manufactures because of Africa's low and relatively declining real incomes*'.



This is where ACP countries are coming from when they talk of development-oriented EPAs. Reciprocity (and EPAs in entirety) has fundamental implications for the *production structure and public revenues* of ACP States (Stevens & Kennan, 2005). This is why ACP countries would like *non-conventional trade agreements* – agreements which are more than just about trade integration – agreements that help address supply side constraints to development first (strengthening infrastructure, institutions and structural deficiencies - see for example the ESA-EU Economic Partnership Draft Agreement 2006, Bilal & Rampa, 2006).

By its very nature, such a non-conventional trade agreement is not currently covered by the conventional international (WTO) trade rules. It would require not only certain ‘innovations’ in its design and scope, but also either innovative interpretations of existing WTO rules or innovations to the current trade regimes governing North-South trade relations. As shall be shown in the section on ‘alternative EPAs’ part of the divergence between the EU and the ACP is due to the fact that the ACPs are (perhaps naturally) being very innovative and regard Article XXIV as restrictive whilst the EU seems to regard the application of Article XXIV to North-South trade relations as sufficiently innovative and flexible enough to accommodate such a non-conventional trade agreement. The EC negotiators sometimes implicitly accepts this argument by arguing that the new trade agreements should in fact focus on trade matters and that the ACP countries can pursue a parallel development component which is provided for by the Cotonou Partnership Agreement (CPA – Bilal & Rampa, 2006, 18). The counterargument is that a) that way there is little chance of aligning EPAs with the development objectives of ACP countries and b) nothing is binding in the CPA – thus EPAs provide an excellent opportunity to make the development dimensions of the CPA binding on the EU. The following sections highlight the merits and demerits of the various positions/proposals taken or put forth by either the EU or the ACP – collectively, regionally or as individual countries.

### **3. Potential Welfare Effects of EPAs with Different Degrees of Reciprocity/design/scope/depth**

The implication of the above arguments is that trade integration – which is the *raison d’etat* for the EU’s case for reciprocity - is not a sufficient condition for development or poverty reduction. As the ODI (2006, 3) sums it up, ‘*there is no obvious tendency for higher levels of trade integration among ACP countries to be associated with better growth performance...if EPAs are to be ‘developmental’ they need do more than merely increase trade as a share of GDP. They also need to do more than just promote economic growth because there is a wide variation among the ACP in the rate at which growth translates into poverty reduction.*’

ACP fears about the potential impact of the type of EPAs that the EU is pushing for (with reciprocity) on their long term development prospects and poverty reduction efforts are very real. The content and membership of EPAs in virtually all the negotiating regions are still uncertain, and

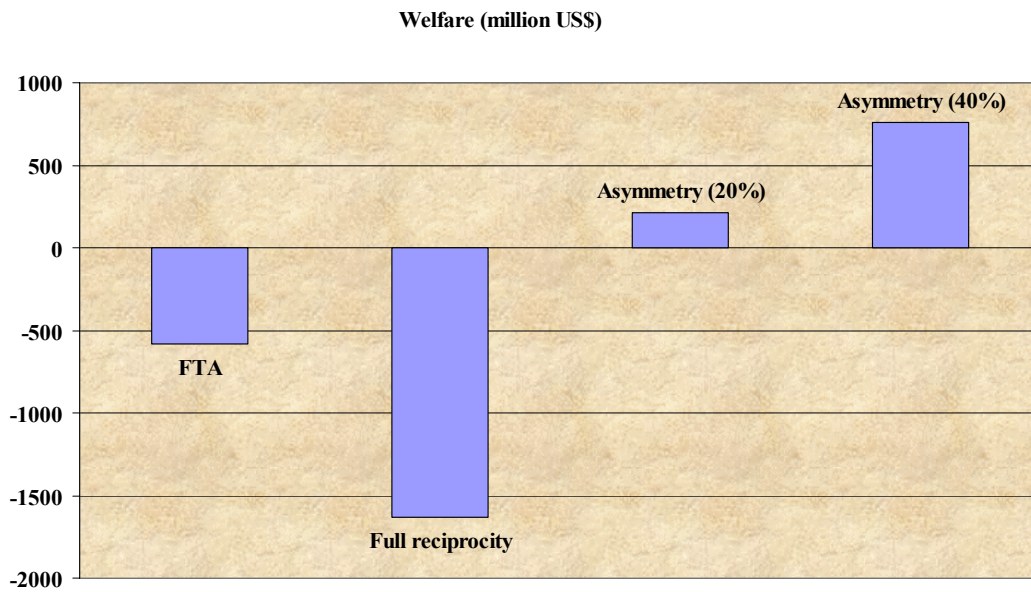
dynamic effects of EPAs are difficult to capture, so it is difficult to determine with a high degree of accuracy the potential impact of EPAs on ACP economies. But it is possible to highlight the potential channels through which the economic effects of EPAs may come about.

The effect of trade liberalization on poverty reduction critically depends on at least five factors: 1) how much poor people produce exported commodities and consume imports 2) the degree of labour mobility 3) the state of domestic industries 4) the state of income distribution 5) the presence of robust trade-related compensatory mechanisms (Winters, 2002, UNECA 2004, Amsden 1989, ODI 2006b). As ActionAid (2004) has argued, depending on these factors, trade liberalization can create winners and losers, aggravating or reducing income, regional or gender disparities. A pro-poor trade liberalization strategy is one that ensures that winners' gains outweigh losers' losses. The experience of East Asian economies demonstrate that successful trade policies must be aligned with, rather than pursued in isolation from development strategies (Amsden, 1989, Chang, 1993). Because reciprocity, and the EU's entire approach to EPAs is based on market driven premises for development (EC, 2005) '*with the creation of the appropriate trade (-related) liberal environment to stimulate investment and growth*' (Bilal & Rampa, 2006, 69), it is not clear that EPAs would be readily aligned with the development strategies of some ACP countries which may prefer an alternative or a slightly different development premise. '*The extensive scope of the EU-proposed EPA would limit the policy space of ACP countries to pursue more interventionist policies to stimulate the competitiveness of their industries and the endogenous sustainable development of their economies*', (Bilal & Rampa, 2006, 69). The same argument has been made for the inclusion of agreements on the 'Singapore Issues' (Singh, 2001, Chang, 2002).

Studies on the potential welfare effects of EPAs are few, incomplete and fraught with methodological and data limitations (most partial, focusing mostly on the direct trade effects of EPAs, without considering trade related issues, adjustment costs, accompanying policies and measures and the more developmentally crucial dynamic effects). That said, they all indicate that EPAs present development opportunities and challenges to ACP countries. Whether they will promote or hinder development and poverty reduction depends on their final content: *design, scope and depth*. Nearly all studies agree that the lowering/elimination of tariff barriers (due to the introduction of reciprocity will lead to significant losses in tariff revenues for African countries as many of them are dependent on import duties for fiscal revenues (UNECA, 2005, Bilal & Rampa, 2006, Karingi, 2005, KASA et al 2006, ODI 2006c). This would potentially have negative consequences on public and social programmes, which mostly benefit the poor. Although many of these studies agree that EPAs will lead to more trade creation than diversion, they conclude that the static welfare gains, seen against the potential adjustment costs would be modest. The UNECA (2005) estimates that ACP consumers could gain from the lower prices resulting from trade liberalization whilst ACP producers would lose out as a result of cheap EU imports. The consumer surplus or gains would be low

compared to losses in tariff revenues. There is little treatment of the dynamic effects of EPAs – which are more relevant to development and poverty reduction efforts. The tables below show the potential welfare effects of different configurations of ‘reciprocity’

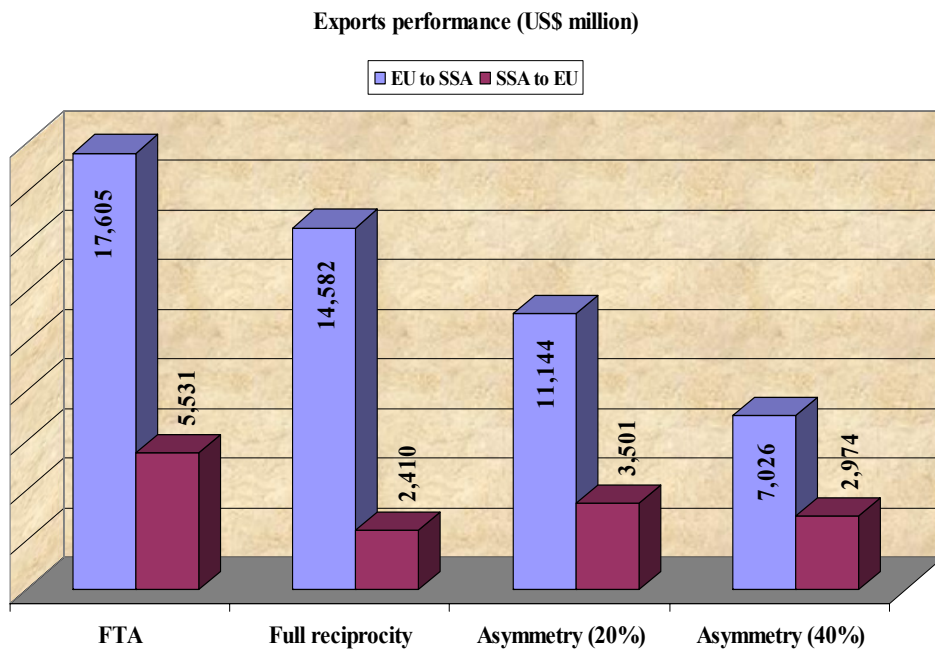
*Welfare gains for SSA on different ranges of ‘reciprocity’ (source, Karingi, 2005)*



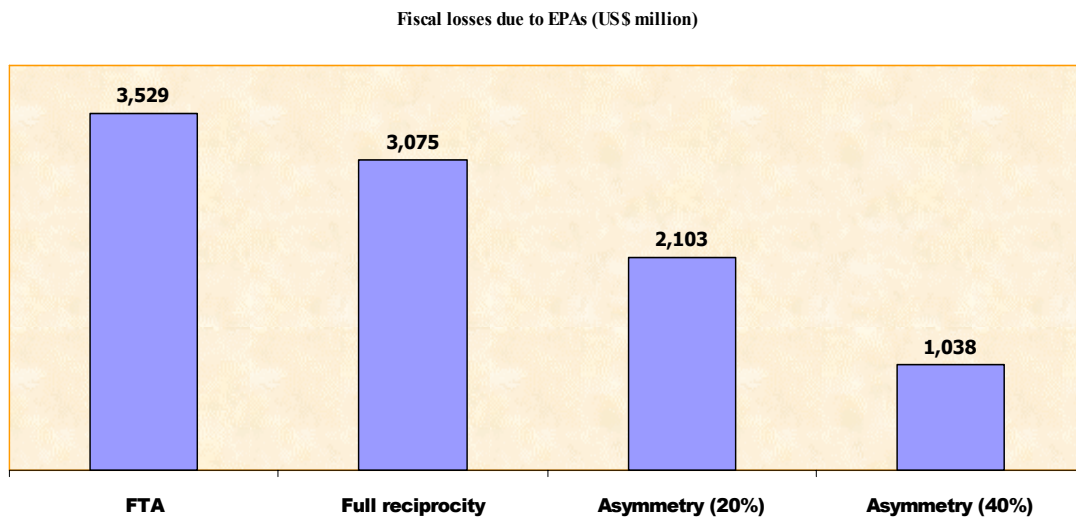
Trade impact of full reciprocity

TO: FROM:	SSA	RSA	EU	ROW	Total
SSA	-559	122	<b>2,410</b>	1,884	3,857
RSA	-1672	0	642	954	-76
EU	<b>14,582</b>	-387	-4,965	-6,510	2,720
ROW	7,915	-298	7,498	1,019	304
Total	4,436	-564	5,586	-2,652	<b>6,805</b>

Bilateral trade balance is asymmetry dependent



EPAs will require major fiscal reforms



#### **4.0. Alternative (to) EPAs**

Given the divergence in opinion between the EU and ACP countries on the design, scope and depth of EPAs that would be development-oriented, besides the version of EPAs pushed forward by the EU, what other versions have been put forward? ACP countries – collectively, regionally and as individual countries – have put alternative ways of designing development oriented EPAs. Some of these have the support of a number of NGOs, who have also put forward similar or their own alternatives. A common feature of all these ‘alternatives’ is their degree of ‘reciprocity’ and different ways of dealing with the Singapore and other issues. This section draws heavily from Bilal & Rampa (2006).

##### **1. The Basic EU EPA**

The basic approach to EPAs proposed by the EU, that has been discussed thus far, is a comprehensive free-trade agreement (FTA+) that includes trade in goods (including agricultural products) and services, and covers trade and trade-related market access issues, as well as ‘beyond the border’ regulatory measures. According to the EU’s self imposed definition of Article XXIV, an EPA, like any FTA, should entail liberalisation of 90% of the total value of trade among the parties. Within these confines, the EU accepts an asymmetrical approach in favour of the developing country, taking into account the balance of trade among the partners. In terms of trade-related matters, the EC has tabled an extensive wish list, including issues such as technical and safety standards, investment, trade facilitation, competition policy, government procurement, environment and labour standards and policy, intellectual property and data protection.

##### **1.1. ‘EPA Frankenstein’ – a modest version of the ambitious basic EU EPA.**

Bilal and Rampa (2006) suggest that a more modest approach of the basic EU EPA could consist of considering all the recent FTAs signed by the EU with developing countries, and, for each topic to be included in an EPA, selecting the least constraining or ambitious provisions of them all on the basis that ACP countries are less developed and therefore require more flexibility than any developing country that has ever concluded an FTA with the EU (e.g., Mediterranean countries, South Africa, Mexico, Chile).

## **2. The 'EPA light'**

Proposed by Mauritius, this is a minimalist approach that would focus, in the first stage, on the opening of ACP markets to the minimum level necessary for securing WTO compliance. In the second stage, at a speed and extent to be defined by the ACP countries themselves, negotiations with the EU could centre on a long-term approach to address supply-side capacity constraints in the ACP countries and to build effective and functioning regional markets. This could then lead to further liberalisation from the ACP side, in an effort to further stimulate ACP regional competitiveness. This approach would ensure that all ACP countries could keep and improve on their market access to the EU beyond 2007, while seeking to limit the potentially negative effects of any significant liberalisation. According to EC estimates, ACP regions would have to liberalise a minimum of 76% to 83% of their trade (67% for the Pacific).

Interpretations of the current WTO rules may pose a challenge to this approach – which seeks to stretch that interpretation. Proponents of this approach claim that to comply with GATT Article XXIV, an FTA could require, for instance, an average of 85% product coverage with a 17-year transition period. Provided that the EU grants duty-free access to all ACP countries (along the lines of EBA for LDCs), as suggested in the 'EPA light' scenario, the ACP would arguably have to eliminate tariffs on only 50% to 60% of their imports over a 20-year period. Proponents point out that since no FTA has ever been challenged to the WTO so far, and given that the amount of trade between the concerned parties remains very small, this loose interpretation of WTO rules could benefit indirectly from the passivity of other WTO members.

By leaving the trade regime of the ACP countries mainly unaffected, this option does preserve the 'policy space'/options of ACP countries, and allow them to pursue active policies to strengthen their supply capacity, sheltered from any significant EU competition. By the same token, in opting for minimum liberalisation, in particular in sectors that would be the most affected (i.e., those protected by high trade barriers), the 'EPA light' option would negate most of the potential economic benefits for ACP economies that could potentially accrue from trade liberalisation.

## **3. EPAs with explicit SDT**

The ACP Group has been seeking an explicit revision of Article XXIV so as to obtain legal certainty for a flexible interpretation of GATT Article XXIV, which would explicitly recognise developmental aspects and SDT, by allowing explicit lower thresholds and/or a favourable methodology for developing countries in determining criteria for 'substantially all trade' and extending the possible transition period for the implementation of an FTA to at least 18 years. An alternative scenario consists of introducing as much flexibility as possible in an EPA to pursue development concerns in the form of explicitly recognised special and differential treatment (SDT). This could be done in the

context of existing WTO rules or by amending GATT Article XXIV. The scope and nature of trade-related matters included in such EPAs should also reflect the various development levels and concerns of the ACP countries.

The ACP proposition to revise WTO rules would lead to an EPA with SDT that is consistent with both the overall EU approach to EPAs and the development opportunities they offer according to the EC, as well as with ACP concerns to cater for their specific development needs. Similarly, taking full advantage of the imprecision of GATT Article XXIV could allow development objectives to be pursued in a more flexible manner.

#### **5. Liberalisation timetable based on development benchmarks**

First proposed by ACP countries during the Cape Town declaration and now supported by a number of NGOs, this proposal introduces binding development ‘thresholds’ into the liberalisation schedule of developing countries in the implementation of North-South FTAs. Instead of basing liberalization schedules on pre-determined timeframes they would be based on objectively verifiable development indicators (i.e. liberalization to be determined by a country’s development, financial and trade needs). This scenario is as yet incompatible with current WTO rules on RTAs. It also appears unlikely that a revision of GATT Article XXIV would include such binding provisions on development-related liberalisation, since it would make the free-trade characteristics of an FTA conditional on development criteria and at least partly dependent on the FTA partners. Such provisions would be prone to abuse, particularly by partners that would aim to disguise preferential agreement and partial liberalisation under the heading of an FTA.

#### **6 A ‘EPAs Menu’ Approach:**

Proposed by the Pacific region this scenario is based on the existence of different development levels within the same ACP region as well as the diverse economic offensive and defensive interests of different countries. Many ACP governments and negotiators have repeatedly emphasised that an EPA, whatever its form, needs to recognise such differences and accordingly incorporate adequate flexibilities.

The ‘menu’ approach, envisages that the different components of an EPA (trade in goods and in services, investment, trade facilitation, possible sector-specific arrangements such as in fisheries, and so forth) could be covered under separate individual agreements. This flexible structure entails the ACP countries to be offered a ‘menu’: all countries in one region would sign a ‘master agreement’ establishing the principles to govern the EPA relationship but individual countries would be allowed

to join only those specific ‘subsidiary agreements’ they were prepared to commit to. Because ACP countries display a marked heterogeneity in terms of size, development and income levels, economic interests, state of preparedness for entry into reciprocal free-trade arrangements and available bargaining chips, it is possible countries not yet ready to enter into an agreement with the EU for reciprocal free trade in goods may nevertheless be willing to join an agreement on fisheries, while for instance, some others willing to undertake free trade in goods may not be ready to conclude an agreement with the EU on trade in services.

A ‘menu’ structure would ensure that all countries in a region could participate in the EPA, while accommodating the significant diversity among them and providing the flexibility required by the potentially negative effects of reciprocity.

For this scenario to be WTO compatible, reciprocal liberalisation commitments would be contained in the separate subsidiary agreements on trade in goods and trade in services. These would be the only agreements to be notified to the WTO under GATT Article XXIV. Under the ‘menu’ EPA structure, the ‘umbrella’ agreement would exclude, instead, any specific commitments to reciprocal free trade in goods or services so that there would be no need to notify it to the WTO.

On the other hand, if the ‘menu’ option kept the two elements together (although separate) under an EPA framework, it could make EPAs more attractive. First, for those who fear that EPAs are only about reciprocity, liberalisation of services and Singapore issues, the ‘menu’ approach would be a good strategy to convince the EU to bind not only concessions for further market access under EPAs, but also commitments to developmental areas, such as investment, trade facilitation/promotion, competitiveness-enhancing measures, and sector-specific agreements like tourism or agriculture. Second, the value of EPAs would also be increased for those regions and countries that demand strong provisions for special and differential treatment, as well as high flexibility, to cater for very diverse economic interests and different levels of preparedness for reciprocity.

### **7. Country-specific EPAs**

A related scenario to the menu concept is country-specific or bilateral EPAs – that is EPAs between individual ACP countries and the EU (much like the TDCA between South-Africa and the EU). Legally, although all ACP countries have decided to negotiate within regions, none of the negotiating regions are customs unions according to Article XXIX which means that each ACP country will have to sign an EPA individually with the EU and to comply with the provisions of Article XXIV (Bilal &



Rampa, 2006, 83). This means that the determining threshold for substantially all trade, degree of asymmetry, product coverage and transition period should be at the national level. Whilst these can be harmonized at the regional level, there is no compelling reason why a country cannot choose to negotiate a bilateral EPA directly with the EU. As Bilal & Rampa (2006, 83) have argued, this 'might either provide greater flexibility for some countries that seek SDT in an EPA or impose more rigorous constraints', depending on individual situations.

**Conclusion:**

EPAs present enormous opportunities and challenges to the long term development prospects of ACP countries. Whether they will be pro-development or not depends on their design, scope and depth. This paper has shown that development-oriented EPAs will require not only innovations in their own design, scope and depth, but also innovative interpretation of existing WTO rules or innovations to some of the existing WTO rules, most notably, Article XXIV, the Enabling Clause and/or SDT provisions. So far, the ACP countries have been very innovative in their design and scope of EPAs whilst the EU has stuck to its narrow interpretation of Article XXIV – which poses serious limitations to integrating development components within EPAs. The EU's case for reciprocity within EPAs both legally and on development grounds is not convincing. As long as everybody subscribes to the objectives of EPAs as being sustainable development and poverty reduction, much work needs to be done to explore the options to the Basic EU EPA proposition.

## References:

- Action Aid International (2004) Trade Traps, Why EU-ACP Economic Partnership Agreements pose a threat to Africa's development. Johannesburg, South Africa.
- Adedeji, A. (2002) History and Prospects for Regional Integration in Africa. An Introductory remark at the **Third Meeting of the African Development Forum. Addis Ababa.**
- African Business, January, (1999).
- African Development Bank (1989) Economic Integration and Development in Africa. Oxford University Press, Oxford.
- African Development Bank (1999) African Development Report 1999. Oxford University Press, Oxford.
- African Development Bank (2000) Economic Cooperation and Regional Integration Policy. Oxford University Press, Oxford.
- African Development Bank (ADB) (2006) Infrastructure Development and Regional Integration: Issues, Opportunities and Challenges. Paper presented on the Ministerial Round Table and High Level Seminars Jointly organized with the UN Economic Commission for Africa. Ouagadougou Conference Center, 16<sup>th</sup> May, 2006.
- Afribourse (<http://www.afribourse.com>).
- African Union (2006) The First Conference of African Ministers of Economic Integration, Ouagadougou, Bourkina Faso, March, 2006.
- Amsden, A. (1989) Asia's Next Giant, OUP, Oxford
- Bagehot, W. (1873) Lombard Street. Homewood, IL: Richard D. Irwin.
- Baldwin, R. E. (1997) Reviews of Theoretical Developments on Regional Integration. In: Oyejide et al. (eds.) Regional Integration and Trade Liberalization in Sub-Saharan Africa, Vol. I, Macmillian, London.
- Bilal S. and F. Rampa (2006) Alternative (to) EPAs
- Business Day Media Ltd. (2006) Fully Integrated Regional Infrastructure is key to Achieving MDGs. May 26, 2006.
- Cadot, O., J. De Melo, and M. Olarreaga (1999) Asymmetric Regionalism in Sub-Saharan Africa: Where do we stand? Paper Prepared for ABCDE Conference, Paris, France.
- CEMAC – Central African Economic and Monetary Community (2006) The World Bank, Washington, D. C.
- Chang, H. J. (2002) Kicking Away the Ladder. Anthem press, London.

- Choudhury, B. (2006) Compromise Budget. World Affairs.  
<http://www.flonnet.com/fl2301/stories/20060127000606100.htm>.
- Christian Aid (2005) For Richer or Poorer: transforming economic partnerships between Europe and Africa. London: Christian Aid.
- Collier, P. (1998) Globalization: Implications for Africa. In: X. Igbal and M. S. Khan (ed), Trade Reform and Regional Integration in Africa, IMF, Washington, D. C.
- Collier, P. and J.W. Gunning (1995) Trade Policy and Regional Integration: Implications for the Relationship between Europe and Africa. *The World Economy*, Vol. 18, pp. 387-410.
- COMESA secretariat (2003) Negotiating Guidelines for ESA-EU Economic Partnership Agreement with the EU. (Unpublished.), Lusaka.
- Commission for Africa, Our Common Interest, London: Penguin 2005
- Cummings, R. J. (2000) African Regional Integration and Economic Cooperation – An Introduction. HU Archives Net, The Electronic Journal MSRC – Howard University.
- Dutta, M.J. (2004) Commentary on Schiff, M. and L. A. Winters (2002) Regional Integration and Development. Washington, D.C.: World Bank and Oxford University Press. Economic Development and Cultural Change
- European Commission (2004) Interpretation of Article XXIV,  
[http://europa.eu.int/comm/external\\_relations/mercosur/bacground\\_doc/template\\_aper5.htm](http://europa.eu.int/comm/external_relations/mercosur/bacground_doc/template_aper5.htm).
- European Communities (2005) Negotiating group on rules – submission on regional trade agreements by the European Communities. TN/RL/W.179, 12 May  
<http://docsonline.wto.org/DDFDocuments/t/tn/rl/W179.doc>
- Fine, J. and S. Yeo (1997) Regional Integration in Sub-Saharan Africa: Dead End or a Fresh Start? In: Oyejide, A. et al. (Eds). Regional Integration and Trade Liberalization in Sub-Saharan Africa, Vol. IV, Macmillan, London.
- Government of Mauritius (2002) Non Paper II on Negotiations of Economic Partnership Agreements. 17th May, 2002.
- Helleiner, G. K. (1999) Linking Africa with the World: A Survey of Options. In Oyejide, A. et al. (Eds) Regional Integration and Trade Liberalization in Sub-Saharan Africa, Vol. IV, Macmillan, London.
- Hess, R. and S. Hess (2004) A pending Crisis of Overlap. eAfrica. The South African Institute of International Affairs, Johannesburg.
- Hicks, J. (1969) A Theory of Economic History. Oxford: Clarendon Press.
- KASA et al, 2006, Making EPAs Work for the Poor

Khandelwal, P. (2004) COMESA and SADC: Prospects and Challenges for Regional Trade Integration. IMF Working Paper, Policy Development and Review Department, U.S.

King, R. G. and R. Levine (1993) Finance and Growth: Schumpeter Might be Right. Quarterly Journal of Economics, Vol. 108, No. 3.

Lamy, P. (2004) Opening of the negotiations for the Economic Partnership Agreement (EPA) between the Caribbean Forum of ACP states (CARIFORUM) and the European Union. Statement by Pascal Lamy, Kingston, Jamaica, 16th April, 2004.

Levine, R. (1997) Financial Development and Economic Growth: Views and Agenda, Journal of Economic Literature 35, 688-726.

Matthews. A. (2003) Regional Integration and Food security in Developing Countries. Food and Agriculture Organization of the United Nations. TCAS working Document No. 50.

McCarthy, C. (1996) Regional Integration, Part of the Solution or Part of the Problem. In: Stephen Ellis, ed., Africa Now. London: James Currey and Heinemann.

Mkandawire, T. and C. Soludo. (1999) Our continent, our future: African perspectives on structural adjustment. Trenton, NJ and Asmara, Eritrea: Africa World Press Inc.

OAU (1981) Lagos Plan of Action for the Economic Development of Africa, 1980-2000.

Oshikoya, T. W. and O. Ogibu (2002) Financial Liberalization, Emerging stock markets and economic developments in Africa. In: Mkandawire, T. and C. Soludo (eds.) (2002) African Voices on Structural Adjustment A companion to our continent, our future. IDRC/CODESRIA/Africa World Press, Canada.

Overseas Development Institute (Odi), June 2006, Briefing Paper

Oyejide, T. A. (1997) Africa's Participation in the Post-Uruguay Round World Trading System, PSIO Occasional Paper WTO Series No. 6, Graduate Institute of International Studies, Geneva.

Oyejide, T. A. (1999) Perspectives and Modalities of African Participation in the WTO Process. Paper prepared for the Dissemination Workshop of the AERC collaborative research project on Africa and the World System, Yaoundé, April 17-18.

Oyejide, T. A. (2000) Policies for Regional Integration in Africa. Economic Research Papers. No. 62. African Development Bank. Abidjan, Cote d'Ivoire.

Prime Minister of Burkina Faso, Ernest Paramanga Yonli, Business Day, May 26th 2006

Public Private Infrastructure Advisory Facility (PPIAF) (2005) Towards Growth and Poverty Reduction: Lessons from Private Participation in Infrastructure in Sub-Saharan Africa. Cape Town, South Africa.

Rodriguez, F. and Rodrik, D. (1999) 'Trade Policy and Economic Growth: A Aceptic's Guide to the cross-Country Evidence', Centre for Economic Policy Research, Discussion

Paper Series 2143; Rodrik, D. (2001) 'The Global Governance of Trade as It Development Really Mattered', UNDP; Rodrik, D. (2002) 'Trade Rout: Reform in Argentina, Take Two', New Republic, 14th January 2002.

Rosamond, B. (2000) **Theories of European Integration**. Basingstoke: Macmillan and New York: St. Martin's Press.

Rwegasira, D. (1997) Economic Co-operation and Integration in Africa - Experiences, Challenges, and Opportunities. In: H.Kifle, A.O. Olukoshi and L. Wohlgemuth (eds.), A New Partnership for African Development, Uppsala: Nordic Africa Institute.

Sachs, J. (1997) The limits of convergence - Nature, Nurture and Growth. *The Economist*, 14-20 June, 1997.

Schiff, M. and A. Winters (2003) **Regional Integration and Development**. The World Bank/Oxford University Press, Washington D.C. /New York.

Schumpeter. J.A. (1934) **The Theory of Economic Development**, Cambridge MA: Harvard University Press.

Senbet, L. W. (1998) Globalization of African Financial Markets. Prepared for the United Nations University and AERC conference on Africa and Asia in the Global Economy. Tokyo.

Simuyemba, S. (2000) Linking Africa through Regional Infrastructure. Economic Research Papers No. 64. African Development Bank, Abidjan, Cote d'Ivoire.

Singh, A. (2001) Foreign Direct Investment and International Agreements: A South Perspective. South Centre, Geneva.

Stevens, C. (2005) Economic Partnership Agreements and African integration: a help or a hindrance? University of Sussex, Sussex.

Stevens C. and J. Kennan 2005, Preparing for Economic Partnership agreements, IDS

UNECA (2004) Africa Economic Report 2004. UNECA, New York.

UNECA (2005) Economic and Welfare Impacts of the EU-Africa economic partnership agreements. ATPC Work in progress, No. 10 Addis Ababa: The African Trade Policy Centre (ATPC) of The United Nations Economic Commission for Africa.

UNCTAD (2004) The Least Developed Countries Report, UNCTAD, Geneva.

World Bank (1998) Southern African Sub-Regional Strategy. World Bank, Washington D.C.

WTO (2000) Trade Policy Review: Tanzania. Geneva.

WTO (1994) General Agreement on Trade in Services.

WTO (1994) General Agreements on Tariffs and Trade: article XXIV:  
[http://www.wto.org/english/tratop\\_e/region\\_e/regatt\\_e.htm#gatt](http://www.wto.org/english/tratop_e/region_e/regatt_e.htm#gatt).

WTO (1994) Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994:  
[http://www.wto.org/english/tratop\\_e/region\\_e/regatt\\_e.htm#gatt](http://www.wto.org/english/tratop_e/region_e/regatt_e.htm#gatt).

WTO (2004) ACP submission on Regional Trade Agreements. 28th April, 2004.

Yeats, A. (1998) What can be expected from African Regional Trade Arrangements? Some Empirical Evidence. World Bank, U.S. Available on the web at:  
<http://www.worldbank.org/html/dec/publications/Workpapers/wps2000series/wps2004/wps2004-abstract.html>.