



institute for global dialogue

SADC, COMESA AND THE EAC: Conflicting regional and trade agendas

Wolfe Braude

October 2008

Mission

The Institute for Global Dialogue is an independent South African non-government organisation that provides policy analysis on the changing global environment and its impact on South Africa for the benefit of government and civil society.

Core programmes

The activities of the Institute centre on four programme areas:

1. Africa Research

This programme aims to promote research and analysis with a view to enriching debates and understandings about the development challenges which confront African countries, both domestically and internationally.

2. Multilateral Analysis

This programme aims to analyse multilateral institutions as they influence global processes of change with a view to understanding their impact on South Africa and the global South.

3. Foreign Policy Analysis

This programme aims to provide policy analysis and recommendations on South Africa's foreign relations to the South African government, parliament and civil society.

4. Southern Africa

This programme aims to analyse and promote an understanding of factors that advance or hinder regional co-operation, sustainable development, and security in southern Africa.



OCCASIONAL PAPER NO 57

SADC, COMESA AND THE EAC:

Conflicting regional and trade agendas

Wolfe Braude

Series editor:
Garth le Pere

Institute for Global Dialogue
Johannesburg, South Africa

October 2008

About the author

Wolfe Braude is co-founder of and a senior research partner at Emet Consulting, a research consultancy based in Pretoria. Emet specialises in industrial, trade, labour market, international relations, and regional integration policy research and project management. It also undertakes training and facilitation and materials development.

From 2003 to 2005 Braude was senior researcher: labour standards and collective bargaining at the National Labour and Economic Development Institute (NALEDI), a research affiliate of COSATU. Prior to his appointment at NALEDI, Wolfe was programme manager for the Department of Trade and Industry's Policy Support Programme (DTI PSP). This EU-funded programme supported policy formation and implementation at the DTI through research, training, and technical assistance.

Braude's research interests include industrial policy, trade policy, labour standards, poverty alleviation, civil society development, technology, and globalisation. Some of these stem from his work as an associate lecturer in political science at the University of Durban-Westville from 1997 to 1999.

Published in October 2008 by the:

Institute for Global Dialogue
IGD House, Thornhill Office Park
Bekker Street, Vorna Valley
Midrand, South Africa

PO Box 32571, Braamfontein 2017, South Africa

Tel +27 11 315 1299

Fax +27 11 315 2149

www.igd.org.za

All rights reserved. This publication may not be copied, stored, or transmitted without the prior permission of the publisher. Short extracts may be quoted, provided the source is fully acknowledged.

ISBN 987-1-920216-05-04

Produced by Acumen Publishing Solutions, Johannesburg

Printed by Digital Documents, Johannesburg

Table of contents

| | |
|---|-----------|
| Acronyms and abbreviations | 3 |
| 1. Introduction | 5 |
| 2. Conflicting RECs and EPAs | 7 |
| 2.1 Conflicting REC memberships | 8 |
| 2.2 Conflicting EPA/REC memberships | 9 |
| 2.3 Harmonisation of misaligned REC and EPA memberships | 11 |
| 2.4 SADC, COMESA and the EAC – the Kenyan factor and EAC dilemma | 20 |
| 3. Impact on an REC of parallel EPAs | 25 |
| 3.1 Reconciling the impacts of parallel EPAs | 25 |
| 4. The launch of the EAC-EPA | 36 |
| 4.1 Background to the creation of a last-minute EAC-EPA | 36 |
| 4.2 The final events leading to the launch of the EAC-EPA | 38 |
| 4.3 Structure and elements of the Interim EAC-EPA | 40 |
| 4.4 Reaction to the EAC-EPA | 46 |
| 4.5 Impact of the EAC decision | 48 |
| 5. Additional EPA challenges | 50 |
| 5.1 Renegotiation of the Interim EPAs | 50 |
| 5.2 Provisional application of clauses and timelines for ratification | 51 |
| 5.3 Additional IEPA challenges: the MFN Clause | 53 |
| 5.4 Additional IEPA challenges: export taxes | 54 |
| 5.5 Additional IEPA challenges: the standstill clause | 54 |
| 5.6 Additional IEPA challenges: EDF funding and regional membership | 55 |
| 5.7 AU Commission EPA Co-ordination Mechanism | 55 |
| 6. Conclusion | 55 |
| Annex 1: Exclusion basket differences in the ESA and SADC | 57 |
| Endnotes | 59 |
| Bibliography | 62 |

Acronyms and abbreviations

| | |
|----------------|---|
| ACP | African, Caribbean, and Pacific |
| AfT | Aid for Trade |
| AU | African Union |
| BLNS countries | Botswana, Lesotho, Namibia and Swaziland |
| CEMAC EPA | Central African Economic Partnership Agreement |
| CEPGL | Economic Community of the Great Lakes Countries |
| CET | Common External Tariff |
| COMESA | Common Market for Eastern and Southern Africa |
| CU | Customs Union |
| DRC | Democratic Republic of Congo |
| DTI | Department of Trade and Industry |
| EABC | East African Business Council |
| EAC | East African Community |
| EALA | East African Legislative Assembly |
| EBA | Everything But Arms |
| ECCAS | Economic Community of Central African States |
| ECDPM | European Centre for Development Policy Management |
| ECOWAS | Economic Community of West African States |
| EDF | European Development Fund |
| EPA | Economic Partnership Agreement |
| ESA | Eastern and Southern Africa |
| EU | European Union |
| FTA | Free Trade Area |
| IEPA | Interim Economic Partnership Agreement |
| IGAD | Inter-Governmental Authority for Development |
| IRCC | Inter-Regional Co-ordination Committee |
| LDC | Least Developed Countries |
| MFN | Most Favoured Nation |
| NIP | National Indicative Programme |
| REC | Regional Economic Community |
| RIP | Regional Indicative Programme |
| SACU | Southern African Customs Union |
| SADC | Southern African Development Community |
| TDCA | Trade, Development and Co-operation Agreement |
| WTO | World Trade Organisation |

1. Introduction

The EAC (East African Community), comprising Kenya, Uganda, Tanzania, Rwanda, and Burundi, is one of the most dynamic and evolving regional economic communities in Africa. It has been attracting interest from policymakers and researchers as a result of its steady implementation of an ambitious regional integration agenda since its reconstitution in 1996. It is perhaps timely that it has entrenched itself relatively quickly, given that it is located at the crossroads, as it were, of two complex and sometimes contradictory macrotrade policy processes, namely evolving regional and international trade formations (specifically with the European Union).

On the regional trade front the EAC overlaps a number of other regional bodies. Kenya, Uganda, Rwanda, and Burundi are also part of COMESA¹ (Common Market for Eastern and Southern Africa), while Tanzania is also part of SADC² (Southern African Development Community). Kenya and Uganda are additionally members of IGAD³ (Inter-Governmental Authority for Development), and Rwanda and Burundi are further part of ECCAS⁴ (Economic Community of Central African States). Furthermore, Rwanda, Burundi, and the Democratic Republic of the Congo (DRC) are members of an economic community called the Economic Community of the Great Lakes Countries (CEPGL) that was only recently revived in 2004. The most significant and challenging overlaps or multiple memberships are however with COMESA and SADC. This paper focuses on the EAC, and then, where relevant, on SADC and COMESA, to the exclusion of IGAD, ECCAS, and CEPGL, as COMESA, SADC and the EAC are the blocs with faster integration agendas and most 'in competition'.

On the international trade front, the EAC member states, as part of a large group of 79 ACP (African, Caribbean, and Pacific) states, are currently involved at varying stages in EPA (economic partnership agreement) negotiations with the EU (European Union). The negotiations aim to replace the trade component of the Cotonou agreement with a WTO-compatible trade agreement.

The rationale for this paper comes from the fact that the regional and EPA trade formations are unfortunately often not complementary in the case of eastern and southern Africa. In the EAC's case it is the success in its own regional integration that brought the regional and international challenges facing the EAC into sharp focus during 2007. The EAC faced the prospect, as things stood in mid-2007, of being inadvertently divided as a REC (Regional Economic Community) in terms of trade preferences with the EU and internal customs administration, such that the aims and actions of its CU (Customs Union) would effectively have been negated, thus possibly calling into question the viability and effectiveness of the entire CU and deeper EAC integration. The EAC, in a rapid turn of events, then initialled a surprise Interim EPA (IEPA) with the EU just weeks before the expiry of the Cotonou waiver at the end of 2007.

The paper seeks to outline and contextualise the challenges that faced the EAC⁵ and the RECs that overlap it, namely SADC and COMESA (and SACU where relevant) in terms of the interaction between these regional and international trade fronts. Chapter Two of the

paper outlines the conflicting and overlapping EPA and REC memberships in the broader region. Chapter Three looks at the implications for a REC of parallel EPA memberships, ie where a REC's member states have not taken a joint decision to enter into EPA negotiations with the EU and have chosen to remain in separate EPA groupings. The EAC's own circumstances prior to its decision to sign a joint or common EPA are used as an example, given that it is the first REC in the broader region, apart from SACU, to have formed a CU.

Chapter Four of the paper outlines the process that unfolded during the run-up to the initialling of the EAC-IEPA in late November 2007, and describes the EAC-IEPA itself and various aspects thereof. Finally, in Chapter Five, the analysis moves to specific problematic clauses and aspects of the overall EPAs and EPA negotiations process that have been highlighted by ACP governments, civil society, and international NGOs as likely to obstruct progress towards comprehensive EPAs. Relevance to the EAC, ESA (Eastern and Southern Africa) and SADC-EPAs is noted.

Unpacking the scenario that the EAC would have faced if agreement on an EAC-EPA had not been reached is a useful analysis, as COMESA will effectively be in the same position come December 2008 when it is scheduled to launch its own CU and SADC likewise come 2010 when it is scheduled to launch its own CU as well. Given the current splits within COMESA and SADC along different EPA group memberships, the next CU to be launched in the broader region (by whichever trade bloc accomplishes this first) will be seriously compromised from the word go as the member states would have to maintain complex internal tariffs to accommodate the differing EPA group offers made to the EU by SADC-EPA and ESA-EPA members in 2007/2008. The reason that the EPAs can have such a significant effect is that the EU is the largest single trade partner for nearly all of the SADC, COMESA, and EAC states.

The paper argues that the only comprehensive solution to the regional trade membership dilemmas appears to be for countries with dual COMESA-SADC memberships to finally choose between their competing regional trade bloc memberships. These countries would then also need to align their EPA group memberships accordingly in the very near future if the COMESA and SADC Customs Unions are to be viable. However, significant political and economic issues stand in the way of such rationalisations if the history of the region's trade bloc memberships is taken into account. Interestingly, the regional overlaps and divisions will probably only decrease with the launch of the second new CU in the broader region (COMESA or SADC, depending on who launches the first CU), as countries will then have to make firm decisions regarding which Customs Union to remain in, unless the EAC, COMESA and SADC Customs Unions (CUs) are fully harmonised at the same time. This would be politically and economically difficult in the case of SADC and COMESA.

The EPAs need to be rationalised or harmonised as well due to the fact that even if the COMESA and SADC CUs are successfully launched, and regional memberships finally rationalised according by CU membership, it would still be possible for a country to remain in one regional trade bloc's CU but also within a conflicting EPA group. The problems this would cause would only really be resolved if the EPA groups are simultaneously rationalised and harmonised with the respective CUs, as happened with the EAC.

The challenge for COMESA and SADC in the short term (as the first EPA liberalisation tranches come into effect) will therefore be to minimise and contain the negative effects of multiple EPAs within their regional trade blocs. These are effects that the EAC member states narrowly avoided. In the medium term the key will be to harmonise their conflicting internal positions with regard to the EU during their CU negotiation processes. Both of these processes, and indeed any process of EPA rationalisation, would however necessitate successive revisions to the various country and even group EPA offers as the processes unfold. This, in turn, would require the EU to display flexibility and refrain from using the successive requests for revisions to insist on further concessions.

2. Conflicting RECs and EPAs

The overlap of membership between regional integration arrangements in the wider southern and eastern African region is without parallel anywhere else in the world. As noted, seven regional economic communities are effectively operating in parallel within this region (SADC, COMESA, EAC, SACU, IGAD, ECCAS, and CEPGL).⁶ EAC member states provide a good snapshot of this problem, as they are simultaneously also members of all of these regional bodies except SACU (Stahl, 2005: 21).

At the same time, countries in eastern and southern Africa have formed regional groupings for the purpose of negotiating EPAs with the EU. However, due to the overlaps in membership of the existing regional organisations they could not be used as vehicles for this purpose, resulting in a split into two additional negotiating configurations. The first was the ESA-EPA configuration, with an initial membership consisting of Burundi, Comoros, Djibouti, DRC, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Uganda, Zambia, and Zimbabwe. The second was the SADC-EPA configuration, with an initial membership consisting of Botswana, Lesotho, Namibia, Swaziland, Tanzania, Angola, and Mozambique.

It must be noted though, that Botswana, Lesotho, Namibia, and Swaziland (the so-called BLNS countries) are also members of SACU, and as such are already de facto part of the TDCA (Trade, Development and Co-operation Agreement) concluded between South Africa and the EU in 2000.

The key point is that the ESA and SADC-EPA configurations are not in line with the memberships of the existing regional organisations (see Table 1 below for an illustration of the REC/EPA group overlaps), so the question is how these configurations can be reconciled to facilitate regional integration (Stahl, 2005: 22). This is especially pertinent given that one of the main stated objectives of the EU in the current EPA trade negotiations is that the regional configurations for EPA negotiations support existing regional integration efforts and assist them in moving towards deeper regional integration.

2.1 Conflicting REC memberships

It is important to realise that the parallel and potentially conflicting EPA scenario is merely a symptom of a deeper underlying problem, namely overlapping regional trade bloc memberships.

2.1.1 SADC and COMESA overlaps

Of the 15 SADC member states, eight are also currently members of COMESA.⁷ There was a greater overlap in the past, but Tanzania (1999), Namibia (2004), and Lesotho (1997) withdrew from COMESA. Likewise Angola suspended its COMESA membership, citing duplication with its membership of SADC. Along these lines, and most recently, Rwanda (2007) withdrew from ECCAS and cancelled its application to join SADC, both in favour of reinforcing its current memberships to the EAC and COMESA. The overlap also grew though, in that the Seychelles opted to pull out of SADC in 2004, but applied to rejoin in 2006, and was readmitted in August 2007, although it has elected to also stay in COMESA and the ESA-EPA (Meyn, 2006: 3). Madagascar is busy completing its accession to SADC, but has retained its membership of COMESA (and the ESA-EPA). Although not insurmountable, the overlaps between SADC and COMESA do however create uncertainty as to which tariff rates and rules of origin should be applied to trade between two countries that belong to both organisations. As noted, COMESA is in the process of implementing a CU, and SADC is still working towards forming a FTA (Free Trade Area) by end 2008, to be followed by a CU in 2010. To advance its FTA agenda, SADC countries are meant to decide by 2008 on their regional affiliations, to secure the foundation for the full launch of the FTA. The most important membership decision will be whether they will remain in SADC or COMESA. The planned formation of a SADC CU will obviously make it unworkable for its members to also remain part of the planned COMESA CU. Although it has been suggested that these two organisations would be better off if they were to merge, this has proved to be very politically sensitive. Rather, efforts have been made to co-ordinate the work of the two organisations in order to prevent duplication of, and conflict between, their programmes, projects and activities. Since 2001 the two organisations have been co-operating on a number of areas such as trade analysis, capacity building and negotiations, transport issues, and international relations, such as preparations for negotiations with the EU and in the WTO (Stahl, 2005: 23).

2.1.2 The implications of multiple REC memberships

These overlapping memberships are not always useful as they can generate many problems and uncertainties. Conflicts in jurisdiction are created where two different integration organisations have similar mandates, or where a country belongs to two or more integration organisations with conflicting policies. Similarly, as the integration agendas and obligations differ from one REC to the next, multiple memberships often lead to a country

having to implement conflicting obligations. Because countries derive legal obligations from their membership of these arrangements, legal uncertainty is also created in cases where more than one trade arrangement applies to trade between two countries. Such uncertainties not only undermine the implementation of the agreements that aim to establish rules-based dispensations, but also add considerably to transaction costs and duplication in both regional trade and trade with outside partners. This increases the burden on member states, some of which are already lacking the necessary capacity and resources. Any uncertainty and unpredictability caused also impacts negatively on the investment climate in these countries and their organisations (Stahl, 2005: 21).

Within a FTA each country controls its trade agreements, but they are not allowed to offer better terms to other trading partners than those offered as part of their existing FTA. They can of course seek permission to do so from their FTA partners. It is entirely possible, if cumbersome, to belong to more than one FTA, as the Rules of Origin pertaining to the different trade agreements can track similar imported goods linked to the various agreements. A CU differs from a FTA in that all the members must surrender control of their external tariffs and allow them to be centralised and standardised as a CET (Common External Tariff), which then applies to all trade with states outside of the CU. One country cannot realistically apply two different CETs, so WTO regulations prohibit dual CU membership. The EU in its EPA regulations has followed this stipulation as well.

What this means however, is that many states within eastern and southern Africa are at risk of contravening WTO and EPA regulations, and practical trade management, as the number of CUs grows in the near future. The long-existing SACU, formed in 1912, is now accompanied by the EAC's CU, which was launched in January 2005. The COMESA and SADC CUs will complete the picture.

The EAC is also affected by such contradictions because of its member states being split between COMESA and SADC. If SADC or COMESA achieves CU status, then whichever EAC countries are caught within the CU overlaps will have to withdraw from one of the overlapping CUs, given that a country cannot implement more than one organisation's CET. Alternatively, in order to prevent this clash, harmonisation of the two different RECs' CU CETs would be necessary (Stahl, 2005: 24).

2.2 Conflicting EPA/REC memberships

2.2.1 The ESA-EU EPA configuration

The ESA-EPA was created specifically for the EPA negotiations, and currently comprises all COMESA members except but Angola, Egypt, Libya, and Swaziland. The ESA-EPA configuration therefore originally consisted of Burundi, the Comoros, Djibouti, DRC, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Uganda, Zambia, and Zimbabwe. The DRC left the ESA EPA at the end of 2005 to join the CEMAC-EPA (Central African EPA). However, the membership of the ESA group has changed

again with the creation of the EAC EPA, as the overlapping EAC-EPA members could not have signed two IEPAs, ie Burundi, Kenya, Rwanda and Uganda are therefore no longer included in the ESA-EPA group. Out of the remaining ESA members, only the four island nations (Comoros, Madagascar, Mauritius, and Seychelles) and Zimbabwe actually signed IEPAs.⁸ The ESA grouping is thus now reduced in size by almost a third, and split almost 50/50 between those who signed IEPAs and those who did not.

2.2.2 The SADC-EU EPA configuration

Although the SADC-EPA configuration was aligned generally with SADC itself, it too did not accurately reflect the REC on which it was based. It comprised the SACU members Botswana, Lesotho, Namibia, and Swaziland plus the three LDCs (Least Developed Countries) Angola, Mozambique, and Tanzania. South Africa, which already has a FTA with the EU since 2000, was supposed to act as observer, but was then allowed in 2007 to join the SADC-EPA process as a full participant. The other SADC countries, namely DRC, Malawi, Mauritius, Zambia, and Zimbabwe opted to negotiate in the ESA-EPA (Meyn: 2006: 4), although, as noted, the DRC left the ESA-EPA at the end of 2005 to join the CEMAC-EPA. The membership of this group changed with the creation of the EAC-EPA as well, in that Tanzania could not have signed two IEPAs, and therefore is no longer included in the SADC-EPA group. Out of the remaining SADC-EPA members, the four BNLS states and Mozambique signed IEPAs. Only Angola did not sign an IEPA, but has stated that it will accede to the full EPA once it has been concluded.

2.2.3 The overlapping EPA group and REC memberships

The problems of overlap and conflicting obligations that characterise regional trade bloc memberships in southern and eastern Africa are exacerbated in many cases by the choice of EPA negotiating bloc. A number of such overlaps present themselves (see Table 1 in section following):

- Madagascar, Malawi, Mauritius, Seychelles, Zambia, and Zimbabwe are members of SADC and COMESA as well as the ESA-EPA. If they want to remain part of the ESA-EPA configuration, then they will presumably have to adopt the COMESA CU, as this is what the ESA configuration is premised on. If these countries choose to pursue the CU of SADC however, they cannot therefore remain a member of the ESA-EPA configuration, as it is meant to form part of the separate COMESA CU.
- Similarly, Swaziland is also a member of SADC and COMESA as well as the SADC-EPA. If it wants to remain part of the SADC-EPA configuration, then it will presumably have to adopt the SADC CU, as this is what the SADC-EPA is premised on. If these countries choose to pursue the CU of COMESA however, they cannot remain a member of the SADC-EPA configuration, as it is meant to eventually form part of the separate SADC CU (Meyn: 2006: 3).
- As noted previously, such REC-EPA group overlaps have increased and decreased in the

last few years of EPA negotiations, as COMESA member Madagascar joined SADC in 2005 (while remaining in COMESA and the ESA-EPA), and Seychelles rejoined SADC in 2007 whilst remaining in COMESA and the ESA-EPA. However, Namibia pulled out of COMESA in 2004 and Angola suspended its membership of COMESA, both while remaining in SADC and the SADC-EPA. The EAC members are, of course, all still members of more than one trade bloc while at least having rationalised their EPA memberships under the EAC-EPA.

- Finally, the DRC is a member of CEMAC-EPA, the Central African EPA grouping. However, because CEMAC is not planning to launch a CU any time soon, and the DRC is not a member of the actual CEMAC REC, there will not be a legal clash if SADC does proceed with a CU. At the same time, as noted elsewhere in this report, any overlaps between EPA groupings and Customs Unions will require rigorous screening of intra-Customs-Union trade flows regardless, and the levying of tariffs upon applicable items, thus undermining severely the free flow of goods within that CU.⁹

Given that the regional integration and EPA timelines are increasingly disjointed, it appears that such changes would happen out of sync with the EPAs process, unless the EPA timelines are delayed. This means that the various countries above will be part of a particular EPA, and then the clashing CU will come into being, and the countries will have to switch EPAs in mid-stream or withdraw from the clashing trade arrangement. In this sense as well, the EPAs process may complicate the rationalisation of RECs in the southern and eastern African region.

The case of the EAC members was, as noted above, even more acute, in that the member states were already members of a functioning CU, and not merely a proposed one, such as the SADC or COMESA CUs. In other words, for EAC members, it was even less logical to participate in any negotiations that were geared around the eventual formation of another CU, as such participation undermined their existing EAC CU, and any resulting withdrawal from the EAC would have caused significant damage to the EAC CU. In the other two cases outlined above, withdrawal from the existing economic communities would cause less damage to the withdrawing party and to the economic community than in the EAC's case, because they have not yet reached the depth of integration that the EAC has.

2.3 Harmonisation of misaligned REC and EPA memberships

The conflicting memberships noted above are represented in Table 1 below. For example, as noted above, the obligations of ESA-EPA members who are also members of SADC are not consistent with their obligations under the SADC Trade Protocol, which foresees the establishment of a SADC CU by 2010 (Meyn: 2006: 4). This is because the ESA and SADC-EPA groups are meant to form part of eventual respective CUs.

Only two integration blocks in the region, EAC and SACU, have reached a level of economic integration that properly accommodate an EPA with the EU so as to avoid the clashes

Table 1: Southern and eastern African countries' memberships to regional integration bodies and EPA configurations

| Country | SADC | COMESA | EAC | EAC-EPA | SADC-EPA | ESA-EPA | LDC | EPA not equal to REC obligation |
|--------------------------|------|--------|-----|---------|----------|---------|-------|---------------------------------|
| Angola | X | | | | X | | X | |
| Botswana | X | | | | X | | | |
| Burundi | | X | X | X | | | X | |
| Comoros | | X | | | | X | X | |
| Djibouti | | X | | | | X | X | |
| DRC | X | X | | | | * | X | X |
| Egypt | | X | | | | *** | | |
| Eritrea | | X | | | | X | X | |
| Ethiopia | | X | | | | X | X | |
| Kenya | | X | X | X | | | | |
| Lesotho | X | | | | X | | X | |
| Libya | | X | | | | *** | | |
| Madagascar | X | X | | | | X | X | X |
| Malawi | X | X | | | | X | X | X |
| Mauritius | X | X | | | | X | X | X |
| Mozambique | X | | | | X | | | |
| Namibia | X | | | | X | | | |
| Rwanda | | X | X | X | | | | |
| Seychelles | X | X | | | | X | | X |
| South Africa | X | | | | X | | | |
| Sudan | | X | | | | X | | |
| Swaziland | X | X | | | X | | | X |
| Tanzania | X | | X | X | | | X | X |
| Uganda | | X | X | X | | | | |
| Zambia | X | X | | | | X | X | X |
| Zimbabwe | X | X | | | | X | (X)** | X |
| Total REC or EPA members | 15 | 19 | 5 | 5 | 7 | 11 | | |

Notes:

* The DRC is a member of the CEMAC-EPA.

** Zimbabwe is classified as a low-income country (<US\$ 825) by the World Bank but the United Nations attempted to reclassify it as an LDC in 2006, a move which Zimbabwe rejected. The debate became politicised and the country's status is thus unresolved. Zimbabwe also does not have LDC status in the Cotonou Agreement and did not fall into the EPA-EBA group in December 2007's flurry of IEPAs. It signed under the ESA-EPA.

*** Egypt has its own Free Trade/Association Agreement with the EU, signed in 2004, and thus has not participated in the EPA process. Libya likewise is part of a North African process towards Association Agreements with the EU under the European Neighbourhood Policy and thus did not participate in the EPA process.

Source: Author's amended version of table by Meyn in SEATINI Bulletin, 9(7), December 2006..

noted above, although in SACU's case the decision by South Africa not to sign has eliminated this advantage. Yet, the formation of a CET towards the EU was initially regarded as a baseline for EPA discussions (EC-DG Trade 2006 a, b, cited in Meyn, 2006: 5).

In other words, the ESA and SADC-EPA groupings were always going to clash with regional integration goals.

The overall implication of the misalignment between the RECs and EPAs is that regional trade harmonisation and integration could be delayed or even seriously undermined if nations in the regions sign on to EPAs that conflict with their existing trade obligations

under their existing trade bloc memberships. Existing trade blocs will be weakened by multiple splits in internal trade obligations, eg COMESA is going to be split internally between the SADC-EPA, ESA-EPA and EAC-EPAs with the EU.

2.3.1 Harmonisation of EPA memberships

A possible solution may be to bypass the current logjam by trying to get both the SADC and ESA groups to agree on the same EPA position towards the EU. In other words, a solution to the EPA overlaps could be to ensure that the ESA and SADC-EPAs are developed and implemented consistent with one another, with a view to the future merging of COMESA and SADC as part of the African Union's planned rationalisation of RECs. In theory this would allow for the gradual removal of discrepancies between the different preferential trade agreements and even a rationalisation of the operations of the respective institutions. This would enable countries in eastern and southern Africa to concentrate on building internal markets and solving the economic weaknesses of the region. The fact that the ESA configuration has an opt-in provision for any COMESA or SADC member state that may want to join could help in this direction (ECDPM InBrief 14E, 2006: 4).

However, harmonisation of EPA positions is a three-layered problem. Firstly, the countries have to agree on the same CET towards the EU. Secondly, the liberalisation schedules are an equally important part of the problem, and would have to be aligned wherever possible,¹⁰ and then together with this the exclusion baskets would need to be aligned.¹¹ The difficulty is that realities on the ground appear to preclude the sort of speed (with respect to integration) that would be required to bring such harmonisation into effect, in spite of some encouraging progress that was made on a public level at least.¹² The heterogeneous political and economic realities and rivalries of southern and eastern African trade and politics do not favour the easy or rapid harmonisation of ESA and SADC's EPA positions. It has been enough of a trial for the two related regional organisations to achieve the progress they have made thus far, with SADC just seeking to maintain internal progress towards a 2008 Free Trade Area, and COMESA seeking to accommodate the positions of its FTA and non-FTA members ahead of the planned 2008 CU.

An important if complicating factor is that SADC itself made a counter-proposal to the EU in March 2006 to deal with some of the problems outlined above. The proposal essentially suggested that the SADC-EPA be built in stages around a SACU-EPA. However, this means that during any harmonisation the ESA group countries would have to agree to harmonise with an EPA based on the TDCA, which they would probably be unwilling to do.

2.3.2 Rationalisation of REC memberships, priorities and scenarios

As well as harmonisation of EPA memberships, a solution to the overlapping trade bloc memberships will have to be found. Rationalising the overlapping trade bloc memberships will be more important for regional integration and trade in the long run than even the harmonisation of the EPA memberships. This is because the RECs are the underlying foun-

dations upon which the EPAs were initially designed, and the RECs trade with a range of countries, not only the EU. Importantly, the RECs are also components of a continent-wide programme of African unification agreed to by all African states. It is important therefore that the rationalisation of the overlapping trade bloc memberships is prioritised above the implementation of the EPAs in their existing groupings, ie the EC and African states must show flexibility in allowing EPAs to be renegotiated where necessary to conform to regional and continental integration plans.

Scenarios for the rationalisation of COMESA, SADC, EAC, and SACU

Various scenarios are therefore possible for the rationalisation of the regional overlap dilemmas in southern and eastern Africa, and are outlined below. Two assumptions must be made though. The first is that it is not possible, as noted above, to belong to more than one CU unless they are completely harmonised, and even then the WTO must be notified of this and no doubt persuaded to accept this arrangement. The second is that for regional integration to be viable, the EPAs must also be harmonised and/or rationalised. This EPA harmonisation and rationalisation is vital because of their capacity to undermine even rationalised CU RECs due to their breadth, spanning the whole of Africa, and because of their weight in trade flows, ie the EU is often the largest trade partner of African states.

Four scenarios seem to present themselves as possible solutions:

SCENARIO ONE: SADC AND COMESA CUs LAUNCHED

The status quo remains in terms of the establishment of new CUs, ie SADC and COMESA proceed with their plan to launch separate CUs. This would entail firstly that EAC and COMESA decide if their CUs are to be completely harmonised. It appears as if the two blocs are aiming to achieve this already, as the new COMESA CET has been based on the EAC CET.¹³ If this harmonisation is successful, then the EAC members who belong to COMESA (all the EAC states except Tanzania) can remain members of COMESA when its CU is launched. If negotiations on this harmonisation are not successful, then the EAC members concerned must withdraw from COMESA and the EAC must negotiate a separate free trade deal with the then reduced COMESA.

Once the COMESA CU is launched, SADC will be only two years away from the launch of its own CU. Prior to this, the nine states that hold dual SADC-COMESA membership will have to decide which CU to belong to. A process of rationalisation will need to occur within this two-year period, although it would be disruptive and a waste of resources for a state to participate in the launch of the COMESA CU and then withdraw shortly thereafter, so ideally those states who favour remaining in SADC and joining a SADC CU should withdraw from COMESA in 2008 before the launch of the COMESA CU.

However, if these states have any doubts about the capacity of SADC to successfully launch a CU, then they may still choose to play a waiting game, and participate in the launch of a COMESA CU, so as to cover their options. Of course it is also possible that some

states that now solidly favour a COMESA CU may switch unexpectedly to the SADC CU as well. The last piece of the rationalisation wave will be that Tanzania would have to decide between membership of the SADC CU and membership of the EAC CU, unless their respective CUs are harmonised. This may be difficult as the EAC CU is closer to the COMESA CU. If Tanzania pulled out of the EAC CU it would of course severely damage the EAC.

Finally, another set of rationalisations will need to occur throughout this process, in terms of SACU member states as well. Swaziland will need to decide whether to remain in the SACU CU or surrender its SACU membership and join the COMESA CU, as it is a member of both groups. Given the importance of SACU revenue to Swaziland and the fact that there is no clarity on future relationships between the SACU CU and the SADC or COMESA CUs, it is most likely that Swaziland will choose to rather withdraw from COMESA prior to the launch of the COMESA CU.

The overall question will be what occurs between SACU as a whole and SADC. If the two bodies cannot agree on the harmonisation of their respective CUs, then the other SACU members will have to withdraw from SADC prior to the launch of the SADC CU. This would be very problematic as South Africa is an important market for the non-BNLS SADC members, and vice versa. Separate CUs would mean separate CETs, and Rules of Origin, and therefore instant trade barriers between these two markets.

The problem is that for SACU and SADC to harmonise their CUs SACU would need to completely overhaul and even dismantle its current Revenue Sharing Agreement, as South Africa will not accept (and probably cannot afford) its extension to the rest of SADC. This would have a severe economic impact on the BNLS as they derive up to half of their core budget revenue from this arrangement. Therefore they will no doubt be fiercely opposed to any such changes, and therefore potentially opposed to the merging of SACU and SADC, unless some plan can be made for the retention of the Revenue Sharing Framework in its current form. However, retaining this would undermine and contradict the SADC CU as a set of administrative barriers would need to be retained between the SACU and SADC CU members in order to collect and distribute the revenue as is done today. South Africa's interests are no doubt opposed to the BNLS in this regard, as it will be keen to further dismantle trade barriers between itself and its non-BNLS SADC markets (especially as the only countries that really pose some trade threat to it in the continent are not in SADC, ie Egypt and Kenya), and has already made it clear that it wants the Revenue Sharing Agreement to be extensively renegotiated (Braude, 2008b).

In Scenario One the complicating factor of the EPA group memberships would be best resolved by mimicking the CU rationalisation process. This would mean in practice that the EAC-EPA would be harmonised or even merged with the ESA-EPA at the point at which they successfully harmonise their respective CUs. It is more likely that they will be harmonised than merged as the different economic interests within the ESA and EAC-EPA groups may be unwilling to merge their offers to the EU, and the EU likewise may be reluctant, as the EAC appears to have negotiated a better deal with the EU than the ESA group. Therefore the ESA group may set its sights on a similar EPA. In terms of the EPAs, the Tanzanian problem no longer applies as Tanzania joined the other EAC states in the EAC-EPA.

It also remains to be seen what will occur with the ESA-EPA members who did not initial IEPAs in December 2007. Some may well join their supposed fellow EPA group members and sign comprehensive EPAs. Nonetheless, having a REC or CU containing EPA and non-EPA or EBA (Everything But Arms) signatories would require administrative controls to protect the EBA members from reciprocal EU goods entering or 'leaking' from the EPA signatories, especially given the higher tariffs on EU goods that will still probably apply in the EBA territories.

The alternative would be to allow the EU goods to flow de facto across the CU's internal borders as the BNLS in SACU have done, but most probably in the absence of the stabilising and compensatory revenue effect that the SACU Revenue Sharing Framework allows the BNLS. These additional variations between EBA and EPA member state tariffs with a trade partner as large as the EU would of course add to the complexity of the CU CET. In this respect it would be better for all the members of the COMESA CU and the SADC CU to be EPA signatories by the end of the EPAs process, but broader developmental issues need to be the deciding factor. The respective EBA states and their RECs will have to carefully analyse the disadvantages for the CU of some states remaining EBA exporters, as against the disadvantages for those states of granting the EU reciprocal access by signing the respective EPA. Remaining an EBA exporter means that these states will not be able to access the funds supposedly specifically available for trade facilitation and development for EPA signatories. However, the EU has been at pains to point out that EBA states will still be able to access aid funds as normal under the general EDF (European Development Fund) facility and other sources.

As the COMESA/SADC membership rationalisation process unfolds between the launch of the COMESA CU and the SADC CU, a parallel EPA membership rationalisation process would therefore ideally unfold, whereby states would match their EPA membership to their CU membership choice. This would result in a SADC-EPA group matched to the SADC CU, alongside any non-EPA (EBA) SADC states, and the same for COMESA and the ESA-EPA.

Finally, the EPA rationalisation decisions that Swaziland and the other SACU members would have to make would depend largely on what happens with South Africa. If South Africa and the EU agree to align the TDCA to the SADC-EPA or vice versa then the two could be merged or at least harmonised. Alternatively, such an alignment and harmonisation could produce a SACU-only EPA if Mozambique and Angola decide that the cost of trading with the EU along the lines of the TDCA agreement is too high and they decide to pursue a separate EPA with the EU. The alignment will depend on the resolution of the current conflict over the inclusion of 'new generation' issues; a MFN (Most Favoured Nation) clause and a ban on export taxes in the SADC-IEPA (these issues are dealt with in further detail later in this report). However, as noted earlier in this scenario, the SACU CU is supposed to be merged with a SADC CU if the SACU members are to remain in SADC anyway. This would mean that the final set of SADC states remaining after the CU membership rationalisation described just above would also face the same choice as Angola and Mozambique, ie whether a SADC-EPA aligned to the TDCA would be acceptable. Ideally

the final SADC CU would be ‘mirrored’ by only one SADC-EPA, but it is possible that SACU and SADC will remain separate CUs. In this case it would be better for a similar EPA ‘mirroring’ and separation to occur.

At the end of the day, the EU and the current EPA groupings need to be flexible enough to allow the EPA groups to go through a process of reconfiguration to match the respective CUs being created or already established. If the two sides are not prepared to do this, then further regional integration (in the shape of new CUs and attendant trade bloc rationalisation) will be severely undermined in the medium term, given the weight of the EU trade flows in the regional import/export flows.

SCENARIO TWO: ONLY A COMESA CU LAUNCHED

SADC abandons the route of a CU and concentrates on its political and developmental role, and the growth of its members in terms merely of trade facilitation, infrastructure development and co-operation, services provision, and policy and regulatory reform. COMESA becomes the only new CU in the region, merged or harmonised perhaps with the EAC, depending on the internal integration agendas and choices of the EAC member states. If the two remain separate, then the EAC members will withdraw from COMESA, and Tanzania will ideally withdraw from SADC and the SADC FTA as well, in order to strengthen and protect the EAC CU. This scenario would mean that countries with dual membership of SADC and COMESA could retain this membership, but the existence of the SADC FTA would still complicate and undermine the implementation of the COMESA CU, unless the two initiatives were harmonised as far as possible. If the nine countries that currently hold dual COMESA-SADC membership were to withdraw from the SADC FTA to strengthen the COMESA CU it would however severely weaken SADC and its FTA. It is more likely that countries would retain both memberships, leading to a weaker COMESA CU and a weaker SADC FTA. In this scenario SACU remains intact with possible reforms to its Common Revenue Pool, and only Swaziland is then left with making a choice between SACU and the COMESA CU.

In Scenario Two the complicating factor of the EPA group memberships would be best resolved by countries once again aligning their EPA memberships as closely as possible to the CUs in the region. The EAC-EPA and ESA-EPA would follow the path noted in the EPA component of Scenario One. Angola and Mozambique would presumably remain in the SADC-EPA, which would be aligned to the TDCA, although they could join the ESA-EPA. However Mozambique would then ideally need to join COMESA itself as well. Alternatively a mini-SADC-EPA comprising just Angola and Mozambique could be left if the SACU members push for the formation of a unified SACU-EPA with the EU. Swaziland would still need to choose between the COMESA CU and the SACU CU and related EPAs. The biggest concern for SACU however would be that of the TDCA/SADC-EPA division. This would need to be resolved in order to protect SACU. If this division were not resolved it would undermine the integrity of SACU and discourage further integration. As the TDCA is already signed and in existence, it will have to be accommodated in the final SADC-EPA

equation; it cannot be easily renegotiated and cannot be nullified. If consensus cannot be reached then the TDCA will just have to exist alongside the SADC-EPA in SACU.

SCENARIO THREE: A GRAND SADC/COMESA/SACU/EAC FTA; POSTPONED SADC AND COMESA CUs; SADC AND COMESA POSTPONE THEIR SEPARATE CU PLANS

SADC, SACU, COMESA, and the EAC move immediately to create a 'Grand Free Trade Area' along the lines of recent suggestions by the EAC, possibly with a view to allowing the overall plans for continental union to overtake the regional processes. The SACU and EAC CUs remain as they are until such time as that continental union occurs, or until the SADC and COMESA CU plans are restarted.

In Scenario Three the complicating factor of the EPA group memberships would be best resolved by harmonising the SADC, ESA and EAC-EPAs and the TDCA, or even merging them into one Grand EPA with the EU. A merged Grand EPA would be the better solution, but this would no doubt be just as difficult as negotiating the Grand FTA. It would however result in a more viable and successful Grand FTA. It is likely that both the TDCA and the EAC-EPA would carry significant weight in the negotiations, although the same problem would occur, ie which EPA offers would be the benchmark? Would the Grand EPA be closer to the EAC-EPA or the TDCA? The defensive interests involved across the spectrum of SADC, ESA, and EAC-EPAs are very different though.

The advantage of a Grand EPA, as with a Grand FTA, is that it deepens regional and continental integration and minimises duplication, but the industrial and general development agendas of individual states would still need to be protected. What it does allow is a more unified bloc with a potentially stronger negotiating position with the EU, although the sheer number of participants would at best slow the process down past 2008, and at worst would challenge the capacity of the unified bloc to even develop and negotiate strong positions.

SCENARIO FOUR: A GRAND SADC/COMESA/SACU/EAC CU; CANCELLED SADC AND COMESA CUs

A 'Grand SADC-SACU-COMESA-EAC FTA' is launched, with both the SADC and COMESA CUs cancelled, as a precursor to moving directly to the launch of a similar 'Grand Customs Union' incorporating the four regional blocs. Alternatively the four RECs go straight into negotiations for the Grand CU. The SACU and EAC CUs remain as they are until such time as that occurs. The pre-existence of the EAC and SACU would however require either that at they be dissolved and merged with the impending Grand CU, or that they be harmonised at least with a third hybrid COMESA-SADC CU comprising non-EAC and non-SACU states, ie eventually comprising a three-group Grand CU. The scenario of a Grand CU, even more than Scenario Three's Grand FTA, would provide a major boost to continental plans for unification, would completely bypass the challenges involved in rationalising the various RECs and CUs, and would create a giant African market of over 500 million people and with a GDP of close to \$300 billion. As such it might save an enormous amount of time

and energy, and allow the broader region and the continent to pool its capacity to tackle internal barriers to trade and promote investment.

However, similar to Scenario Three, it would also place South Africa, Kenya, and Egypt in the same REC for the first time, and therefore in direct competition. This could very well prove difficult for all three to accept, although the existing SADC Trade Protocol's processes could be used to reach consensus, ie SADC members made 'differentiated offers' to non-SACU SADC countries and Botswana, Lesotho, Swaziland, and Namibia, and 'general offers' to South Africa. Offers for tariff reduction to BLNS countries were largely front-loaded, while offers to South Africa were mid- to back-loaded. In return SACU members made offers to the other SADC members for immediate reductions to achieve zero tariffs after five years, except for sensitive products (Kalenga, 2004: 2). In a similar fashion, the EAC adopted a mechanism to deal with the economic differences between Kenya and the other EAC member states, whereby an Asymmetry Arrangement provides for a phased reduction of import tariffs applied by Uganda and Tanzania to various Kenyan goods over a period of five years (2005 – 2009). Ugandan and Tanzanian goods were however allowed into Kenya with a zero import tariff from the outset of the CU. This was agreed to by Kenya in an attempt to offset or compensate for the potential imbalance in competitiveness between the EAC states, and to allow Uganda and Tanzania an opportunity to increase the competitiveness of their industries (Braude, 2008a). So South Africa, Kenya, and Egypt and the remaining states could be divided into these four respective parties for internal trade preference negotiations, leading to differentiated and asymmetrical internal tariff phase downs to accommodate all sides.

In Scenario Four the complicating factor of the EPA group memberships would be best resolved by a process similar to that of Scenario Three above, where a Grand EPA is created to mirror the Grand FTA and future Grand (southern and eastern African) CU. Once again, the process of negotiating a common Grand EPA would be very challenging, but in this case, it would be vital to reach consensus and create a Grand EPA in order to safeguard the viability of the Grand CU. A CU split between four EPAs and so many members would be almost impossible to implement.

Four important points can therefore be noted:

1. If SADC goes ahead with its CU then SADC, SACU, and COMESA member states will face some very tough choices, and these will affect their membership size and trade flows.
2. These choices and a full rationalisation of the membership overlaps in southern and eastern Africa will only occur if a SADC CU is launched in addition to the COMESA CU. The launch of a COMESA CU alone will only legally force a partial rationalisation, affecting the EAC member states and Swaziland, although it might trigger further moves between the two. Thus the trigger for a major reorganisation of regional trade blocs will be serious moves towards the establishment of a SADC CU. Ironically,

then, a SADC CU will be good for a generating a proper trade bloc rationalisation in the broader region, but will cause considerable disruption in the process.

3. Whichever of the four scenarios occurred would need to be closely aligned with the African Union's Abuja map for continental integration and the establishment of an African Economic Community. The eastern and southern African region would then become the key 'fast-tracked' building block for continental integration.
4. The guiding principle in all the scenarios must be: what will bring the fastest and most tangible economic and general sustainable development benefits to the broader region, and what scenario will make best use of the existing (and perhaps limited) capacities and strengths of the broader region?

2.4 SADC, COMESA and the EAC – the Kenyan factor and EAC dilemma

Tanzania announced its withdrawal from COMESA in July 1999, citing the proposals by COMESA to reduce customs duties by 90 per cent as the main reason for withdrawal, with additional reasons cited¹⁴ being that it wanted to focus on its membership of the EAC and on implementing the SADC Trade Protocol (Stahl, 2005: 24). It also cited the dangers to its infant industries posed by the launch of the COMESA FTA (Mmegi, 23/01/2007). Tanzania is the only EAC member that is also in SADC, and some commentators feel that if Tanzania chose SADC permanently, the idea of the EAC and its CU could be fatally undermined. Uganda and Kenya have allegedly been putting great pressure on Tanzania to stay out of SADC in the long term (Braude, 2008). Nevertheless, Tanzania set up a Presidential Economic Commission with South Africa in 2005. Such an agreement has only previously been signed with two other countries: Mozambique and Namibia. This may be evidence that South African foreign policy views Tanzania as a key African neighbour, rather than a distant trade partner. This would lend weight to arguments that South Africa would resist efforts by COMESA to lure Tanzania back.

The new EAC members, Rwanda and Burundi, who were fully admitted in June 2007, are both members of COMESA as well, leaving Tanzania's membership of SADC as the only other major trade bloc overlap.¹⁵ So Tanzania's regional trade bloc membership choices in a sense hold the key to resolving the EAC's regional memberships dilemma.

The business community of Tanzania has conducted research evidently proving that it will benefit more from COMESA than SADC, yet civil society has commented that SADC-based foreign investment is more evident on the ground than that of COMESA (Braude, 2008a). At the same time, the growing markets in Rwanda, Southern Sudan, and the Eastern DRC mean there are increasing long-term benefits to trade in COMESA for Tanzania.¹⁶ The longer Tanzania is in SADC however the more economic damage to Tanzania could be theoretically caused by a withdrawal from SADC. The Tanzanian private sector is however divided on the issue and thus unable to present a united front to government. A key dividing factor for years has been subsidised Egyptian products, specifically cement. Although some progress was made in 2006 to overcome this disunity, it appears as if the issue has

not been overcome. Until the private sector can speak with one voice it will not be able to put any major pressure on the government to rejoin COMESA. Pro-COMESA business organisations in Tanzania note however that COMESA trade protocols provide members with in-built mechanisms to deal with issues of trade imbalances and subsidies. In addition WTO rules could in theory be used against such subsidies (Trade Africa, 19/03/2007).

2.4.1 The Kenyan factor

The most obvious question that arises when examining the logic of Tanzania's layered trade relationships is why Tanzania is still in SADC, when a return to COMESA would seemingly resolve a host of conflicting institutional and trade relationships in one go, for Tanzania let alone the EAC and the wider region. A return to COMESA would resolve the need for the EAC CU to maintain different internal Rules of Origin to deal with the COMESA-SADC-EAC overlaps; it would, in theory, offer a boost to Tanzanian exporters in terms of the COMESA market; and it would resolve one potential CU clash between the EAC and SADC in 2010. Kenya's Trade and Industry Minister Dr Mukhisa Kituyi even stated in early 2007 that Kenya cannot belong to an EAC CU and a COMESA CU unless Tanzania joins COMESA, as Tanzania's continued SADC membership would complicate efforts to implement any common CET bands (Mmegi, 23/01/2007). In this respect Tanzania's continued membership of SADC reveals most clearly that it is not economic arguments alone that play a role in regional trade bloc membership choices. The parallel memberships are usually because a single bloc does not satisfy all the strategic, political, and economic needs and objectives of the member state. It is perhaps in the historical economic relationship between Kenya and Tanzania that part of the answer lies.

Table 2 below shows that the Kenyan GDP has traditionally outstripped that of Tanzania, and Table 3 following this shows the dominance that Kenya enjoys in terms of regional trade flows. Finally, Table 4 gives a picture of recent general economic indicators for 2005/2006, indicating the economic differences and similarities between the EAC member states.

Table 2: EAC partner state gross domestic product (current prices US\$m) for 1990, 1995, and 1998-2004

| Partner State | 1990 | 1995† | 1998† | 1999† | 2000† | 2001† | 2002† | 2003† | 2004* |
|---------------|-------|--------|--------|--------|--------|--------|--------|--------|--------|
| Kenya | 6,957 | 7,661 | 14,091 | 12,901 | 12,708 | 13,059 | 13,194 | 15,014 | 16,088 |
| Tanzania | 1,794 | 4,865 | 7,710 | 7,991 | 8,376 | 8,700 | 9,000 | 9,453 | 10,361 |
| Uganda | 1,120 | 5,395 | 6,339 | 6,014 | 5,746 | 5,795 | 6,039 | 6,488 | 7,822 |
| EAC | 9,871 | 16,030 | 25,495 | 24,259 | 25,933 | 27,955 | 28,233 | 30,955 | 34,271 |

Source: EAC Statistics Database - data from partner states (2005), cited in Braude, 2008.

Notes: * Provisional; † Revised.

Table 3: Main destination of EAC partner state exports (US\$m), (2004)

| Origin of Exports | Destination of EAC partner state exports | | | | | | | | | |
|-------------------|--|----------|--------|-------------------|----------------|---------------|-------|-------------------|-------------------|---------|
| | Kenya | Tanzania | Uganda | Other COMESA/SADC | Rest of Africa | United States | EU | Asia and Far East | Rest of the world | Total |
| Kenya* | – | 226.3 | 468.1 | 476.6 | 115.6 | 56.8 | 717.2 | 427.0 | 220.4 | 2,708.0 |
| Tanzania† | 78.3 | – | 10.3 | 94.5 | 22.2 | 15.7 | 644.9 | 183.1 | 79.9 | 1,128.9 |
| Uganda | 76.9 | 12.1 | – | 98.1 | 16.4 | 15.1 | 195.9 | 53.5 | 197.1 | 665.1 |

Source: EAC Statistics Database - data from partner states (2005), cited in Braude, 2008a

Notes: * Provisional for Kenya; † Tanzania figures given for 2003

In terms of trade, Kenya's 2004 export trade with the other two EAC member states comprised 25,6 per cent (\$694,4 million) of its overall global trade total, the percentage for Tanzania was 7,9 per cent (\$88,6 million), and the percentage for Uganda was 13,4 per cent (\$89 million).

A SADC membership offers Tanzania more development funding, and seemingly the chance of countering Kenya's historical regional economic domination through a closer political and economic relationship with South Africa (Braude, 2008a). A comprehensive post-election political settlement in Kenya could also unlock great potential for Kenyan business (which has already recovered strongly since the Kenyan GDP slump of the late 1990s) and Tanzania is obviously aware of the implications of this and the steady post-2002 growth. As a result Tanzania may be retaining its relationship with South Africa, via SADC, to protect itself from the possibility of an even more economically resurgent and overly 'dominant' Kenya. This therefore may be the single biggest reason for Tanzania's ongoing commitment to SADC. South Africa's own resurgence might be further offering Tanzania the opportunity to 'lock in' and further exploit the benefits of Tanzania's very good economic growth over the last decade. For almost the first time in its history, Tanzania has enjoyed consecutive years of good, diversified GDP growth since 2000, while the Kenyan economy languished until 2002. The historic gap between them narrowed as a result, or at least did not widen further. A return to COMESA and participation in an ESA-EU EPA may be perceived by the Tanzanian elite as a threat to this newfound economic dynamism and autonomy, given traditional Tanzanian perceptions of Kenyan investment as speculative rather than productive.¹⁷ Tanzanian civil society has commented that this concern is also a factor in Tanzanian reluctance to 'fast track' the EAC's own integration process:

Tanzania does not want to lose or share the advantages of the current economic boom. Tanzanians are concerned that the fast-tracking process will only end up fast-tracking Kenyan access to Tanzania's recent economic growth. As a result the Political Federation must be allowed to develop naturally and in its own time (Interview data – Braude, 2008a: 95).

Table 4: The economy of the East African Community, 2005/2006

| Indicator | Year | Kenya | Tanzania | Uganda | Rwanda | Burundi | EAC |
|---|-------|---------------|---------------|---------------|--------------|----------------|---------------|
| GNI, Atlas method, (current US\$) | 2006 | 20.5 billion | 13.4 billion | 8.9 billion | 2.3 billion | 794.5 million | 45.9 billion |
| GNI per capita, Atlas method (current US\$) | 2006 | 580.0 | 350.0 | 300.0 | 250.0 | 100.0 | 316.0c |
| GDP (current US\$) | 2006 | 21.2 billion | 12.8 billion | 9.3 billion | 2.5 billion | 806.6 million | 46.6 billion |
| GDP per capita (US\$) | 2005a | 547.0 | 316.0 | 303.0 | 238.0 | 106.0 | 302.0 |
| GDP, PPP (current international US\$) | 2005a | 42.5 billion | 28.5 billion | 41.9 billion | 10.9 billion | 5.3 billion | 129.1 billion |
| GDP Growth (annual % change) | 2006 | 5.7 | 5.9 | 5.3 | 5.3 | 5.1 | 5.46c |
| Exports of goods and services (% of GDP) | 2006 | 24.3 | 24.3 | 13.8 | 11.7 | 8.5 | 16.5c |
| Imports of goods and services (% of GDP) | 2006 | 33.3 | 30.8 | 30.7 | 31.5 | 36.3 | 32.5c |
| Gross capital formation (% of GDP) | 2006 | 17.1 | 18.6 | 24.9 | 21.4 | 12.1 | 18.8c |
| FDI, net inflows (BoP, current US\$) | 2005b | 21.2 million | 473.4 million | 257.1 million | 8.0 million | 584.7 thousand | 760.3 million |
| Total debt service (% of exports of goods, services and income) | 2005 | 4.4 | 4.3 | 9.2 | 8.1 | 41.4 | -d |
| Official development assistance and official aid (current US\$) | 2005 | 768.3 million | 1.5 billion | 1.2 billion | 576 million | 365 million | 4.4 billion |

Source: World Bank Country Data Profiles, 2007.

Notes: a – UNDP data, Human Development Report 2007/08.

b – it should be borne in mind that this figure can vary significantly from year to year.

c – average figure for the five countries.

d – the inclusion of Rwanda distorts any average debt service figure significantly, without Rwanda, the average for the remaining members would be 6.5% for 2005.

Final variables raised by Tanzanian stakeholders in a recent study by this author¹⁸ are that South Africa's ruling ANC party and Tanzania's ruling CCM party have a strong historical political relationship, and that the political nature of SADC compared to the purely trading nature of COMESA allows scope for this to be deepened institutionally. Secondly, as noted above, the presence of Egypt in COMESA is seen as a threat to some sub-sectors of Tanzanian industry. It is therefore difficult to tell whether Tanzania's decision to pull out of the SADC-EPA indicates a shift that will be strong enough to overcome the factors listed here.

2.4.2 The EAC dilemma

Notwithstanding the external integration deadlines looming, ie within SADC (FTA deadline for end 2008), COMESA (CU deadline for 2008) and the EPA process (deadline for conclusion of comprehensive EPA negotiations, end 2008 to mid-2009), in terms of the EAC's own decisions, the overlapping trade bloc issues are supposed to be settled during 2008 as well. The EAC Council of Ministers indicated back in November 2004 that the EAC should within four years of the coming into force of the CU (ie by January 2009) finalise any COMESA and SADC trade affiliation arrangements. The East African Legislative Assembly (the legislative wing of the EAC) previously passed a Bill setting end 2006 as a deadline for a decision on COMESA vs SADC (which was subsequently ignored by the EAC Council of Ministers and is now a subject of potential EALA [East African Legislative Assembly] EAC litigation), and the EAC's own Third Development Strategy, released in March 2007, called

for multiple memberships in regional organisations to be rationalised by January 2008. These combined factors may therefore bring the Tanzania/EAC/SADC matter to a head within 2008, although it should be noted that none of these are politically binding, and even litigation by the EALA would be testing new waters, as the EALA is still assuming its role as a counterweight to the other organs of the Community and Secretariat.

However, both Kenya¹⁹ and Tanzania recently reconfirmed their commitment to COMESA and SADC respectively. This therefore means that breaking the deadlock will be difficult. The EAC is talking to both SADC and COMESA²⁰ about harmonisation, but interviews with EAC stakeholders by this researcher in 2006 suggested that Tanzania is postponing a decision about trade bloc membership until it is clear that the SADC and COMESA CUs will be launched. Yet at the same time EAC respondents were convinced that the process of political engagement around the construction of the SADC and COMESA CUs will be very slow, with the 2008 and 2010 deadlines unlikely to be met, thus raising the possibility that Tanzania may continue to stall on this matter for the near future.

The logical solution to these dilemmas, and one that the EAC's own documents call for, is a complete withdrawal from all other regional groups, and then either the concluding of new trade agreements with SADC and COMESA as an EAC entity, or rejoining SADC or COMESA as an EAC entity (ie as a single signatory). However, most respondents in the 2006 research stated that these options were not being prioritised, even though they are largely political decisions that the EAC Heads of State Summit organ has the authority to take.

By definition, a Federation of national states such as the EAC is proposing will comprise a single political entity, and as such would have to hold membership of other trade bodies as an entity. The goal of fast-tracking the EAC may also be linked to the question of parallel membership and whether the EAC should join SADC or COMESA as a bloc. In other words, fast-tracking may be a way of entrenching the EAC before either SADC or COMESA move further along their own paths of regional integration, because it could have been argued that there was no need for a further regional initiative such as the EAC with SADC and COMESA already in place and proceeding to integrate further, bearing in mind that the EAC may have been initially partly conceived as a fast-tracked version of COMESA.

The problem is that by not following a course of trade bloc consolidation, the EAC contradicts the purpose of its existence and prolongs regional uncertainty amongst local and foreign business. It also places an additional burden on the EAC institutions that must co-ordinate and administer the respective tariff and Rules of Origin overlaps and commitments of the three trade blocs. In fact, until such time as the EAC resolves this dilemma, it cannot really be considered a full customs union in practice, given that it has to maintain some internal customs and Rules of Origin procedures to ensure that products entering into Tanzania under the SADC Trade Protocol do not find their way into Kenya and Uganda, effectively avoiding the normal import duty into those countries, and vice versa for products entering Tanzania and SADC from the rest of the EAC via COMESA. The EAC is therefore only a partial customs union at the moment (Stahl, 2005: 24)²¹ ie SADC and COMESA products can enter illegally through the EAC's 'membership back doors', For example, Egyptian products have already been dumped in Tanzania via Kenya, and simi-

lar problems could occur with SADC goods from South Africa entering the EAC via Tanzania. The further the integration proceeds within the EAC, the greater the potential for damage by such intra-trade bloc dumping and illicit trade.

The EAC needs to deliver practical benefits from integration to rival those offered by SADC and COMESA so as to deepen the commitment of its membership to the concept of the EAC as a unit. In the end people and governments want regional delivery. So the key to delivery is less political than economic, ie the benefits to be gained from membership. If the EAC is able to deliver quickly, then it will further entrench itself as a key component of the African Economic Community, and may even attract additional members. In a sense, even the rivalry and overlap between SADC and COMESA will be decided by similar factors.

3. Impact on an REC of parallel EPAs

The EAC narrowly escaped the scenario of parallel EPAs, ie where EAC member states would have been forced to implement different EPAs while trying to operate their own CU and move ahead with their overall regional integration process. As noted earlier, this is the situation facing COMESA and SADC, and now SACU, given that the blocs are split between different EPAs groupings. The implementation of parallel EPAs would undermine almost any REC stage, but would be especially problematic for a REC either in the process of implementing or attempting to launch a CU. The overarching question to bear in mind in analysing what the impact of parallel EPAs would be on a REC, is what the impact would be on the regional integration project as a whole and regional consensus, followed by the impact on the economies of the member states and the regional economy. These issues are interlinked and impact on each other.

The reason for consensus being the overarching issue is that the EAC's own history shows us that if consensus and commonality are replaced by difference and disagreement, then the possibility of collapse of the regional project becomes real. At the very minimum, stagnation or paralysis will occur. This is not the first attempt at East African regional integration: Kenya, Uganda, and Tanzania attempted regional integration via a first EAC in 1967, but the Community collapsed in 1977, largely due to growing internal political and economic differences.²²

3.1 Reconciling the impacts of parallel EPAs

This section, in line with the overall focus of the paper, refers only to the SADC and ESA-EPAs as SADC and COMESA comprise the overlapping bodies as far as the EAC is concerned, and are responsible for the bulk of the regional overlaps in the southern and eastern African region where the EAC is located. As the heading of this sub-section implies, the problem is not so much that a REC (ie COMESA or SADC) can be impacted by potentially negative economic effects from parallel EPAs, as this may occur even under a consolidated

or common EPA such as the EAC-EPA. The problem is rather that any effects will be more diverse, discordant and less amenable to REC Secretariat intervention than the effects of a common EPA, or a scenario where the entire set of member states trades with the EU under say the GSP+ or EBA system.

The SADC and ESA-EPAs each have a different centre of economic gravity. In the case of SADC it is South Africa, and in the case of ESA it is Kenya. This means that the negotiating agendas are qualitatively and quantitatively different between the two EPAs. The process of reaching consensus and the compromises reached will also be different, and the specific objectives and constraints of the two groupings are also unique. One example is that of the 'new generation' issues, which largely comprise trade in services and trade-related issues such as competition, investment, intellectual property, procurement, labour, and environment. In the case of the SADC-EPA, South Africa is refusing to negotiate these issues, regardless of what the EU is demanding, but in the ESA IEPA these issues are included in that grouping's IEPA. Another example is that of the implementation schedules of the final ESA-EPA deal and SADC-EPA deals. These will be different, which means that COMESA and SADC as economic communities will find it much harder to plan, implement and monitor regional economic policy and integration phasing. A further example is that of exclusion baskets, ie the products or sectors that each partner to an EPA deal will seek to protect, and likewise that each EPA grouping will seek to integrate into a co-ordinated defence strategy for the group. These EPA group-wide exclusion lists are unique to each EPA grouping, and in all the IEPAs there are major differences even within the EPA grouping.

It is therefore likely, if the scenario of parallel EPAs moves to its conclusion, that the SADC and COMESA Secretariats will find themselves with far less leverage to effect integration compromises that will be uniform and relatively equitable for their member states. It will be harder to attempt to coherently reconcile or standardise the effects of trade with the EU under the scenario of parallel EPAs. Finally, the EAC Secretariat will obviously be centrally involved in any EAC-EPA negotiating process and outcome, and would be able to insist on the reconciliation of the regional agenda with that of the EPA outcome. On the other hand, the COMESA and SADC regional Secretariats' abilities to influence the final EPA result to their own region's advantage will be highly constrained by the overlapping REC/EPA memberships. That means that both Secretariats will be legitimately working within each other's membership due to the overlaps, yet in terms of each REC itself, only the respective Secretariat and Executive body has the authority to decide on trade policy.

3.1.1 Divergent economic impacts for a REC which overlaps two EPAS

The various and potentially divergent economic impacts of EPAs on the countries of an REC means that within the REC, some countries may gain in certain respects, and others may lose in similar respects. The diverse complexity of this will be multiplied by two separate sets of negotiations if the REC remains split between multiple EPAs. The problem is that negative impacts, and in some cases even positive impacts, will tend to reinforce differences between the REC's member states. Any effect that makes the regional playing

field less even would lead to increased inter-community tensions and might bolster internal arguments against faster and deeper integration. The possibility of such tensions and unevenness as a result of the EPAs process is obviously increased if two sets of EPA effects occur within one CU.

Table 5 comprised an initial attempt by researchers to illustrate the possible divergent impacts of the EPAs on various regional groupings within the ACP.

Table 5: Economic effects of EPAs on ACP regions

| Region and source | Trade creation (TC)/ Trade diversion (TD) | Fiscal effects (loss of tariff revenues) | Welfare effects | Major gainers and losers |
|--------------------------------------|---|---|--|--|
| Sub-Saharan Africa as a whole (a) | — | — | Negative (EPA with no regional integration) Positive (removal of intra-SSA barriers or EU–SSA Free Trade Area) | — |
| West Africa | TC larger than TD | Negative | Positive | Nigeria and Ghana (gainers); Cape Verde and Gambia (losers) |
| Central Africa (a) | TC larger than TD | Negative | Positive | Cameroon, Gabon and DRC (gainers) |
| EAC (c) | TC smaller than TD for Tanzania and equal to TD for Uganda | Large negative | Small negative for Tanzania; Negligible for Uganda | Tanzania (loser) |
| COMESA (a) | TC larger than TD | Negative | Positive | Kenya, Mauritius, Sudan and Ethiopia (gainers) |
| SADC (d) | TC larger than TD | Large negative | Large positive (EPA with regional integration) Small positive (EPA with no regional integration) | South Africa, Zimbabwe and Mauritius (gainers); Zambia, Tanzania, Mozambique Swaziland (losers) |
| Caribbean (e) | TC smaller than TD (for simultaneous MFN tariff cuts < 50%) TC larger than TD (for simultaneous MFN tariff cuts > 50%) | Small negative | Small negative (for simultaneous MFN tariff cuts < 20%) Small positive (for simultaneous MFN tariff cuts < 20%) | — |
| Pacific(f) | TC larger than TD | Small negative | Small positive | Papua New Guinea and Fiji (gainers) |

a. Karingi, S et al, 2005. *Economic and Welfare Impacts of the EU–Africa Economic Partnership Agreements*. ATPC work in progress no. 10. UNECA, September.

b. Busse M & Grossmann, H, 2004. *Assessing the Impact of ACP/EU Economic Partnership Agreement on West African Countries*. HWWA Discussion Paper 294, August.

c. Milner C, Morrissey, O, & McKay, A, 2005. *Some Simple Analytics of the Trade and Welfare Effects of Economic Partnership Agreements*, *Journal of African Economies*, 14(3): 327–58.

d. Tekere, M & Ndelela, D, 2003. *Impact Assessment of Economic Partnership Agreements on Southern African Development Community and Preliminary Adjustment Scenarios*. Final Report. Trade and Development Studies Centre. Harare, Zimbabwe.

Keck, A & Piermartini, R, 2005. *The Economic Impact of EPAs in SADC Countries*. Staff Working Paper. ERSD-2005-04. WTO, August.

e. Evans, D et al, 2006. *An EU–Caribbean Economic Partnership Agreement: Case Study*, Chapter 5 in Evans et al, *Assessing Regional Trade Agreements with Developing Countries*. Final Report to DFID.

Gasiorek M & Winters, AL, 2004. *What Role for the EPAs in the Caribbean?* *The World Economy* pp: 1335–62.

Greenaway D & Milner, C, 2003. *A Grim REPA*. University of Nottingham Internationalisation of Economic Policy Research Paper. 2003/30.

f. Roza, V & Szepesi, S, 2003. *EPA Impact Studies: Perspectives for the Pacific*. (ECDPM InBrief 2A). Maastricht: ECDPM.

Source: ODI Briefing Paper: June 2006

In this table the quantitative studies reveal differing EPA group impacts on SADC, COMESA, and the founding EAC member states. Overall, the effects will create ‘winners’ and ‘losers’ within each of the RECs. Revenue losses under the SADC EPA will be higher than under the COMESA EPA, and all three founding EAC states could be negatively impacted by revenue loss. Welfare and trade creation, and diversion effects are also mixed.²³ Further detail on adjustment costs is given in the sub-section immediately below. With parallel EPAs the loss of ‘political and institutional traction’ that could result might therefore undermine the REC’s own further integration.

3.1.2 Revenue losses and adjustment costs

The fiscal effect of EPA liberalisation on the ACP economies essentially entails a loss of government import tariff revenue, particularly in the absence of appropriate measures to develop alternative sources of revenues (Matambalya: 2001: 20). This is a crucial issue, as import taxes levied on EU goods comprise significant percentages of the income of many ACP states.

ESA members have proposed to build into the EPA framework mechanisms to offset the negative effects of tariff reductions on government revenues and to bolster the competitiveness of domestic industries. In the ESA region around 50 per cent of trade taxes come from EU imports. This represents 10-15 per cent of total government revenues, meaning that for some countries 5-7 per cent of total revenue could be lost in moving to a free trade agreement with the European Union (ECDPM Insight 14E, 2006: 4).

The complicating factor for the REC that overlaps different EPAs is that not only will it be harder to maintain the finances of the Community given that its members will be experiencing revenue losses deriving from different trade deals with the EU, but it will also be harder to devise and implement co-ordinated integration-driven tax reforms and harmonisation of regional tax-collection processes. This will also ironically hamper efforts to devise generic regional tax reforms to alleviate the effect of such revenue loss. The whole point of regional harmonisation is that member states must not implement different programmes within the same area of economic policy.

The EC recognises the need to provide support for the implementation of EPA commitments for which it plans to use expanded RIP (Regional Indicative Programme) funding which are funds allocated to regions, and the need for support in addressing supply-side constraints via horizontal envelopes and NIP (National Indicative Programme) funding which are funds allocated to states. However the EC’s approach to specifically addressing EPA-related adjustment needs is seemingly still underdeveloped. EPA-related adjustment however constitutes a distinct, new set of needs which will evidently arise as a direct consequence of the conclusion and implementation of measures set out in the EPA and the wider implementation of EU trade policy of which the EPAs constitute only a component (ERO, 2007). This is why the ACP has been insisting that entirely new funds are warranted.

The Commonwealth Secretariat has drawn up conceptual framework for looking at the adjustment needs, identifying four main areas of need:

- Fiscal adjustment;
- Trade facilitation and export diversification;
- Production and employment adjustment; and
- Skills development and productivity enhancement.

That such needs exist is increasingly obvious from the literature. The United Nations Economic Commission for Africa, for example, has estimated that Sub-Saharan African governments will lose \$1 972 million per annum (€ 516 million at 2006 current rates of exchange) in tariff revenues through the full implementation of the kind of EPA envisaged by the EC (ERO: 2007). Other recent estimates of broader costs are shown in Table 6 below, given in Euros. The figures comprise an estimate of the adjustment costs related to loss of tariff revenue, employment, production, and support for export development for each ACP region. The estimates are provisional, based in the IEPAS, and would need to be compared with benefits that can accrue from regional trade opportunities and increased exports to the EU market (Stevens et al, 2008: 105). EAC states are included under 'East South Africa'.

Table 6: Estimated adjustment costs by region (€ millions)

| Region | Fiscal adjustment | Export diversification | Employment adjustment | Skills/Product enhancement | Total adjustment costs |
|-------------------|-------------------|------------------------|-----------------------|----------------------------|------------------------|
| Central Africa | 320 | 307 | 193 | 265 | 1,085 |
| West Africa | 925 | 682 | 416 | 690 | 2,713 |
| East South Africa | 775 | 702 | 375 | 630 | 2,482 |
| Southern Africa | 340 | 261 | 217 | 255 | 1,073 |
| Caribbean | 355 | 189 | 134 | 195 | 873 |
| Pacific | 210 | 175 | 82 | 175 | 642 |
| Gross total | 2,925 | 2,316 | 1,417 | 2,210 | 8,868 |

Source: C Milner, cited in Stevens et al, 2008.

In the EAC's case specifically, total revenue losses from decreased import tariffs on EU goods for the EAC states, over the full time period, are given in Table 7 below. Once again, these figures are based on the IEPA, and will need to be revised once the comprehensive EPA offers are signed.

If the EAC is to continue with its declared path of instituting a Common Market, followed by Monetary Union and then a Political Federation, then further funding will be required to implement these next stages of integration. These funds will be scarcer if the planned EPA goes ahead, although the EAC managed to negotiate delayed liberalisation, so the impact will not be immediate and may at least not affect the upcoming launch of the Common Market.

Table 7: Estimated revenue loss in EAC countries (\$000)

| Country | Hypothetical revenue (\$000) on: | | 2nd tranche share |
|----------|------------------------------------|--------------------------|-------------------|
| | <i>all items being liberalised</i> | <i>2nd tranche items</i> | |
| Burundi | 4,827 | 4,368 | 91% |
| Kenya | 39,515 | 26,884 | 68% |
| Rwanda | 3,019 | 2,144 | 71% |
| Tanzania | 16,718 | 12,906 | 77% |
| Uganda | 8,746 | 6,721 | 77% |

Source: Stevens et al, 2008.

The problem with such rapid revenue losses and general costs is that they undermine the member states' ability to fund the day-to-day operations of their own regional integration structures, especially given the fact that many COMESA and SADC states are reliant on donor funding to support core budgets already. In other words, they will require increased direct donor funding of national budgets, or significant speedy support for tax diversification to replace lost revenue and to avoid undermining state functioning and national development programmes. Donor funds may even be needed to fund deeper integration, although this might allow donors to influence the integration agendas.

It seems unlikely that the EU's EDF will be able to provide funding to cover such adjustment costs. Firstly, it will take many years to redirect the EDF process. Secondly, experience in Botswana, Lesotho, Namibia, and Swaziland, where a FTA with the EU is already half-way towards full implementation, shows that EC-managed EPA-related adjustment support through both national and regional programmes has been very poor. This is partly related to EU aid deployment procedures and administrative constraints, which are not suited to the deployment of 'time-sensitive' support to economic adjustment processes (ERO, 2007).

3.1.3 Exclusion baskets

If the national exclusion baskets within a region's trade offer differ, disruptions for regional integration can occur. Once the broader southern and eastern African countries have locked in their external tariff vis-à-vis the EU without having harmonised it on a SADC/COMESA/SACU level, deeper regional integration becomes more difficult. For example, if Zimbabwe has locked in an external tariff and exclusion basket towards the EU that highly differentiates from the one locked in by Malawi, it will be very difficult to agree on a CET in a SADC framework and to form a SADC-CET towards the EU (Meyn, 2006). As noted earlier, the exclusion baskets in the ESA and SADC-EPA groups differ significantly. There is not a single item that is being excluded by all five countries in the ESA-IEPA and over three quarters are being excluded by just one country. In the case of the SADC-IEPA, just one fifth of the items are being excluded by both the BNLS and Mozambique (Stevens et al, 2008: 53).²⁴

It is unlikely that countries within each EPA Grouping will agree upon the same products to be placed in their final EPA group offer exclusion lists due to the diverging tariff profiles of different countries as well as to the different national economic policy priorities. This was already noted in research prior to the initialling of the IEPAs, where Stevens and Kennan (2005)²⁵ reported that in the four EPA groups in Africa there is very little 'natural overlap' in the products countries are likely to exclude. Assuming that countries exclude sensitive products for which there is an applied tariff of 20 per cent or greater, they found that there would not be a single product that would be in all of the exclusion lists of all members of any of the groups. In addition, in all the cases, over 40 per cent of the products included in any one country's basket of exclusions would be absent from the exclusion lists of all its partners.

This means that that the ESA and SADC groupings will be unable to implement similar final exclusion lists. In this eventuality, rigorous border controls would in theory have to be maintained to differentiate between goods. These time-consuming customs procedures and any costly Rules-of-Origin checks would reinforce barriers to intra-regional trade rather than reduce them. Under these circumstances, an EPA could result in the creation of greater barriers to integration (South Centre, Fact Sheet 4, 2007). On the other hand, countries in an EPA group may decide that the costs of such barriers are too high, in which case they would have to accept a degree of trans-shipment and even dumping. Admittedly, even within an EAC-EPA, there are differences in lists of sensitive products. For example, Kenya has sensitive products in mining and food manufacturing (where it exports to the others), Tanzania appears to have concerns for local producers in beverages and tobacco, while only Uganda appears to have concerns in sugar and forestry products (Mold, 2007). The challenges presented by this are partly offset by the fact that the EAC parties have already had to reach consensus on such issues during their own CU negotiations, and by the fact that the EAC already has to monitor products moving across its CU between EAC-SADC members and EAC-COMESA members.

3.1.4 Customs Union co-ordination

One of the principal components of an EPA agreement between an EPA grouping and the EU is supposed to be a CET with the EU, therefore a COMESA or SADC CU would, as things currently stand, be subdivided between three different CETs (its own CU, plus those applying to trade with the EU under the parallel EPAs). This applies currently to the SACU CU as well. If the EPAs were not harmonised with the CU, then the REC would essentially be placed in an impossible position, ie one of having to seriously undermine its own CET by retaining internal customs procedures between the members of the competing EPAs, to compensate for the different tariff components and schedules of the two EPA agreements. This would seriously undermine even the legal status of the CU itself though, as noted below. The parallel EPA negotiations also have the ability to raise tensions within the REC as the member states need to seek approval from the other REC members for conflicting changes to the CU Protocol. In other words, whose EPA is more important?

Legal implications for a customs union

Technically, if individual members of a customs union enter into a number of different FTAs with third parties, the impact on the CET and the resulting array of different Rules of Origin will undermine the integrity of the CU and might even render the original CU unrecognisable as such and it may no longer be able to qualify as a CU under Article XXIV of the GATT, although for political reasons it is unlikely that the WTO would make such a ruling unless the validity of the CU was legitimately challenged. Further legal issues could arise from the implementation of the various protocols that might be inconsistently executed or even conflicting in application among the various blocs to which a state may belong. These could include differences in the Rules of Origin applied under the various agreements or differences in the sanitary and phytosanitary measures and standards included in the various agreements (Stahl, 2005: 30).

3.1.5 Institutional constraints

Although the technical constraints noted above are not insurmountable, the complexity of the processes required to implement, monitor and evaluate multiple EPAs and one's own CU would tax even the most long-standing and well-resourced of regional economic communities. In the case of the EAC, its capacity to absorb additional requirements such as those envisaged by the EU for the implementation and maintenance of EPAs is additionally limited by a number of factors. Some of these limitations apply to COMESA and SADC as well, and unless dealt with could soon apply to a COMESA CU or SADC CU:

- The EAC has yet to finalise or implement a Rules of Origin framework for the monitoring and enforcement of such rules. This process is complicated by the fact that the EAC member states belong to two trade blocs already, namely COMESA and SADC.
- The EAC has yet to finalise or implement an anti-dumping framework for the monitoring and enforcement of anti-dumping measures. This is complicated again by the fact that the EAC member states belong to SADC and COMESA, ie goods from SADC could conceivably be dumped in the other EAC members via Tanzania by entering Tanzania under the SADC Trade Protocol. The same problem applies to goods entering Tanzania illegally via the other member states that are in COMESA.
- The EAC wishes to proceed rapidly with further integration. Given this ambitious timeline, the EAC will have its hands full just negotiating and institutionalising the relevant stages, whilst having to implement an EPA.

In other words, many RECs find themselves in the awkward position of being distracted from their primary purpose, in fact their reason for existing in the first place, by the pressure the EU is putting on ACP regions to finalise their partnership agreements before December 2008. Yet, at the same time, they cannot afford to brush off one of their biggest trading partners.

3.1.6 EPA effects: strengthening or undermining regional integration?

A number of issues have been raised by stakeholders, both government and non-government over recent years, regarding the potential of EPAs to impact regional integration. ACP ministers have expressed concerns that EPAs are likely to undermine regional integration processes because regional markets will probably be opened up to the EU before they are consolidated internally. That is, if ACP groupings are not sufficiently integrated among themselves before they sign the final EPA agreements FTA, the conclusion of an EPA could potentially undermine regional harmonisation (South Centre Fact Sheet No. 4, March 2007).

Combination of LDC and non-LDC states in an EPA

The presence of both LDC and non-LDC countries within EPA negotiating groups is also likely to produce difficulties for regional integration initiatives, according to commentators. Under the EBA arrangement, LDCs already have duty-free access to the European market for ‘everything but arms’, and therefore have little incentive to sign a further free trade agreement. If they sign on to an EPA, it would only be a trade deal in favour of the EU, who would then have equal access to LDC markets, whilst granting them largely what they already had, although with the promise of development funding. In ECOWAS (Economic Community of West African States), for example, 13 of the 16 member countries are LDCs. However, even if these countries choose not to join their EPA, but continue with the ECOWAS regional integration process, they will still potentially feel the effects of EU imports entering their markets via their non-LDC regional neighbours, ie a form of ‘involuntary liberalisation’.

This hidden danger is clearly illustrated by the case of SACU. Although South Africa is a member of SACU, it is a partner in the TDCA with the EU. While the agreement did not formally include the other members of SACU – Botswana, Lesotho, Namibia, and Swaziland – it has had a clear impact on them, effectively making them de facto members via the CU. Due to SACU’s common external tariff, the four countries became de facto TDCA members as they did not try to tax EU goods coming from South Africa. The alternative was to retain robust and costly border controls to filter out EU-originating goods coming into their country via South Africa, a task that requires great human and institutional resources, often lacking in many African countries. The situation is exacerbated for Lesotho, which has potentially fewer resources, being a SACU LDC (South Centre Fact Sheet No. 4, March 2007).

There is no easy solution to this problem. Splitting regional groups between the non-LDC countries that enter an EPA with the EU and those LDCs that maintain their trade barriers would also have negative consequences for integration. In practical terms, LDCs that chose to remain outside an EPA would only be able to prevent the de facto liberalisation of their markets if they also erected barriers against their neighbours. Such barriers would ultimately cancel out the principle of greater regional integration. In reality,

as noted, many of these LDCs are already bound through regional integration processes to have openness to members through existing regional tariff liberalisation agreements (South Centre Fact Sheet No. 4, March 2007).

However it should be borne in mind that the extent to which an EPA will enhance or undermine regional integration is also dependent on the actions of ACP countries at a regional level. These range from the harmonisation of their product-exclusion lists to simplifying Rules of Origin within each EPA grouping to concluding and implementing FTAs within each EPA grouping.

A recent quantitative analysis of the effects of full elimination of tariffs inside each EPA group, but not with the EU, showed that regional trade is boosted by US\$1,9 billion within the ACP. However, when this scenario is combined with a scenario where there is elimination of tariffs on 80 per cent of EU imports by the ACP, and elimination of 100 per cent of tariffs by the EU on ACP exports, regional trade is reduced by US\$407 million, and welfare loss exceeds the benefit of full regional integration by US\$851 million. This finding would appear to undermine the EU claim that EPAs are necessary to foster regional integration.²⁶

EPA imports: customs duty collection

A clause dealing with the 'regional liberalisation' of customs duties in the EPA texts clarifies how exactly duties will be applied on imported EU products within a region. The clause appears to have been included in order to protect EU imports from multiple duty payment, but South Africa has called it onerous and noted that it goes beyond current WTO provisions (DTI [Department of Trade and Industry] IEPA Committee briefing, 2008: 12). In short, the clause states that customs duties on EU goods shall be levied only once in an EPA group, but the problem is that the clause also stipulates that any duty paid upon importation shall be refunded fully when the goods leave the state of first importation within the REC, ie if they are re-exported (Stevens et al, 2008: 139). The two EPA texts with the most restrictive versions of this clause appear to be the EAC and SADC IEPA texts. The ESA text does not contain such a provision. The PACP IEPA is the other text to contain such a clause but notes just that customs duties shall be levied once only and goods shall circulate freely. It does not mention repayment or refunding of duties once the goods are re-exported in the group. The EAC text is more comprehensive, but agreement has not been reached. The proposed clause directly states that duties must be repaid once goods leave the state they were first imported into. The SADC text covers only the BNLS and Mozambique and is very close to the EAC text.

These provisions in the EAC and SADC texts are meant to be binding and actionable and could add significantly to the administrative implementation costs of an EPA, and could create new 'internal borders' within a REC, even within a coherent EPA group perfectly aligned to a respective REC such as the EAC. The internal borders would comprise systems for tracking the movement of EU goods and refunding the duties levied at point of first entry. This provision would be especially problematic if it were not aligned to the

internal customs provisions and collection procedures of a CU and clearly goes against the stated goal of a CU, namely to reduce internal barriers to trade, especially related to tariff collection.

Joint EPA Council or EPA committee

All of the EPAs provide for the establishment of various institutions to administer and oversee the implementation and operation of the EPAs. One of the key bodies is the envisaged Joint EPA Council or Committee (the name varies across the EPA groups). In the ESA it is called a Committee; in the EAC and SADC it is called a Council. The Council/Committee is often tasked with resolving disputes and enforcing settlement of disputes can even trigger the suspension of EPA preferences if consensus is not reached (Stevens et al, 2008: 142, 145). The Councils/Committees will be comprised of the relevant ACP states, the EU states and the EC and are meant to ensure that EPAs operate effectively and also meet their development objectives. They will be assisted by Joint Implementation Committees and will report to the ACP-EU Council of Ministers on matters of common concern to the ACP and the EU. However, in their day-to-day operations the Councils/Committees will have the power to take decisions in respect of all matters covered by the EPAs.

Although the EPAs contain review clauses as well as mechanisms for monitoring and reviewing implementation and development impacts (and reviewing and monitoring will apparently be integral functions of the EPA institutions), it is not certain what appeal procedures or processes are envisaged in the event of a lack of consensus within the Joint EPA Council/Committee. There is also no mention of whether the decisions of the Councils/Committees will be ratified by the respective regional Secretariats or even national parliaments. In this respect the CARIFORUM EPA does however provide for the creation of a Joint CARIFORUM-EC Parliamentary Committee in which members of the European parliament and the CARIFORUM legislatures can meet and exchange views. This Committee will have the right to ask the other bodies questions and make recommendations to the Joint EPA Council and Joint Trade and Development Committee (Jessop, 07/03/2008). However, none of the other EPAs contain such a parliamentary committee.

Although all trade agreements contain some provisions for monitoring, implementation, and resolving disputes, the fact that EPAs cover all of the ACP and relate to a major trade partner, as well as the scope and depth of the EPAs, places them in a different category in terms of the impact of decisions made under these bodies. The concern is that such institutions should be aligned with existing REC institutions, and must not rival these existing institutions, especially given that the EPA texts and negotiations encompass many areas of significance for future policy making and go beyond current developing country commitments under the WTO, referring particularly to the 'new-generation' issues. South Africa has noted that the structures and procedures of a Joint EPA council could amount to creating a powerful new body that could wield more authority than for example SACU or SADC in selected areas (DTI IEPA Committee briefing, 2008: 12). Furthermore, South Africa notes that the decision-making process envisaged for such a body presumes that

sophisticated decision-making procedures exist in the SADC-EPA group, yet the SADC-EPA group is neither SADC nor SACU in its composition. In other words, the concern is that the EPA institutions could allow the EU to unduly influence and even push for the amending of trade policy and procedures within a region, and in a context where the ACP states in the EPA group do not have even the limited institutional capacity that a REC would have. This would place further obstacles in the path of managing the current RECs and would obviously complicate further regional integration. The new institutions would essentially be in competition with existing regional Secretariats in respect of relevant policy decisions.

4. The launch of the EAC-EPA

On 27 November 2007 the EAC trade ministers signed an Interim Framework Economic Partnership Agreement (IEPA) with the EU. The Interim Framework EAC-EPA contains provisions for its implementation over an overall 25-year period and Article 37 of the Agreement declares that a comprehensive EPA will be signed by 31 July 2009.

4.1 Background to the creation of a last-minute EAC-EPA

Stakeholders in the EAC believe the current situation arose because of a lack of consensus in the region (Braude, 2008a). Uganda and Kenya joined the ESA group first unilaterally, and then Tanzania, apparently in response, joined the SADC group. Yet the idea of a joint EPA was agreed to by the member states shortly thereafter, when in April 2002 an EAC Summit took a decision to negotiate ACP, EU, and WTO trade deals as a bloc. EAC member states nonetheless continued pursuing EPA negotiations under different blocs for years, with Tanzania remaining with the SADC-EPA bloc and the other EAC members negotiating under the ESA-EPA bloc. From its side, the EU tried to influence events by claiming to Tanzania in 2006 that it could not negotiate under the SADC EU-EPA because of its membership of the EAC CU, but Tanzania chose to go ahead as a SADC CU was not in place yet. This continued division, in spite of the Summit decision, exposed the limits of regional consensus on external trade, with the members unable to reconcile their opposing positions although, as noted earlier, the issues may have been complicated by regional economic history.

The EALA (East African Legislative Assembly) in fact passed a private members' Bill in 2004, calling for the EAC to negotiate external trade deals as a bloc. However, the decisions of the EALA are not binding, and must be approved by the EAC Heads of State to become binding. This was not done, and so the EALA stated it would sue the Council of Ministers in 2006, to force them to deal with the issues of EPA and regional bloc membership. The EAC Council of Ministers itself has on record a decision that the EAC would adopt a common EPA and regional bloc trade negotiating position by December 2006. The Tanzanian parliament also called for the EAC to join other blocs as a single unit in 2006.

4.1.1 The EAC decides to initiate an EPA

The EAC process of formally announcing the initiation of an EAC-EPA process began on 13 April 2007, with the confirmation that a High Level Task Force meeting on EPAs had recommended the launch of an EAC-EPA as the preferred option for the EAC partner states (EABC Newsflash: 13 April 2007). This decision was then referred to and approved by a meeting of the Permanent Secretaries, which then in turn recommended this course of action to the EAC Sectoral Council. The Sectoral Council was in agreement and recommended to the EAC Council of Ministers that the Heads of State take a final decision on the matter. At the 5th Extraordinary Summit of the Heads of State, held on 18 June 2007, the five EAC presidents jointly discussed an EAC-EPA launch.

The presidents noted that the Summit meeting of April 2002 had already directed that in matters pertaining to participation in the WTO and the ACP arrangements, the EAC should negotiate as a bloc. They further noted that Article 37(2) of the Protocol on the Establishment of EAC Customs Union provides that the Community shall coordinate its trade relations with foreign countries so as to facilitate the implementation of common policy in the field of external trade, but that in spite of the 2002 Summit directive, the EAC Partner States had configured themselves for purposes of EPA negotiations under the ESA-EPA in March 2003 and the SADC-EPA in August 2003. They further acknowledged that the Sectoral Council review in April had decided that there was merit in an EAC-EPA configuration in light of Article 37 of the CU Protocol and the Summit directive of 2002. They also stated that upon consultations by the Chairperson of the Council of Ministers with the EAC Heads of State as well as the Heads of State of Burundi and Rwanda, there was agreement in principle on the benefits of EAC as a bloc negotiating an EPA in the interest of consolidating the EAC CU (EAC 5th Extraordinary Summit Communiqué, 18/06/2007).

The presidents however confirmed that an EAC configuration for EPA negotiations with the EU would not imply that the Partner States would cease their membership to the other regional economic communities, namely COMESA and SADC, given that the main focus under EPA was fostering trade and development arrangements with EU (EAC 5th Extraordinary Summit Communiqué, 18/06/2007). This decision allows the member states to postpone the more sensitive decision of overlapping regional trade blocs, given that both Kenya and Tanzania have been adamant about their commitment to COMESA and SADC respectively, as recently as early 2007. A 2006 study noted stakeholder opinions that the resolution of the SADC/EAC overlap was almost entirely a political question, given that the Tanzanian business community has consistently, even if not unanimously, advocated a return to COMESA (Braude, 2008a).

The Summit therefore directed the ministers responsible for Trade and the ministers responsible for East African Community Affairs to urgently meet and prepare a position paper for consideration at the Extraordinary Summit Meeting in August 2007.

For its part, the EAC's business community, as represented by the EABC (East African Business Council) had been urging the Partner States to negotiate the EPAs arrangement under the EAC bloc and have a 'common stand'. A meeting organised by EABC in late 2006

urged the EAC to strive to harmonise areas of divergence so that their EPA negotiations would be concluded in time. With the April 2007 recommendation of the EAC Sectoral Council for an EAC-EPA, the EABC called on the EAC Secretariat to undertake an urgent analysis on the implication of the EAC-EPA on its trade relationship with other blocs in Africa. The Chairman of the EABC, Hon John Arap Koech, expressed his desire to consult with the Heads of State on the matter.

4.2 The final events leading to the launch of the EAC-EPA

The final series of events leading up to the signing of the EAC-EPA commenced with the EAC Summit of August 2007 where the Heads of State finally agreed that the EAC should explore the possibility of negotiating an EPA with the EU as a bloc, in order to consolidate the EAC CU. With the December 2007 deadline for signing of the EPAs approaching, EAC member states had increasingly apparently realised a number of points: that there was insufficient consensus within the ESA-EPA bloc for the deadline to be achieved in respect of this bloc; that the composition of the ESA group itself represented the primary hurdle to completion of negotiations in the region; and thirdly that multiple or parallel EPAs would endanger and undermine the EAC Customs Union and the EAC itself and that it was not worth risking this for the sake of trading with Europe. As a result the EAC officials and leaders apparently chose to initiate their own negotiations with the EU (TNI, Vol. 7, No. 2: 7).

However, disagreement over pursuing a joint EPA persisted right up to the final decision taken by the Heads of State at this August 20th Summit, with Tanzania almost withdrawing from a necessary initial decision on an EAC-EPA taken by EAC ministers a week earlier at their Summit Preparatory meeting on 13 August (bilaterals.org, Rwanda News Agency, 23/08/2007). Tanzania however joined the other EAC members in the EAC-EPA, possibly additionally motivated by the deepening subdivisions evident within the SADC-EPA group as 2007 wore on – between South Africa, other SACU members, and the relatively isolated positions of Mozambique, Angola, and Tanzania (bilaterals.org, East African, 20/08/2007). It was such splits between Tanzania and the other EAC members that prevented the region from following a logical path and approaching the EU as a bloc earlier in the EPAs process, although Kenya was also apparently reluctant to leave the ESA grouping due to the central role it was playing and the advanced nature of the negotiations (more advanced than those in the SADC-EPA grouping).

Likewise, disagreement over the final composition of an EAC-EPA was evident after the Summit decision, with partner states split over whether the proposed EAC-EPA could include other countries as well, ie an EAC+, or be limited to an EAC-only configuration (East African Business Week, 27/08/2007). In the end the member states agreed that any EAC-EPA would be limited to EAC members only, although EAC officials seemed to indicate that an EAC-EPA configuration could be made open to other countries that are willing and able to comply with the provisions of the East Africa CU (bilaterals.org: East African, 20/08/2007), as the EAC-EPA is based on the EAC CU. The EAC-IEPA text subsequently

stated that other ACP states could accede to the EAC-EPAS, but only with approval of a Joint EAC-EC EPA Council (Stevens et al, 2008: 145).

A meeting of EAC trade ministers was thereafter convened on 11 October 2007 to agree on a joint negotiating position. The first attempt to implement such an EAC- EPA involved an attempt to create an EAC-EPA under both the ESA and SADC frameworks in order to both safeguard the EAC as a Community and to preserve the composition of the existing EPA configurations. This included identical market access packages, with schedules and trade defence instruments etc being presented to both the ESA-EPA and SADC-EPA configurations. The EAC partner states duly presented an offer based on the EAC's CET and sensitive product list, during technical sessions in Madagascar and Mozambique in October 2007. However, both EPA groups found the offer impossible to negotiate as it represented the EAC CU and not individual states, and this structure was not properly constituted under either configuration. Consultations between the EAC and COMESA in late October then resulted in a decision that the EAC would have to present its own market access offer to the EU under the EAC CU, and the EAC would therefore be excluded from the sub-regional and national market access offers to be made by the ESA group (TNI, Vol. 7, No. 2: 7). In other words, attempts to avoid creating an additional EPA grouping as the EAC had not been successful.

The process moved to Brussels on 14 November 2007 where representatives from the EAC and the EU agreed that a separate EAC-EPA would indeed be negotiated. The parties agreed that the IEPA would cover trade in goods/market access, development cooperation, and fisheries. However, the final negotiating agenda for the IEPA adopted at a meeting held in February 2008 to commence negotiations (noted below), included trade in services and other 'new-generation' or 'Singapore issues', with the agreement of both parties. The Interim Framework Agreement was then initialled²⁷ on 27 November 2007 in Kampala, Uganda.

The Framework Agreement was applied provisionally from 1 January 2008 (EAC Press Release, 15/11/2007), with attendant regulations and transitional arrangements adopted to prevent any disruption to trade between the EAC member states and the EU. The EAC member states will now presumably withdraw from their participation in the SADC-EPA and ESA-EPA negotiating positions, as it will not be possible to belong to two different EPAs, given the fact that different binding tariffs with the EU will result from each process. The EAC-EPA configuration apparently also forms part of the Accession Treaty signed by Rwanda and Burundi, which came into force in July 2007, ie the two states have probably already agreed to withdraw from the ESA-EPA (EABC Newsflash, 14/04/2007).

With the Interim Framework signed, the first EAC-EU Senior Officials met on 6 March to discuss the way forward towards a Comprehensive Economic Partnership Agreement. The meeting took stock of the IEPA agreed to in November 2007. Officials agreed that the IEPA requires 'cleaning up' before any signing and eventual ratification (it has not yet been signed as of early April 2008). Errors in transposition of the EAC Market Access Offer from HS 2002 to HS 2007 were also noted. The meeting addressed ratification and notification to the WTO and implementation issues, as well as the process required to con-

clude a comprehensive EPA by July 2009. Implementation issues, such as formation of an EPA Council and establishment of a Special Committee on Customs Co-operation, will be addressed after the actual signing of the IEPA. Actual negotiations will cover the following clusters: Market Access, Trade in Services, Economic and Development Co-operation, Trade Related Issues, and Legal and Institutional Issues (EABC Newsflash, 07/03/2008). The delegates further adopted a broad road map to enable them conclude negotiations of the Comprehensive EPA as scheduled (see Annex 1: EAC-EPA Roadmap).

4.3 Structure and elements of the Interim EAC-EPA

4.3.1 Structure of the EU and EACs' market access offers

The overall EC market access offer consists of duty-free and quota-free market access, with transitional arrangements for rice and sugar. The EAC market access offer consists of liberalisation of 82 per cent of the region's imports from the EU over an overall transitional period of twenty-five years. Within this timeline, after 15 years, 80 per cent of the exports from the EU must enter the EAC market free of duties (EAC Press Release, 27/11/2007). This covers mainly intermediate industrial inputs and raw materials and capital goods. The intermediate products comprise 16 per cent of the 80 per cent of imports to be liberalised and currently attract a 10 per cent duty under the EAC CET. The raw materials and capital goods comprise the other 64 per cent, and these are already zero-rated as imports under the EAC CET and so will be 'liberalised' in the first two years. The EAC, led by Uganda, apparently used the retention of this CU zero-rating to obtain a de facto moratorium period for the commencement of the phase down of the intermediate industrial products category, which as a result only commences in 2015 and must be completed by 2033 (TNI, Vol. 7, No. 2: 7). An additional two-year general moratorium on the implementation of any EPA tariff measures, between January 2008 and December 2009, was agreed to, so that Burundi and Rwanda can complete the process of implementing the EAC CU provisions, and so that the asymmetrical 2004-2009 EAC CU implementation programme involving Kenya, Tanzania, and Uganda can be completed. The remaining liberalisation of 2 per cent of the EAC market, for imported EU final products (which currently attract a tariff of 25 per cent under the EAC CET), will commence in 2020 and must be completed by 2033. The IEPA also includes a chapter on fisheries, covering marine and inland fisheries and sustainable use of resources, and a section dealing with development co-operation (see below).

Sensitive EAC agricultural and industrial products accounting for 18 per cent of total trade with the EC and 25 per cent of the total tariff lines will not be liberalised. A mechanism to assure asymmetry between the four EAC LDCs and the one non-LDC (Kenya) was built into the EAC's list of sensitive products (TNI, Vol. 7, No. 2: 7). Excluded products include agricultural products, wines and spirits, chemicals, plastics, wood-based paper, textiles and clothing, footwear, and glassware (bilaterals.org, 07/12/2007). Criteria for

the exclusion list include, among other things, sensitivity of the agricultural sector, small-scale farming, rural development and livelihoods, agricultural and industrial development, and regional market linkages.

The IEPAs initialled or signed in December 2007 do contain some protections for the relevant ACP countries. The EAC-IEPA, together with all the African IEPAs except the ESA one, allow for the temporary introduction or increase of export duties in 'exceptional circumstances' following either a 'joint agreement' with the EC – for the EAC and SADC-IEPAs or 'consultations' – for the CEMAC, Ghana, and Côte d'Ivoire IEPAs. All the IEPA texts allow for the general prohibition on import barriers other than customs duties and taxes (and anti-dumping and countervailing measures or safeguards) to be overruled (eg for infant industry protection or in the case of public finance difficulties). The continuation of WTO-compliant national subsidies is also allowed in all the texts (TNI, Vol. 7, No. 3: 2). The IEPAs contain strict provisions on customs and trade facilitation, and sanctions can be applied in the case of failure to provide administrative co-operation to the other party. If a Joint Council or Committee comprised of the two sides cannot come to a mutually acceptable solution within three months, the complaining party can suspend preferences for up to six months on a renewable basis. The dispute-avoidance and settlement provisions in the IEPAs are more extensive and rigid than in the TDCA with South Africa, and the procedures dealing with consultations, seeking advice from a mediator, and establishing an arbitration panel are detailed, and the time-frames are very strict. In the EAC and ESA cases these procedures are still being negotiated (TNI, Vol. 7, No. 3: 2).

Negotiations will now continue in the following areas: Customs and trade facilitation; outstanding trade and market access issues; technical barriers to trade, and sanitary and phyto-sanitary measures; agriculture; current payments and capital payments; any other areas that the parties find necessary; and finally trade in services and other trade-related issues namely:

- Competition policy;
- Investment and private sector development;
- Trade, environment and sustainable development;
- Intellectual property rights; and
- Transparency in public procurement (Kenyan Ministry of Trade and Industry, March 2008 News).

4.3.2 Kenya's position

There does not appear to have been the same refusal on the part of Kenya to negotiate an agreement covering trade in services in the way that South Africa refused to sign the Interim SADC-EPA. This may be due to the fact that Kenya potentially stood to lose significant market share in various exporting industries if an agreement was not reached whereas South Africa already has the 1999 TDCA agreement with the EU. It may also be due to the fact that a significant proportion of the Kenyan services sector is already owned

or partnered by EU multinationals, usually from the UK. It would also appear that Kenya, as the region's largest economy, was prepared to sign an IEPA due to the danger posed to its industries by its developing country status. This is because as a developing country Kenya would have been subject to the GSP tariff regime, come 1 January 2008, if an EPA deal was not concluded. The Kenyan Ministry of Trade and Industry estimated that this would have meant tariff hikes of between 5,3 per cent and 15,7 per cent on Kenyan products. Horticultural products, which comprise 69 per cent of total Kenyan exports to the EU alone, would have been subjected to an 8 per cent rise in EU tariffs (East African Business Week, 27/08/2007).

Another motivating factor would have been the danger of investors moving productive investments to Kenya's neighbours to take advantage of their EBA (Everything But Arms) duty-free access to the EU, which would have also kicked in upon expiry of the Cotonou Agreement on 31 December 2007 (Kenyan Ministry of Trade and Industry, March 2008 News). Kenya's EAC neighbours would have all been forced to use EBA with its duty-free, quota-free access whereas Kenya as the lone developing country would have been forced to use the GSP regime tariffs, thus pricing exports from Kenya higher than those from the remaining EAC states. Nonetheless Uganda supported Kenya and the EAC-EPA because, in Uganda's case, EBA access made no commercial sense for exporters as a fallback position, given their high degree of association with Kenyan firms. Only 0,5 per cent of Ugandan exports are evidently sent to EU countries under EBA anyway. So for Uganda, the EPA was the only commercially viable option available, and the Ugandan private sector had repeatedly stated that EBA was not a realistic alternative (TNI, Vol. 7, No. 2: 7). As a consistent champion of EAC integration, Uganda's support for an EAC-EPA was no doubt important, although it was probably Tanzania's decision to join an EAC-EPA process that allowed the EPA to proceed. As noted in the book, when it comes to resolving overlapping trading arrangements in the EAC, Tanzania's decisions are the key, given its position for many years as the sole EAC member state in SADC and then in the SADC-EPA configuration as well.

Finally, even COMESA was disappointed with the EAC decision, given Kenya's central role in the ESA negotiations to date, although it accepts the constraints that the EAC members, especially Kenya, face. The COMESA Secretary-General Erastus Mwencha remarked that the EAC-EPA undermined regional unity within COMESA (bilaterals.org: Business Daily, 19/12/2007). Including the EAC-COMESA members, only nine of the sixteen COMESA member states signed IEPAs in December 2007.

4.3.3 Development co-operation elements of the EAC IEPA

The interim agreement initialled also covers development co-operation. The parties agreed that text already in use by the EC with other configurations in the region and the already existing IRCC (Inter-Regional Co-ordination Committee) comprising COMESA, the Inter-Governmental Group on Development or IGAD, and the EAC) would be adapted to reflect

the EAC context for the full EPA, taking into account EAC Development Strategies. The EAC and EC will conclude a joint text on how to address development issues during the time span of the framework agreement. The parties further agreed that the EU would contribute towards the necessary resources to finance necessary adjustments and to allow the EPA to function as a development tool. They acknowledged that this would require additional resources, and resolved to jointly mobilise the resources (EAC Press Release, 15/11/2007). The EU confirmed (EAC Press Release, 27/11/2007) that it would contribute towards the resources required for development within the EAC-EPA, using the 10th EDF Regional Indicative Programme, and via Aid for Trade (through enhanced allocations for Official Development Assistance (tralac, 20/11/2007) and the EU budget.²⁸ The fact that mention of additional funding sources apart from the EDF, specifically the EU budget, were included in this statement is very interesting, because the EU has been accused by many stakeholders in the ACP of trying to limit adjustment funding to the EDF only, which commentators note would be insufficient to cover expected adjustment and trade facilitation costs. The EC Commissioner for Development and Humanitarian Aid, Louis Michel, confirmed as recently as February 2008 that any additional non-EDF funding would have to come from member states and other funding agencies (TNI, Vol. 7, No. 1: 4), although the position is unclear as the EU has also in the past stated that the AfT (Aid for Trade) Strategy could be used to address EPA-related needs (TNI, Vol. 7, No. 3: 3). By early April however very little funds had been released to the IRCC, with Chairperson of the EAC Council of Ministers Eriya Kategaya noting at the April 2008 summit of African Finance and Trade Ministers that only 2 million Euros had been made available to date for sharing under the IRCC.

The EU's position is that the mandate that it received from the European Council to negotiate EPAs does not include the negotiation of development co-operation, which is a separate, though related, aspect of the ACP-EU partnership. The Cotonou Agreement deals with trade and aid relations in the two separate parts. However, what is clear is that for countries to adjust to the EPAs with the minimum of problems, they will require any EU disbursements, even if limited to be predictable and timely. Most importantly, it appears essential that implementation of the EU AfT Strategy be coordinated with the implementation of the IEPAs. These are separate formal processes, so it will require careful effort to ensure co-ordination and coherence in 2008 between bilateral donors' programmes, EDF disbursements, implementation of the IEPAs themselves and the conclusion of negotiations for comprehensive EPAs (Stevens et al, 2008: 100-101).

Analysts note that any AfT assistance should be used to help remove blockages to increased ACP production and export. At the same time, it would appear that improving mechanisms and procedures for delivering AfT assistance is equally important. Effective delivery of this aid could determine the ACP countries' capacity to implement EPAs and further trade reform (TNI, Vol. 7, No. 3: 3).

The clear reference to specific development issues and their proposed inclusion in the final EAC agreement is also an interesting change to the EU's EPA position, given that it has not usually included specific development issues and funding requirements in other regional EPA texts, although development co-operation in general is usually mentioned

in each section. The EAC, ESA and CEMAC texts also explicitly foresee continued negotiations on this (Stevens et al, 2008: xv). The EAC agreement also sets out that monitoring of the development aspect will occur, and that follow-up will be carried out on the basis of jointly agreed indicators (TNI, Vol. 7, No.1: 5). Across the overall EPAs process, the ACP Group and the EU have agreed that the ACP and the EU should establish an appropriate EPA monitoring mechanism to ensure that expected benefits accrue in the implementation of the EPAs. The mechanism will probably be managed within the existing ACP-EU institutions and bodies, including the ACP Secretariat, the Commission, and the EU Council. The ACP-EU Joint Parliamentary Assembly might also be provided with annual reports on EPA implementation (TNI, Vol. 7, No. 1: 14).

However, it is not yet certain if these clauses relating to development, technical support, and financing for adjustment in the EAC-EPA will detail specific amounts, and if these clauses will be binding in the final EAC-EPA text (bilaterals.org: Inter-Press Service, 20/11/2007).

4.3.4 Unified EAC negotiating position

The favourable agreement with the EU on development co-operation, liberalisation schedules, sensitive products, and other areas of concern to the EAC may be a reflection of the EAC's consistent common position, taken at a meeting of EAC trade ministers in early November 2007. The ministers harmonised their negotiating positions so as to present a common front to the EU in respect of such key issues of concern for the EAC, namely extension of the negotiating timeline, maintenance of the integrity of the EAC's CET (harmonisation of any EPA with the EAC CU provisions), exclusion of many sensitive products, flexibility in terms of Rules of Origin, long transition periods, substantial technical and financial support to help with implementation of the new arrangements, and clear benchmarks and budgeted priorities for development issues. The ministers stated that approaching the development issues in this fashion would establish a clear and long-term partnership (bilaterals.org, 30/10/2007). The EU provisionally agreed to many of these requests. In addition, the flexibility the EU showed in terms of the timeline, giving the EAC an additional six months over the ESA and SADC dates, was notable even given the late launch of the EAC-EPA.

This unified position of the EAC is perhaps one of the strongest and most successful taken by an ACP-EPA grouping, and is possibly largely due to their existing relationships and experiences as members of the EAC and the institutional strength, capacity, and unity of the EAC itself. In addition, the EAC members no doubt developed strong negotiating skills and knowledge of their sectors through the four year-long negotiations (2001–2004) for the EAC CU and the ongoing discussions around protocols related to the EAC Common Market. This institutional strength, capacity, unity, and negotiating experience is lacking in nearly all of the other EAC groupings and highlights both the necessity for EPA trade negotiating blocs to be based on existing regional economic communities as well as the hidden dangers posed by the continuing overlapping regional trade bloc memberships

which, for example, prevented SADC and COMESA from adopting unified positions with regard to the EPA blocs. The EAC and SACU were realistically the only blocs in eastern and southern Africa that could undertake specific EPA negotiations as coherent units. The EAC is in fact the only ACP region that has initialled IEPAs where all the members joined the EPA and accepted identical liberalisation schedules, thus reinforcing rather than splintering a regional economic community. The ESA countries and the SADC-minus states that have initialled, have done so to single agreements, but there is considerable dissimilarity in the country liberalisation schedules and exclusion baskets (Stevens et al, 2008: xiii).

It also reveals the necessity for negotiators to be highly experienced, with detailed knowledge of the compromises possible in their region and the accompanying political and elite constraints. Recent detailed, comparative research into the Interim EPAs reinforced the researchers' hypothesis that countries able to negotiate hard, knowing their interests, obtained a better deal than those lacking these characteristics (Stevens et al, 2008: xii).

The 'spaghetti bowl' of overlapping trade bloc memberships in this broad ESA region proved to have serious consequences during negotiations with their dominant trade partner, precisely when cohesion and common negotiating positions were really necessary, given the imbalance in negotiating power between the region and the EU. In the end SACU's policies and integration processes proved to be inadequate when placed under serious pressure by the EU's refusal to adopt alternative instruments to deal with the December 2007 expiry of the Cotonou Agreement. The result was a fracture within SACU's common position, with South Africa unwilling to sign an agreement covering trade in services and other 'new-generation' issues, and apparently also unwilling to agree to the inclusion of a contentious MFN (Most Favoured Nation) clause (*Business Report*, 05/03/2008).²⁹ In turn the other SACU members were unwilling to risk potentially severe damage to their agricultural exports (with beef featuring significantly in Namibia and Botswana's decisions, similar to the Kenya's horticultural market access dilemma).

This conflict was exacerbated by the fact that the TDCA was never negotiated as a SACU wide trade agreement (allAfrica.com, 06/03/2008), thus dividing the member states in the first place. It is theoretically possible though, where differences of opinion prevail in a region, for a full EPA to contain both regional provisions that would be applied to all members in the group, and country-specific ones (for instance on services or investment) that would be applied on an individual basis (TNI, Vol. 7, No. 1, February 2008: 3). This may prove controllable if the sectors in question are limited to new-generation issues, not goods, as goods are harder to control and track, but would make agreement on future regional industrial or wider economic policies harder to reach, and these policies harder to implement.

A further challenge for the EAC partner states will be to maintain internal asymmetry in line with the EAC's internal developmental programme and goals, while maintaining as united a stance as possible to the EU (TNI, Vol. 7, No. 2: 7). At the same time, the EAC's Common Market negotiations will be ongoing and are meant to conclude at the end of 2008. The EAC will no doubt have to keep the goal of deeper integration as its key priority.

4.3.5 Involvement of other stakeholders in the ongoing negotiations

The EAC has stated that the second round of negotiations for the comprehensive EPA will involve a broad multi-stakeholder constituency to ensure that what is negotiated with the EU meets the interests of the East African people (EAC Press Release, December 2007). The Ugandan government itself stated in December 2007 that trade unions would be involved in the remainder of the EPA negotiations (bilaterals.org, 27/12/2007). A further motivating factor may be the October 2007 court challenge to the apparent exclusive nature of the Kenyan government's involvement in EPAs negotiations. The Kenya Human Rights Commission, a non-governmental organisation, and small-scale growers mounted the challenge, contending that though the process of the EPA negotiations is of national concern, the Kenyan state had failed to exhaustively involve all those who stand to be adversely affected by the agreements reached. Opponents further allege that the government has refused to share information on the nature and status of the negotiations, even with the Kenyan parliament (bilaterals.org, 25/10/2007). The EALA has called for EAC partner states to review the laws relating to the ratification of treaties making it mandatory for parliaments to ratify all treaties although this review would need to occur within 2008 or early 2009 if it is to affect the ratification of the final comprehensive EPA.

If the EAC is serious about such involvement, and it is possible, given the growing emphasis on consultation as part of the EAC's integration, then this will comprise one of the few times that a regional body has involved its people to any significant extent in the EPAs process. Given the reliance of the EAC on economic integration to underpin the drive towards political federation, it would be counter-productive to concede too much access to the EU, given the fact that local NGOs are already convinced that an EPA will harm the regional economy. In other words, the EAC has larger priorities than just trade liberalisation, even if the EU is its largest trade partner, and is unlikely to agree to an EPA that would undermine or distract from its regional project, although both parties agreed at the initialling of the IEPA that they would jointly defend the Framework Agreement as and when need arises.

4.4 Reaction to the EAC-EPA

The process leading up to the launch of the EAC-EPA negotiations and the information released so far have led to quick reactions from stakeholders and associated responses from the EAC itself. These are highlighted in the subsections below.

4.4.1 Private sector reactions

After the March 2008 meeting EU-EPA negotiator Peter Thompson, accompanied by colleagues, held discussions with the EABC on the further involvement of EABC in the nego-

tiation process. The EABC has expressed its support for the commitment by both parties to conclude the negotiations by July 2009 (EABC Newsflash, 07/03/2008). Other private sector bodies such as the Confederation of Tanzania Industries said the move would strengthen the Customs Union, and the Tanzanian Private Sector Foundation said this is what the private sector had been expecting from the EAC (East African Business Week, 03/09/2007).

4.4.2 Criticism of the EAC IEPA

Regional civil society organisations have expressed dissatisfaction with the concept of an EAC-EU-EPA, saying that the agreement will hurt infant industries in the regional economies and further citing a lack of capacity to produce for the European market, reducing the significance of EU concessions and reciprocity. Other international NGOs have noted that the timeline involved probably meant that Kenya was pressured to sign an agreement, which would have serious implications for the region's development (bilaterals.org, 30/11/2007). EALA also raised concerns in September 2007 that the process was not inclusive enough, and that the inclusion of so-called Singapore issues would pose a threat to government's ability to freely determine national and sub-regional development policies. Similar to other IEPAs, the EAC-IEPA has elements that provide mechanisms through which the EU can help the EAC partners to develop their capacities and competencies in order to be able to compete with European countries when the market is fully opened up. However, the EALA further noted that adjustment costs would need to be sufficient to finance fiscal adjustment programmes as well (EALA Press Release, 16/10/2007). It appears from the structure of the EAC-IEPA that was initialled that some of these concerns have been met at least. The Ugandan Minister for East African Affairs has commented that South Africa and Egypt, which have criticised those African countries that agreed to sign interim EPAs, have direct favourable trade links with Europe via their own pre-existing trade agreements with the EU and can thus afford to 'neglect' the EPAs (tralac, 25/03/2008).

The EU has also been accused of policy incoherence in the EPAs process in that the EC DG (Directorate-General) Trade has seemingly played a larger, more dominant role than the DG Development, even though development is meant to be a central feature of the EPAs. Analysts note that the development needs in Africa in terms of attaining the MDGs outshine the trade needs, and this is true of the majority of the African EPA members. Therefore treating development as a parallel track in trade negotiations, and confining it to adjustment assistance, as the EU has consistently done during the EPAs process is seemingly not conducive to the production of development-friendly outcomes (tralac, 08/03/07).

4.4.3 Criticism of the EAC-IEPA: the EAC's defence

The EAC has been at pains to defend the initialling of the IEPA. In December 2007 it released a statement (EAC Press Release, December 2007) noting that the decision to initial an IEPA was not taken to protect the interests of any single EAC state (eg Kenya), but rather the relatively similar interests of the region. Such a statement was no doubt made to prevent accusations of traditional Kenyan dominance being used to discredit the IEPA. The EAC stated that it signed the interim EPA specifically to avoid disruption of trade between the EU and the EAC member states. The EAC noted that it, together with other regional bodies, refused to be stampeded into signing comprehensive EPAs in December 2007, due to unhappiness with the conditions involved, especially over issues of competition, trade in services, and investments, TRIPS, environment, etc (the so called new-generation or Singapore issues). As noted above, the Kenyan Ministry of Trade and Industry confirmed that all these issues would form part of the final EPA agreement negotiations agenda (Kenyan Ministry of Trade and Industry, March 2008 News). Admittedly the EAC will not be under the same pressure to sign off on a comprehensive EPA in order to retain market access preferences as was the case when they initialled the IEPA, and moreover the IEPA essentially provides for an agreement to negotiate, which does not mean an agreement must actually be concluded on all points, therefore the talks on such 'new-generation' issues, for example, could theoretically drag on inconclusively without technically breaching the IEPA (allAfrica.com, 06/03/2008).

Commentators have noted that even the agreement by the EU to consider IEPAs was a major victory for the ACP. This victory means that the remaining comprehensive EPAs are not set in stone. They will still have to be negotiated and over a longer period of a year, compared to the EU's insistence during 2007 that they be fully signed off by December 2007.

The EAC in its December 2007 statement echoed positions taken by other developing nations and groupings by observing that most of the 'new-generation' issues, which impact upon the protection of peasants, farmers, infant industries and many jobs in the EAC and ACP countries, are works in progress in the Doha Trade and Development Round. The EAC publicly allied itself with other ACP regional bodies, remarking that these issues cannot appropriately be negotiated under the EPAs without the completion of the Doha Talks. The EAC denied that its members had taken weak negotiating positions or given away any interests of the EAC to the EU. The EAC claimed that the negotiations for a comprehensive EAC-EPA would run for two years with effect from January 2008 (although the actual timeline was reduced to 18 months at the March 2008 EAC-EU meeting).

4.5 Impact of the EAC decision

The decision to pursue an EAC-EPA goes halfway to resolving the most troublesome overlapping trade commitments and memberships of the EAC member states. If the EAC could resolve the long-standing SADC/COMESA split it would complete the picture. By withdrawing from the

parallel EPAs the EAC has laid the foundation for a possible similar withdrawal by its member states from SADC and COMESA as a whole, although another possibility might be that Tanzania alone will withdraw from SADC and rejoin COMESA, especially if COMESA moves faster and more successfully than SADC along the path of deeper integration. This would leave all the EAC member states as members of COMESA, perhaps accelerating COMESA's own integration.

At the same time, the delays in agreeing to an EAC-EPA may be understandable if analysed in terms of Kenya and Tanzania's determination to remain within COMESA and SADC respectively, ie if Kenya and Tanzania had agreed to an EAC-EPA, this would have meant tacit agreement on their part that the EAC member states should logically not be members of any other regional integration initiatives, including COMESA and SADC (Braude: 2008a). Of course, this means the current decisions by the EC and the EAC to launch an EAC-EPA therefore imply the same logic, and reveal an opportunity for the EAC to resolve its overlapping membership problems. As noted earlier, Tanzania appears to value its membership of SADC as a counterweight to the influence of Kenya in the region. Analysts in the region have observed though that even if Tanzania pulled out of SADC and the SADC-EPA, it could if it wished still negotiate a future trade bilateral with South Africa (with the agreement of the other EAC members). By cultivating an ongoing relationship with South Africa, Tanzania could no doubt call on South Africa's political support where necessary.

Whichever way the process unfolds, the decision to pursue an EAC-EPA means that the first step has been taken to confirm the centrality of the EAC and its CU for the member states' trade and foreign policy. The signing of the Interim EAC-EPA Framework has thus removed a significant obstacle to the continued implementation of the EAC Customs Union, and therefore the continued smooth integration of the region. By 2006 the WTO had already noted that 'EAC countries' membership in overlapping trade arrangements makes their trade regime complex, difficult to manage, and is likely to limit the proper functioning of the EAC as a customs union.' (WTO Press Release, 27/10/2006).

The decision by the EAC will help to quell speculation that the EAC would run out of political steam when faced with the challenges of too many overlapping regional arrangements. The EAC will gain more by negotiating as a bloc and would increase its bargaining power if it operated as a true unit. It is also quite possible that when the initial decision to pursue an EAC-EPA was taken in 2002, all three member states wished to 'cover their bets' while waiting to see how the EAC's own integration would unfold. It is also probable that, at the time, the EAC technocrats and respective national Revenue and Trade authorities did not feel confident enough to pursue negotiations with the EU as a bloc. However, a combination of experience gained through participation in the ongoing ESA and SADC negotiations plus, most importantly, the successful negotiation of the EAC CU, may have set the stage for a further push by supporters of an EAC-EPA. The presidents alluded to the experience gained in their June 2007 communiqué by stating that EAC-EPA negotiations would take into account and build on the milestones already achieved under ESA-EPA and SADC-EPA to advance the EAC's interests.

Without agreement on an EAC-EPA, the EAC would have had to continue the CU integra-

tion while operating two parallel EPAs, as noted in the section above dealing with impact on RECs of parallel EPAs. It would have been extremely difficult to prevent spillover or leakage of EU products within the EAC Customs territory, similar to the problems currently experienced by Botswana, Namibia, Swaziland, and Namibia in preventing EU goods imported into South Africa under the EU-SA TDCA from crossing their borders. Officials from these SACU states say that they are in practice not able to prevent this, as the cost of monitoring and blocking such goods would be enormous and would undermine the very concept of the free flow of goods within the Customs Union (Braude, 2008b).

Although it could be argued that the EAC already has experience in juggling parallel trading arrangements though the existing EAC/COMESA/SADC fault line, and thus could probably have integrated the parallel EPAs to some degree, the commencement of parallel ESA and SADC-EPAs would have added another fault-line and considerable layer of administration and compliance to an already complex regional trading architecture. The EAC would then have had to simultaneously juggle:

- the existing SADC/COMESA divide with respect to trade between EAC-COMESA and EAC-SADC members;
- a new ESA-EPA/SADC-EPA divide with respect to trade with the EU;
- the continued staggered implementation of its own CU; and
- the commencement of negotiations around an EAC Common Market Protocol, followed by its implementation in early 2010.

5. Additional EPA challenges

The subsections below examine various clauses and aspects of the IEPAs which have proved to be the most contentious, and which have been highlighted by ACP governments, civil society, and international NGOs as likely to undermine any positive impact of the EPAs as well as the relationship between the EU and the ACP states.

5.1 Renegotiation of the Interim EPAs

Should the European Commission refuse any request to reconsider some provisions contained in the Interim Agreements, which were in many cases signed in haste to beat the December deadline, commentators believe that it would be a fatal blow to the notion that EPAs are based on equal partnerships. The extent to which these interim deals can be revised within the EPAs process is not certain (TNI, Vol. 7, No. 1: 3), but in terms of the WTO, the WTO Transparency Decision specifically provides for the possibility of renegotiating an already-notified agreement. WTO members have done this on five occasions already.³⁰ The only requirements are that the renegotiated agreement be re-notified to the WTO and that it remain WTO-compliant (TNI, Vol. 7, No. 3: 5).

Statements in late January 2008 by European Trade Commissioner Peter Mandelson indicated that he is not in favour of a fresh dialogue on EPA deals already secured, although this appears to contradict statements made during December 2007's EU-Africa summit by European Commission President José Manuel Barroso, when he said that contentious clauses in EPA accords signed before 31 December could be opened for further discussion at a later stage. Mandelson denied that this entailed a commitment to renegotiate (IPS, 29/01/2008). The Chairperson of the African Union (AU), Alpha Oumar Konaré, addressed a letter to Barroso on 6 February, calling for the re-opening of the EPA negotiations process, to take into account the development and economic integration strategies adopted by the continent through the Constitutive Act of the AU. Africa wants the EPAs to focus on the AU Agenda for African integration (AU Press Release, No. 40/2008).

President Barroso reiterated his position in early March 2008, stating in a letter to the ACP Council President that the European Commission remains available for high-level talks on the EPAs. Barroso said he would take part in a meeting but that the regions, senior officials, and technical experts must first lay the groundwork (TNI, Vol. 7, No. 2, March 2008: 14). The AU used the Conference of the African Ministers of Trade and Finance, on 1-3 April 2008, to undertake this preparation for the expected consultations (AU Press Release, No. 56/2008). African countries seem set on demanding such renegotiation, with African Union Commissioner for Trade and Industry Elizabeth Tankeu stating during this AU ministerial summit that the interim agreements contain some elements, such as the MFN clause, elimination of export subsidies, and standstill clause which have the effect of reducing the policy space for African countries. In addition, African countries at the meeting expressed dissatisfaction with some of the tariff concession structures contained in the interim EPAs, and the development support arrangements under the interim agreements. Representatives stated that the budgetary support programmes were insufficient to help them support their economies as they tried to implement the new EPAs, accusing Brussels of not making a binding financial commitment for additional resources (tralac, 08/04/2008).

Commissioner Mandelson likewise seemingly reiterated his position, with regard to SADC at least, at a SADC ministerial meeting on 4 March, saying that he was not prepared to renegotiate the Interim SADC-EPA, but would consider adjustments in the context of the next stage of the negotiations (Business Report, 05/03/2008). However, the danger also exists that re-opening the interim negotiations could also then lead to new demands from the EU itself, thus adding risk to such a strategy. In the SADC-EPA's case, the benefits of safeguarding long-term sustainable development appear to have outweighed the risks of standing their ground for South Africa and Namibia³¹ when they refused to agree to provisions on Most Favoured Nation treatment and 'new-generation' issues, ie trade in services and other trade-related issues (see below).

5.2 Provisional application of clauses and time lines for ratification

The EC's EPA Regulation provides for the withdrawal of market access preferences if an ACP country signals its intention not to ratify an EPA, or if ratification does not take place within a reasonable period of time, or if the agreement (or its substance) is terminated. Timelines for ratification of trade agreements vary considerably. In the example of the South Africa-EU TDCA, South Africa ratified the agreement within a month, but some of the EU member states only ratified the agreement nearly five years later. The ACP countries therefore have a case that they should not be expected to ratify the EPAs rapidly. However, a danger exists that the withdrawal of provisional application of an agreement or aspects of it could be seen as an indication of an ACP country's intention not to ratify the agreement. Legal commentators note that ACP countries should therefore be careful about applying any aspects of an interim or full EPA on a provisional basis. At the same time, seeking to renegotiate an agreement should not be taken as signalling an intent to sidestep ratification. The EU's EPA Regulation is designed to ensure WTO compatibility, not as a means for either party to protect their negotiating position (TNI, Vol. 7, No. 3: 5).

It would be very useful to the ACP countries who will now negotiate comprehensive EPAs if, instead of moving from interim agreements directly to full EPAs, they were to address different areas of negotiations step-by-step through a built-in agenda consisting of rendezvous clauses with different issue-specific deadlines to finalise negotiations in these areas. Implementing commitments in line with this agenda could further be made conditional by the ACP states on the availability of support for capacity building (Stevens et al, 2008: xvi).

5.3 Additional IEPA challenges: the MFN clause

All of the IEPAs and the CARIFORUM EPA³² contain the controversial MFN clause.³³ This clause is unique for the EU as it is not found in its FTAs with South Africa (the TDCA), Mexico, Chile, or seemingly any other EU trade agreement (Stevens et al, 2008: 58). This clause requires EPA signatories to extend to the EU any trade concession that they grant in future to a third party as long such third party is a developed country or has a one percent share of world merchandise exports (this would include China, India and Brazil), or is a grouping with a minimum 1,5 per cent share of such exports. In SACU's case, South Africa and Namibia have objected to this provision (TNI Vol. 7, No. 2, March 2008: 1-2). Brazil, supported by other developing countries such as South Africa, China, India, Paraguay, and Argentina, has also raised objections to this MFN requirement at the WTO, stating that it contradicts the WTO 'Enabling Clause' designed to increase developing country participation in global trade. This clause, adopted under GATT in 1979, was designed to increase trade between developing countries on a preferential basis by allowing developed members to give differential and more favourable treatment to developing countries while not doing so to wealthy ones. The MFN clause would most likely inhibit South-South trade and

encourage rather North-South agreements, locking ACP developing countries pre-emptively into an uncontested relationship with the EU and even other developed countries if the practice spreads beyond the EU.³⁴ Given that the EU's products are not automatically the cheapest or most competitive globally, it would also have the effect of increasing trade diversion in cases where products or services from more efficient suppliers were displaced by less efficient EU suppliers.

The EU's defence has been that the MFN clause's actions are not specifically prohibited by the Enabling Clause, and that Europe's generosity in terms of aid for development did not mean that it would allow its partner countries to grant more favourable treatment to its commercial rivals (TNI Vol. 7, No. 2, March 2008: 1-2). This second defence could be read to mean that in return for aid the ACP must accept such restrictions on their trade policy options and trade liberalisation, ironically thus perpetuating a dependent relationship within a segment of the global trading system, precisely when the system is moving in the opposite direction. The developing country objections have arisen because the primary purpose of a bilateral or regional deal is to exchange concessions that are better than what is available to outsiders, but the inclusion of the MFN clause would prevent ACP states from offering secured concessions to new trade partners. For example, if China realises that entering an agreement with the EAC means all 27 developed countries in the EC automatically get similar treatment, the incentive to enter into such a trade deal could be severely diminished, ie Chinese firms would have no real advantage over the EU member states in the EAC market as a result of a bilateral trade deal, even though EAC states would enjoy the usual bilateral advantages in the Chinese market.

Commentators note that it was probably China, Brazil, and India's entrance into expanded trading relationships with other ACP developing countries, traditionally the EU's captive market, which increased the EU's desire to negotiate EPAs (TNI Vol. 7, No. 2: 1).

The MFN clause and WTO notification of the IEPAs

It is possible that Brazil and others will not be able to challenge the MFN clauses in the WTO until the EU has formally notified the WTO of the signed Caribbean EPA and IEPAs, thus allowing EPA and IEPA provisions to remain beyond thorough WTO examination for now (TNI Vol. 7, No. 2, March 2008: 3). Brazil is expected to ask for the issue to be placed on the agenda for the next WTO General Council's meeting. However, legal analysts believe that even the initialled texts should be sufficient to notify the WTO of the existence of the agreements (TNI Vol. 7, No. 3: 4). This is reinforced by the fact that the EU's extension of market access preferences is already operating only under the initialled agreements. In addition, although the IEPAs and Caribbean EPA will only enter into force upon their ratification, or after ratification if this is specified (which it is in the IEPAs and Caribbean EPA), the EPA Regulation³⁵ under which the EU grants tariff preferences to any ACP country that has initialled an interim or full EPA, was specifically drawn up to ensure the WTO-legality of tariff preferences granted under an interim or full EPA, and to enable these agreements (once initialled) to be notified to the WTO (TNI, Vol. 7, No. 3: 4).

In this regard, although the European Commission insisted on concluding interim and full EPA deals before the end of 2007 to meet WTO requirements, and thereby allegedly avoiding challenges from other non-ACP developing countries, it may not yet have complied with some related WTO obligations itself. By unilaterally starting to implement these agreements without prior notification to the WTO, the EU may be directly violating GATT Article XXIV on regional agreements and the related WTO decision on transparency procedures. Under these rules, it should have notified the WTO of its intention to implement such trade agreements before the agreements started operating, even as interim agreements, ie before the preferences commenced on 1 January 2008, (TNI, Vol. 7, No. 1, February 2008: 2).

Analysts have moreover commented that Brussels was seemingly exaggerating the risk of legal challenges to a further Cotonou Agreement waiver in the first place, in that WTO cases can take years to resolve, and even a generic framework to conclude an accord within a fixed future timeframe might well have been deemed sufficient to satisfy the WTO's unclear and untested rules for bilateral free trade agreements (TNI, Vol. 7, No.2, March 2008: 4).

5.4 Additional IEPA challenges: export taxes

Another potentially problematic clause in the EAC, SADC, and ESA-IEPAs is a provision that prohibits the introduction of export taxes, although the EAC-IEPA has more leeway than the SADC or ESA-IEPAs. Within SACU, Namibia has expressed concerns about the constraints this provision puts on their ability to use export taxes to promote domestic processing, notably of hides, but more broadly to use export taxes as a policy instrument for development purposes (allAfrica.com, 06/03/2008).

All three IEPAs state that no new export duties on EU goods shall be introduced, or existing export duties increased. In the case of the EAC, the temporary introduction or increase of tariffs is allowed in the case of infant industry protection or to maintain currency value stability, subject to authorisation of a joint EAC-EC Council. The EPA Council will also review the measures after two years. In the SADC-EPA the temporary introduction or increase of such duties is allowed in exceptional circumstances, eg for infant industry protection. However, the EC needs to be consulted in each case (Stevens et al, 2008: 140).

5.5 Additional IEPA challenges: the standstill clause

The 'Standstill Clause' (Article 13) is particularly strict for ESA and EAC countries. It freezes tariffs on all trade between the two parties, whether or not products are subject to liberalisation. Thus, even if a product is on the 'exclusion list', the tariff cannot be raised after the EPA enters into force (TNI, Vol. 7 No. 3: 14). The SADC- IEPA at least limits the standstill clause to products that will be liberalised only (Stevens et al, 2008: 140). This

then restricts the policy space of the relevant developing countries to promote infant industry or sectors. However, this also implies that the EU cannot raise tariffs in the few EU sectors not covered by the EPAs. Given the economic disparities between the parties and the number of infant or vulnerable sectors in the ACP states the potential negative impact of such a clause would fall squarely on the ACP signatories.

5.6 Additional IEPA challenges: EDF funding and regional membership

A potential conflict between the allocation of EDF funding and regional membership will also still have to be resolved. EDF funding is meant to be allocated on the basis of membership to a regional economic community such as the EAC or COMESA, yet most EPA signatories, EAC states included, are still members of more than one regional trade bloc. A country cannot receive EU funding from two different regional economic communities as this would mean the country has double access to funds compared to other states. Unless the EU comes up with a formula for funding countries that belong to more than one such community, there may be increased EU pressure for countries to relinquish membership in multiple trade blocs. The situation is complicated by the fact that the EU funds a large portion of the budgets for many of the regional Secretariats as well, which could mean duplication of EU funding for regional development. However, countries have resisted EU pressure to date to rationalise such memberships, and analysts believe that the legitimacy of the EPAs declared aim to strengthen regional integration has been compromised by the mismatch between the composition of the African EPA blocs and existing regional blocs anyway, thus undermining any potential EU attempts to use EDF funding to rationalise regional memberships (bilaterals.org, 31/01/08).

5.7 AU Commission EPA Co-ordination Mechanism

It is possible that the African Union Commission may play a role in resolving some of these issues, through its EPA Co-ordination Mechanism, which is meant to monitor, co-ordinate and harmonise the EPA negotiations. The mechanism includes the gathering and exchange of information on EPA negotiations among African regional economic communities and also identification of areas of common interest across EPA groupings (AU Ministerial Declaration, June 2005). The AU Commission in early April 2008 proposed the establishment of a panel of trade, legal, and development experts to work on the harmonisation of the EPA texts in accordance with the Nairobi Trade Ministers Declaration of 2006 on EPA Negotiations (AU Press Release, No. 56/2008), although it is not certain how this process will interact with the EPA groupings without slowing down the overall processes, given the time constraints in meeting the next EPA deadline. The EPA Co-ordination Mechanism may also be more useful as a political forum for limiting EU pressure on African and ACP nations and groupings that are unwilling or unable to meet the deadlines for the conclu-

sion of comprehensive EPA negotiations.

6. Conclusion

It could be argued that the three affected southern and eastern African RECs (COMESA, SADC, and SACU) already have experience in juggling parallel trading arrangements through the existing COMESA/SADC fault lines, and in the case of SACU, the SACU CU and TDCA fault-lines, and thus can probably integrate the parallel EPAs. However, this reality is a double-edged sword. Although it has given them experience in complex trading overlaps, it consumes additional resources to integrate this duality, especially with the upcoming implementation of the COMESA and SADC CU, the ongoing implementation of the SACU CU, and the need for resolution of the CU overlaps themselves. The EAC appears to have narrowly escaped such additional complexity and the possible endangering of its new CU.

If the EPAs cannot be harmonised with the upcoming CUs then the ESA and SADC EPAs will add another layer of administration and compliance to an already complex regional trading architecture. The RECs would then have to simultaneously juggle:

- the existing SADC/COMESA divide with respect to trade between COMESA and SADC members;
- a new ESA EPA / SADC EPA divide with respect to trade with the EU;
- the launch of their own CUs; and
- the sensitive process of rationalisation that will need to occur as the launch of each successive CU is finalised, as outlined earlier in this paper.

The very real danger is that the combined administrative, political, and financial burdens of these four agendas will immobilise or even seriously compromise the effective functioning of the RECs' own regional integration phases and agendas. This is not to mention the potentially negative revenue and trade-related impacts of the EPAs themselves on the various member states, precisely at a juncture where they really need to remain focused on entrenching their integration and stimulating regional economic growth and government revenue in order to succeed with their regional integration agendas.

Annex 1: Exclusion basket differences in the ESA and SADC

Table 1: Summary of ESA exclusions

| | HS6 subheads | |
|---|--------------|------------|
| | Number | Proportion |
| # HS6 subheads which are excluded by any country ^a of which: | 1,347 | 100% |
| excluded by 5 countries | — | 0% |
| excluded by 4 countries | 9 | 1% |
| excluded by 3 countries | 45 | 3% |
| excluded by 2 countries | 227 | 17% |
| excluded by 1 country only | 1,066 | 79% |

Note:

(a) All countries' exclusions are set at HS6, except for 7 of Comoros's (five of which fall into HS 330129, one into 330190 and one into 870831). 1,260 of the excluded codes are currently valid. 83 (five of Comoros's, 16 of Madagascar's, eight of Mauritius's, seven of Seychelles's and 51 of Zimbabwe's) are in codes which are not now valid (72 appear to have ceased to be valid at end of 2006, seven at end 2001, and four at end 1995. Four of Comoros's exclusions are in 60-digit codes which don't appear ever to have been in the HS.

Table 2: Summary of SADC exclusions

| | HS6 subheads | |
|--|--------------|------------|
| | Number | Proportion |
| # HS6 subheads which are excluded by either party ^b of which: | 3,134 | 100% |
| excluded by 5 countries | 649 | 21% |
| excluded by 4 countries | 2,485 | 79% |

Notes:

(a) The 1,012 BLNS items excluded from full liberalisation are at a mixture of 8-digit NTL level (289) and HS6 (723), falling into 869 different HS6 sub-heads. Of these, 97 also contain elements which are to be liberalised. The Mozambique market access schedule is entirely at 8-digit NTL level, and does not list exclusions. These have been identified from the Mozambique tariff schedule as 3,268 NTL codes falling into 3,187 different HS6 sub-heads, 22 of which also contain elements which are being liberalised.

(b) This includes only HS6 sub-heads which are valid in both 2006 and 2007. Since the BLNS market access schedule is in HS2007, and the Mozambique schedule in HS 2002, there are a number of incomparable codes. The BLNS exclusions include 21 codes which came into existence only in 2007 (and which therefore cannot appear in the Mozambique schedule), whilst the Mozambique exclusions include 252 codes that ceased to be valid at end 2006 (which cannot appear in the BLNS schedule). Thus, while a total of 3,407 different HS6 sub-heads are included in the two parties' exclusion lists, only 3,134 of these are 'comparable.'

Table 3: Comparison of African EPA liberalisation schedules

| Duration | 15 years or fewer | 16–20 years | 20+ years |
|---|---|---|--|
| | BLNS Comoros Côte d'Ivoire Ghana Madagascar Mauritius Mozambique Seychelles | Cameroon Zimbabwe | All EAC |
| Liberalisation starts for positive-tariff goods | 2 years or fewer | 3–5 years | 6+ years |
| | BLNS Côte d'Ivoire Ghana Mauritius Mozambique | Cameroon | All EAC Comoros Madagascar Seychelles Zimbabwe |
| Impact of early tranche(s) | High | Medium | Low |
| Adjustment | BLNS Côte d'Ivoire Mozambique Zimbabwe Seychelles | Ghana Madagascar Mauritius | All EAC Cameroon Comoros |
| | 30%+ | 10%–30% | Under 10% |
| | Burundi Côte d'Ivoire Kenya Madagascar Mozambique Rwanda Seychelles Tanzania Uganda Zimbabwe | Cameroon Comoros Ghana Mauritius Namibia | Botswana Lesotho Swaziland Seychelles |
| Exclusions | Under 15% | 15%–20% | 20%+ |
| | Lesotho Mauritius Namibia Seychelles Swaziland | Côte d'Ivoire Kenya Uganda Comoros Madagascar | Botswana Burundi Cameroon Ghana Mozambique Rwanda Tanzania Zimbabwe |

Endnotes

- 1 COMESA members are: Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt; Eritrea, Ethiopia, Kenya, Libya (joined 2005), Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe. Angola was previously a member but suspended its membership to focus on SADC.
- 2 SADC members are: Angola, Botswana, the Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles (readmitted in August 2007), South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe.
- 3 IGAD member are the six countries in the Horn of Africa – Djibouti, Ethiopia, Kenya, Somalia, Sudan and Uganda. IGAD's mission is to assist member states to co-operate in the areas of food security and environmental protection; promotion and maintenance of peace and security and humanitarian affairs; and economic co-operation and integration (www.igad.org).
- 4 ECCAS members are: Angola, Burundi, Cameroon, Central African Republic, Gabon and the DRC, Equatorial Guinea, Principe & Sao Tome, and Chad.
- 5 Methodological note: Although the EAC now comprises five member states with the inclusion of Rwanda and Burundi in July of this year, the analysis in this paper is often limited to the three founding states (Kenya, Uganda, and Tanzania) due to the fact that the two new states were only formally admitted on 1 July 2007.
- 6 The African Union has halted the recognition of any new or existing RECs, and currently in the region only EAC, SADC, COMESA, IGAD and ECCAS are recognised as building blocks of the proposed African Economic Community.
- 7 DRC, Madagascar, Malawi, Mauritius, Seychelles, Swaziland, Zambia, and Zimbabwe are SADC as well as COMESA members. Angola was in this position as well but has suspended its COMESA membership. Seychelles however rejoined SADC in 2007 while retaining its COMESA membership.
- 8 Although Zambia initialled the interim ESA-EPA text, no market access offer was agreed upon with the EU. Zambia has been exporting to the EU under the EBA regime since 1 January 2008 (Stevens et al, 2008: 98).
- 9 An EPA group does not strictly speaking constitute a Customs Union, as it is only maintaining a 'CET' with one trade partner, not with the entire world. Thus a country can on paper be a member of a CU and also a member of a non-complementary EPA group. In reality as noted however, this would require the CU to retard its own internal tariff liberalisation to maintain differing rates towards the same trade partner.
- 10 The ESA-IEPA allows for revision of the internal ESA liberalisation schedules in light of regional integration (Stevens et al, 2008: 139), but none of the EPAs appear to allow for future harmonisation across EPAs.
- 11 There is significant difference in the ESA-IEPA exclusion baskets. There is not a single item that is being excluded by all five countries and over three quarters are being excluded by just one country. In the case of the SADC-IEPA, just one fifth of the items are being excluded by both the BNLS and Mozambique (Stevens et al, 2008: 53)
- 12 Ministers from COMESA, EAC, and SADC countries recommended, during a tripartite meeting in March 2006, harmonising their EPA negotiating positions, co-ordinating their positions on tariffs, including their phasing down, as well as their stance on sensitive products.
- 13 The outgoing COMESA secretary general, Mr Erastus Mwencha, stated in mid-May 2008 that the creation of the COMESA CU would be completed on time as it would be modelled along the East African Customs Union system (tralac, 21/05/2008).

- 14 Profile: Common Market for Eastern and Southern Africa (COMESA) <http://www.africa-union.org/Recs/recs.htm>
- 15 In addition, Rwanda and Burundi are members of ECCAS (the Economic Community of Central African States), but ECCAS is not planning to implement deeper integration in the near future.
- 16 The Tanzanian business community's pro-COMESA arguments illustrate the fact that Tanzania runs balance-of-trade surpluses with many COMESA members, but the opposite is currently true of its trade with SADC member states.
- 17 First place for investment in Tanzania in 2006 went to the UK, followed by Kenya, then India, then China, and then South Africa (Tanzania Investment Centre, 2007).
- 18 'Lessons from the EAC', a soon-to-be published study conducted by this researcher on behalf of the South African Institute for International Affairs.
- 19 A motivating factor, no doubt, is that Kenyan manufacturing is the fastest growing manufacturing sector in COMESA.
- 20 A meeting was held between the Executive Officers of COMESA, SADC, and the EAC in Gaborone in mid-2006 and a follow-up meeting was held in 2007 in Zanzibar. A Tripartite Task Force was set up in 2006 between COMESA, EAC, and SADC, with the hope of incorporating SACU in future discussions as well.
- 21 The other factor ensuring that it is only a partial Customs Union currently is the asymmetry agreement between Kenya, Uganda and Tanzania that allows for continued (albeit reducing from 2005 to end 2009) internal EAC tariffs on Kenyan goods by Uganda and Tanzania. However, this is to do with issues of intra-EAC competition rather than trade blocs.
- 22 Key factors included a lack of effective political will, a lack of significant participation of the private sector and civil society, inequitable fiscal redistribution of gains, inter-territorial imbalances in trade, currency system disharmony, and constitutional impediments (Kyazze, J [2005], cited in Braude: 2008a).
- 23 Interestingly, Mold (2007) also points out that the effects of EPA trade creation and therefore welfare gains may be overstated due to the fact that the EU is not necessarily the most efficient supplier to the ACP when compared, for example, to South and East Asia, thus leading to increased trade diversion caused by the EU itself.
- 24 This exclusion-basket issue could lead to dumping and trans-shipment. For example, if Malawi chooses not to liberalise a product and maintains its tariff levels in its ESA offer but Zambia removes all duties on the same product, traders may try to avoid Malawi's restrictions by transporting cheap (and possibly dumped) goods imported from the EU to Zambia.
- 25 Note that Stevens and Kennan acknowledge that their method for identifying product exclusion lists is rather mechanistic and tends to overstate the problem of harmonisation because it does not factor in the ability of ACP governments to compromise on what they will exclude from liberalisation.
- 26 Using Computable General Equilibrium modelling, and based on the GTAP database, by Perez (2007, cited in Mold: 2007).
- 27 'Under international treaty law, initialling an agreement demonstrates that the text is authentic and definitive, ready for signature, or less often, ready for provisional application. But an initialled text does not itself impose any obligations on the parties. The parties to an agreement are only under an obligation to implement its terms once it has entered into force, which takes place upon ratification,

- or after ratification if this is specified in the treaty (as it is in the interim and full EPAs). On signature (but not on initialling), a country enters into an obligation not to defeat its object and purpose prior to its entry into force' (TNI, Vol. 7, No. 3: 4).
- 28 Researchers estimate that in practice, compared to current spending, AfT-related increases should bring an annual increase of €300-400 million for trade-related assistance in ACP countries and regions. However, the EU-AfT Strategy is still a general policy framework and the move from pledges to delivery by member states will need to be discussed in 2008, so the only legally guaranteed EU AfT at present, including development support for EPA implementation, will come through the intergovernmental (9th and 10th) EDFs, managed and implemented by the EC on behalf of member states (Stevens et al, 2008: 102-3).
- 29 The Deputy Minister of Trade and Industry in South Africa, Rob Davies, has gone as far as to say that African countries should ignore the EPAs as the continent is not ready for them (bilaterals.org, 25/04/2008).
- 30 For further examples, see: www.wto.org/english/tratop_e/region_e/notif_changes_e.htm.
- 31 Trade in services and other trade-related issues are not required for an EPA to be WTO compatible. As a result, Namibia's IEPA would still be WTO compliant. Article 46 of the Cotonou Agreement creates no mandatory obligation on ACP countries to negotiate additional commitments to those they have already made at multilateral level (Tralac, 21/05/2008).
- 32 The SADC-EPA, CARIFORUM-EPA and PACP-EPA parties will jointly decide in each EPA with the EU how this clause can be best applied (Stevens et al, 2008: 58).
- 33 Inclusion of a MFN clause is not required for an EPA to be WTO compatible (TNI, Vol. 7, No. 3: 4).
- 34 It should be noted that the TRIPS Agreement in the WTO does not contain any exception to the MFN principle, and therefore will oblige ACP EPA signatories to extend new Intellectual Property commitments (within the EPA context) to all other WTO members (Tralac, 21/05/2008).
- 35 Council Regulation 1528/2007 of 20 December 2007 [2007] OJ L348/1.

Bibliography

- Afedraru, L, 2007. Uganda: Workers get nod for EPAs talks. *The Monitor*, Kampala, [Online]. 27 December. Posted on www.bilaterals.org 27 December 2007. Available at: <http://allafrica.com/stories/200712270920.html> [accessed 2 April 2008].
- African Trade Policy Centre – UN Economic Commission for Africa, 2007. Continental review of the EPA negotiations: a survey of African countries' perspectives. *Trade Negotiations Insights*, [Online] 6(2), March-April 2007. Available at: <http://www.acp-eu-trade.org/index.php?loc=tni/index.php> [accessed 10 August 2007].
- African Union (AU), 2008. Press Release, 40/2008, [Online]. Available at: http://www.africa-union.org/root/au/Conferences/2008/february/Brussels/African_grp_geneva.doc [accessed 3 April 2008].
- African Union (AU), 2008. Press Release, 56/2008, [Online]. Available at: <http://www.africa-union.org/root/UA/actualites/2008/mars/trade%20ministers%2027-03-08.doc> [accessed 3 April 2008].
- African Union (AU), 2008. AU's ministerial declaration on EPA negotiations. AU Conference of Ministers of Trade: 3rd Ordinary Session, [Online]. Cairo, Arab Republic of Egypt, 5 – 9 June, 2005. African Union: Addis Adaba. Available at: http://www.twinside.org.sg/title2/FTAs/General/AFRICAN_UNION.Cairo_Decl.doc [accessed 2 April 2008].
- Barigaba, J, 2007. ESA rejects European bid to bring COMESA into trade talks. *The East African*, [Online] 13 March. Posted on www.bilaterals.org 15 March 2007. Available at: http://www.bilaterals.org/article.php?id_article=7468 [accessed 12 May 2007].
- Bartels, L, 2008. The legal status of the initialled EPAs. *Trade Negotiations Insights*, [Online] 7(3), April 2008. Available at: http://www.acp-eu-trade.org/library/files/TNI_EN_7-3.pdf [accessed 03 April 2008].
- Bertelsmann-Scott, T, 2007. Difficult deadline: challenges of the SADC EPA negotiations. *Trade Negotiations Insights*, [Online] 6(4), July-August 2007. Available at: <http://www.acp-eu-trade.org/index.php?loc=tni/index.php> [accessed 30 July 2007].
- Bilal, S, 2008. EPA deals as stepping stones or stumbling blocks? *Trade Negotiations Insights*, [Online] 7(1), February 2008. Available at: http://www.acp-eu-trade.org/library/files/TNI_EN_7-1.pdf [accessed 12 March 2008].
- Bilal, S & Szepesi, S, 2003. EPA impact studies: SADC and the regional coherence, [Online]. InBrief Series No.2. Maastricht: European Centre for Development Policy Management (ECDPM). Available at: <http://www.ecdpm.org/inbrief2b> [accessed 12 May 2007].
- Bilal, S., 2007. Concluding EPA Negotiations: Legal and institutional issues, [Online]. ECDPM Policy Management Report 12. Maastricht: ECDPM. Available at: http://www.ecdpm.org/Web_ECDPM/Web/Content/Navigation.nsf/index2?readform&http://www.ecdpm.org/Web_ECDPM/Web/Content/Content.nsf/0/F0B2592B42141909C1257308005011A1?OpenDocument [accessed 19 July 2007].
- Bilaterals.org, 2007. EU-EAC interim FTA (2007), [Online]. Posted on www.bilaterals.org, 12 December 2007. Available at: http://www.bilaterals.org/article.php?id_article=10603 [accessed 28 January 2008].
- Braude, W, 2008a. Lessons from the East African Community. Unpublished book. (scheduled for publication July 2008). Johannesburg: South African Institute for International Affairs (SAIIA).

- Braude, W, 2008b. Regional trading arrangements and sustainable development in SACU. Unpublished paper (scheduled for publication July 2008). Winnipeg, Canada: International Institute for Sustainable Development (IISD).
- Castro, L, Kraus, C and De la Rocha, M, 2004. Regional trade integration in East Africa: Trade and revenue impacts of the planned East African Community Customs Union [Online]. Africa Region Working Paper Series No. 72. World Bank. Available at: <http://www.worldbank.org/afr/wps/wp72.htm> [accessed 13 May 2007].
- Cronin, D, 2008. Africa: Africans Stuck With EU Deals. Inter-Press Service (IPS), [Online] 29 January. Available at: <http://allafrica.com/stories/200801290565.html> [accessed 12 February 2008].
- David, J, 2007. East Africa: Ministers Move to Protect Industries From Threats of EPAs. East African Business Week, Kampala, [Online] 29 October. Posted on www.bilaterals.org 30 October 2007. Available at: <http://allafrica.com/stories/200710292092.html> [accessed 28 January 2008].
- Department of Trade and Industry, South Africa, 2008. Briefing notes on EPA negotiations: Presentation to Joint Foreign Affairs and Trade and Industry hearings, 27/2/2008, [Online]. Available at: <http://www.thedti.gov.za/parliamentary/epa.pdf> [accessed 12 April 2008].
- Dièye, CT, and Hanson, V, 2008. MFN provisions in EPAs: a threat to South-South trade? Trade Negotiations Insights, [Online] 7(2), March 2008. Available at: http://www.acp-eu-trade.org/library/files/TNI_EN_7-2.pdf [accessed 12 March 2008].
- East African Business Council (EABC), 2007. EABC Newsflash: EAC to negotiate EPAs jointly, April 13th, 2007, [Online]. Available at: http://www.tralac.org/pdf/20070418_EABC_newsflash_Apr_13%5B1%5D.pdf [accessed 22 April 2007].
- East African Business Council (EABC), 2007. EABC Newsflash: EPAs negotiations continue, March 7th, 2008, [Online]. Available at: <http://www.eabc-online.com/Newsflash/Newsflash%20march%207.pdf> [accessed 31 March 2007].
- East African Business Council (EABC), 2007. Status of Economic Partnership Agreements – private sector regional workshop, Arusha, Tanzania, 19th – 20th October 2006, workshop report, [Online]. Available at: http://www.eabc-online.com/downloads/FINAL_WORKSHOP_REPORT.doc [accessed 11 August 2007].
- East African Community (EAC), 2005. Third Extraordinary Summit of Heads of State of the East African Community, Joint Communiqué, 30 May 2005, [Online]. Arusha: EAC Secretariat. Available at: http://www.eac.int/COMMUNIQUE_3RD_EXTRA_ORD_SUMMIT_DAR_29-30MAY05.pdf [accessed 15 July 2005].
- East African Community (EAC), 2006. Joint Communiqué of the 8th Summit of EAC Heads of State, 30 November 2006, [Online]. Arusha: EAC Secretariat. Available at: http://www.eac.int/news_2006_8th_summit_communique.pdf [accessed 17 December 2006].
- East African Community (EAC), 2006. Presentation of the report of the Council of Ministers for the period 30 March to 29 November 2006 to the 8th Summit of Heads of State by Honourable John Koech Chairperson of the Council of Ministers of the East African Community, Arusha, 30 November 2006, [Online]. Arusha: EAC Secretariat. Available at: http://www.eac.int/news_2006_council_report_to_8th_Summit.pdf [accessed 17 December 2006].

BIBLIOGRAPHY

- East African Community (EAC), 2006. Press Release – 12th Meeting of the Council of Ministers of The East African Community, Arusha, 21st to 25th August 2006, [Online]. Arusha: EAC Secretariat. Available at: http://www.eac.int/news_2006_08_council_ministers_press_release.htm [accessed 28 February 2007].
- East African Community (EAC), 2006. Seventh Summit of Heads of State of the East African Community, Joint Communiqué, 05 April 2006, [Online]. Arusha: EAC Secretariat. Available at: http://www.eac.int/news_2006_04_7th_summit_communique.htm [accessed 27 February 2007].
- East African Community (EAC), 2006. Statement by Ms Beatrice B Kiraso - Deputy Secretary General (Political Federation) East African Community at the 8th Annual General Meeting of the East African Business Council, Kampala, 7 June 2006, [Online]. Arusha: EAC Secretariat. Available at: http://www.eac.int/news_speech_by_B_Kiraso_at_EABC_June_06.htm [accessed 17 December 2007].
- East African Community (EAC), 2006. Welcoming remarks By Ambassador Juma Mwapachu, Secretary General, East African Community during the 8th Summit of EAC Heads of State, Arusha, 30 November 2006, [Online]. Arusha: EAC Secretariat. Available at: http://www.eac.int/news_2006_8th_summit_SG_statement.pdf [accessed 17 December 2006].
- East African Community (EAC), 2007. EAC Development Strategy 2006 – 2010: Deepening and Accelerating Integration, [Online]. Arusha: EAC Secretariat. Available at: www.eac.int [accessed 26 February 2006].
- East African Community (EAC), 2007. Fifth Extraordinary Summit of Heads of State of the East African Community, Joint Communiqué, 18 June 2007, [Online]. Arusha: EAC Secretariat. Available at: http://www.eac.int/news_2007_june_summit_communique.pdf [accessed 19 July 2007].
- East African Community (EAC), 2007. Statement by Ambassador Juma Mwapachu, Secretary General, East African Community during the Opening of the 3rd meeting of the Sectoral Council of Ministers responsible for East African community affairs, Arusha, 01 February 2007, [Online]. Arusha: EAC Secretariat. Available at: http://www.eac.int/news_2006_8th_summit_SG_statement.pdf [accessed 17 December 2006].
- East African Community (EAC), 2007. Press Release: Signing of the Framework Agreement on the Economic Partnership Agreement between the East African Community and the European Union, 27 November 2007, [Online]. Arusha: EAC Secretariat. Available at: http://www.eac.int/news_2007_nov_framework_for_EAC_EU_EPA.htm [accessed 28 January 2008].
- East African Community (EAC), 2007. Press Release: EAC and EU agree on process towards EAC-EC EPA, 15 November 2007, [Online]. Arusha: EAC Secretariat. Available at: http://www.eac.int/News_2007_11_EAC_EU_agree_on_EPA.htm [accessed 28 January 2008].
- East African Community (EAC), 2007. Agreement establishing a Framework for an Economic Partnership Agreement between the East African Community partner states on one part and the European Community and its member states on the other part, [Online]. Available at: http://www.bilaterals.org/IMG/doc/EAC_framework_EPA_initialled.doc [accessed 15 May 2008].
- Economic Commission for Africa (ECA), 2004. Economic and Welfare Impacts of the EU-Africa Economic Partnership Agreements, [Online]. Addis Ababa: ECA. Available at: <http://www.uneca.org/atpc/Work%20in%20progress/10.pdf> [accessed 12 May 2007].

- East African Legislative Assembly (EALA), 2007. East African parliamentarians express fear that EPAs will undermine the economic and political integration process of the region. SEATINI, [Online]. Available at: <http://www.seatini.org/publications/articles/2007/East%20Africa%20expresses%20fear.html> [accessed 20 February 2008].
- EPA 07, 2007. Poor Face Up to EU Arm-Twisting, [Online]. Available at: <http://www.epa2007.org/main.asp?id=358> [accessed 12 May 2007].
- European Centre for Development Policy Management (ECDPM), 2006 .Overview of the regional EPA negotiations: ESA-EU Economic Partnership Agreement (ECDPM InBrief 14E), [Online]. Maastricht: ECDPM. Available at: www.ecdpm.org/inbrief14e [accessed 21 April 2007].
- European Centre for Development Policy Management (ECDPM), 2006. Overview of the regional EPA negotiations: SADC-EU Economic Partnership Agreement (ECDPM InBrief 14F), [Online]. Maastricht: ECDPM. Available at: www.ecdpm.org/inbrief14f [accessed 22 March 2007].
- European Centre for Development Policy Management (ECDPM), 2006. Update on regional EPA negotiations: ESA-EU Economic Partnership Agreement, ECDPM InBrief 15E, [Online]. Maastricht: ECDPM. Available at: www.ecdpm.org/inbrief15e [accessed 21 April 2007].
- European Centre for Development Policy Management (ECDPM), 2006. Update on regional EPA negotiations: ESA-EU Economic Partnership Agreement (ECDPM InBrief 15F), Maastricht: ECDPM. Available at: www.ecdpm.org/inbrief15f [accessed 21 April 2007].
- European Centre for Development Policy Management (ECDPM), 2006. Overview of Regional EPA Negotiations InBrief series for 2006-2008, [Online]. Available at: http://www.ecdpm.org/Web_ECDPM/Web/Content/Navigation.nsf/index2?readform&http://www.ecdpm.org/Web_ECDPM/Web/Content/Content.nsf/7732def81ddd7ac1256c240034fe65/b38a277a1ad9d1dec1257220005389f0?OpenDocument [accessed 21 April 2007].
- European Centre for Development Policy Management (ECDPM), 2007. ECDPM 2007. Preliminary Overview of EPA Review Process 20-03-2007, [Online]. Available at: http://www.ecdpm.org/Web_ECDPM/Web/Content/Content.nsf/0/00F9CC31710A2393C12572AA003073FE [accessed 21 April 2007].
- European Centre for Development Policy Management (ECDPM), 2007. EU-Africa e-alert, [Online] No. 9, July 2007. Maastricht: ECDPM. Available at: http://www.ecdpm.org/Web_ECDPM/Web/Content/Content.nsf/7732def81ddd7ac1256c240034fe65/0b8a89cdf2fc80a5c12573610056afbe?OpenDocument [accessed 08 August 2007].
- European Centre for Development Policy Management (ECDPM), 2007. EU-Africa e-alert, [Online] No. 8, June 2007. Maastricht: ECDPM. Available at: http://www.ecdpm.org/Web_ECDPM/Web/Content/Content.nsf/7732def81ddd7ac1256c240034fe65/ceea20532d63471bc1257323002c0896?OpenDocument [accessed 19 July 2007].
- European Research Office, 2007. Finding the landing ground in ACP-EU EPA negotiations, [Online]. Available at: http://ero.at10.be/content/documents/trade_negotiations-01/pdf/1.1.epa-general/LANDING_GROUNDforEPAnegotiations.pdf [accessed 21 April 2007].
- Evans, D, Gasiorek, M, Holmes, P, Robinson, S and Rollo, J, 2007. Assessing Preferential Trade Agreements using the Sussex Framework. Trade Negotiations Insights, [Online] 6(2), March-April 2007. Available at: <http://www.acp-eu-trade.org/index.php?loc=tni/index.php> [accessed 10 August 2007].

BIBLIOGRAPHY

- Everard, J and Streatfield, J, 2003. An examination of regional trade agreements: a case study of the EC and the East African Community [Online]. Tralac Working Paper No. 11/2003. Stellenbosch: Trade Law Centre for Southern Africa (tralac). Available at: <http://www.tralac.org/scripts/content.php?id=2240> [accessed 12 May 2005].
- Faber, G, 2001. Economic Partnership Agreements and Regional Integration among ACP Countries. Future EU-ACP Relations. ECSA Seventh Biennial International Conference, [Online]. Madison, Wisconsin, 31 May-2 June 2001. Utrecht: Utrecht University. Available at: http://igitur-archive.library.uu.nl/law/2005-0907-200527/article_print4.html [accessed 12 May 2007].
- Gabotlale, B, 2007. Tanzania denies knowledge of COMESA talks. Mmegi Online, [Online] 23 January. Available at: <http://www.mmegi.bw/2007/January/Tuesday23/52.php> [accessed 10 December 2007].
- Hanson, V, and Julian, M, 2008. EPA negotiations update. Trade Negotiations Insights, [Online] 7(2), March 2008. Available at: http://www.acp-eu-trade.org/library/files/TNI_EN_7-2.pdf [accessed 12 March 2008].
- Haynes, C, 2007. GSP schemes 'best alternative to EPAs', [Online]. Available at: http://www.bilaterals.org/article.php3?id_article=7797 [accessed 21 April 2007]
- http://www.eac.int/news_2007_02_SG_stmt_3rd_sectoral_EA.pdf [accessed 05 May 2007].
- Haywood, K, 2007. Uganda's EPA: getting the process 'right'. Trade Negotiations Insights, [Online] 7(2), March 2008. Available at: http://www.acp-eu-trade.org/library/files/TNI_EN_7-2.pdf [accessed 12 March 2008].
- Hazelhurst, E, 2008. Mandelson in eggdance to placate SA, Namibia. Business Report, [Online] 5 March. Available at: http://www.busrep.co.za/index.php?from=rss_&fArticleId=4287455 [accessed 3 April 2008].
- International Centre for Trade and Sustainable Development (ICTSD), 2007. West, Central African countries to try for EPAs with EU by end-2007, [Online]. Bridges Weekly Trade Digest, 11(5), 14 February 2007. Available at: <http://www.ictsd.org/weekly/07-02-14/BRIDGESWeekly11-05.pdf> [accessed 12 May 2007].
- IPP Media, 2006. SADC's survival tactics amidst overlapping trading blocs, [Online]. Available at: <http://www.ippmedia.com/ipp/guardian/2006/12/14/80344.html> [accessed 22 April 2007].
- Jakobeit, C, Hartzenberg, T, Charalambides, N, Qualmann, R, and Stahl, M, 2005. SADC/EAC/COMESA and EPA Negotiations: Trade Policy Options to Overcome the Problem of Multiple Memberships: Executive Summary, [Online]. Available from: <http://saiia.org.za/images/upload/epagtexecsum19-07-05.pdf>. [Accessed: 17 April 2007].
- Jessop, D, 2008. Understanding the EPA: institutional arrangements raise concerns – supranational council seen as infringing sovereignty. Jamaica Gleaner, [Online] 7 March. Available at: <http://www.jamaica-gleaner.com/gleaner/20080307/business/business13.html> [accessed 14 April 2008].
- Julian, M., 2007. EPA negotiations update. Trade Negotiations Insights, [Online] 6(2), March-April 2007. Available at: http://www.acp-eu-trade.org/library/files/TNI_EN_6-2.pdf [accessed 10 August 2007].
- Julian, M, 2007. EPA negotiations update. Trade Negotiations Insights, [Online] 6(4), July-August 2007. Available at: <http://www.acp-eu-trade.org/index.php?loc=tni/index.php> [accessed 30 July 2007].

- Julian, M, 2007. EPA negotiations update. Trade Negotiations Insights, [Online] 6(3), May-June 2007. Available at: <http://www.acp-eu-trade.org/index.php?loc=tni/index.php> [accessed 19 July 2007].
- Kalenga, P, 2004. Implementation of the SADC Trade Protocol: some reflections [Online]. Trade Briefs. Stellenbosch: Trade Law Centre for Southern Africa (tralac). Available at: http://www.tralac.org/pdf/Trade%20Brief_SADC%20Trade%20Protocol.doc [accessed 10 December 2007].
- Kavilu, S, 2007. EPAs could delay Kenya-EU bid. East African Business Week. [Online] 27 August. Available at: http://www.busiweek.com/index.php?option=com_content&task=view&id=3923&Itemid=66 [accessed 31 March 2008].
- Kenyan Ministry of Trade and Industry, 2008. Private Sector Development Strategy Brief – March 2008: Socio-Economic implications of Economic Partnerships Agreement (EPAs) to Kenya, [Online]. Available at: <http://www.tradeandindustry.go.ke/news.asp?ID=16> [accessed 1 April 2008].
- Khumalo, N, 2008. Southern Africa: European Trade Deal Challenges Unity. AllAfrica.com, [Online] 6 March. Available at: <http://allafrica.com/stories/200803060029.html> [accessed 1 April 2008].
- Kibua, T & Tostensen, A, 2005. Fast-tracking East African integration: assessing the feasibility of a Political Federation by 2010, [Online]. Chr. Michelsen Institute. Available at: <http://www.cmi.no/publications/file/?2088=fast-tracking-east-african-integration> [accessed 24 August 2006].
- Kivumbi, D & Nalunga, J, 2004. The Economic Partnership Agreements: Implications and way forward: A case for Uganda, [Online]. SEATINI. Available at: <http://www.seatini.org/publications/The%20EPAS%20Implications%20and%20way%20forward.pdf> [accessed 13 May 2007].
- Koranteng, A, 2008. Africa leaders must unite against EPA agreements. The Statesman, [Online] 24 April. Posted on www.bilaterals.org 25 April 2008. Available at: http://www.bilaterals.org/article.php?id_article=11938 [accessed 30 April 2008].
- Kruger, P, 2007. A new SADC EPA configuration? [Online]. Trade Law Centre for Southern Africa (tralac), Discussions, 24 April 2007. Available at: <http://www.tralac.org/scripts/content.php?id=6400> [accessed 13 June 2007].
- Kruger, P, 2007. The European Union's official response to the SADC EPA Framework document. [Online]. Trade Law Centre for Southern Africa (tralac), Discussions, 06 March 2007. Available at: <http://epa.tralac.org/scripts/content.php?id=6215> [accessed 12 May 2007].
- Kruger, P, 2007. The extension of Cotonou trade preferences after expiry of the waiver, [Online]. Trade Law Centre for Southern Africa (tralac), Discussions, 20 February 2007. Available at: <http://epa.tralac.org/scripts/content.php?id=6179> [accessed 21 April 2007].
- Kruger, P, 2007. The possible withdrawal of Tanzania from the SADC EPA configuration, [Online]. Trade Law Centre for Southern Africa (tralac), Discussions, 24 April 2007. Available at: <http://epa.tralac.org/scripts/content.php?id=6399> [accessed 13 June 2007].
- Kwa, A, 2007. East Africa: Officials confused about pros and cons of EPA. Inter Press Service, [Online] 20 November. Posted on www.bilaterals.org, 20 November 2007. Available at: <http://www.ipsnews.net/news.asp?idnews=40129> [accessed 2 April 2008].
- Magwar, K, 2007. EAC-EPA good for region – businessmen. East African Business Week, [Online] 3 September. Available at: http://busiweek.com/index.php?option=com_content&task=view&id=3969&Itemid=66 [accessed 1 April 2008].

BIBLIOGRAPHY

- Matambalya, F, 2001. The new EU-ACP Partnership: Consequences for Eastern and Southern Africa, [Online]. Policy Studies Series No.1. Dar es Salaam: Friedrich-Ebert-Stiftung. Available at: http://fesportal.fes.de/pls/portal30/docs/FOLDER/COTONOU/DOWNLOADS/FESDOWNLOADS/USERGUIDES_ARTICLES/TANSANIAFRANCIS.PDF [accessed 08 August 2007].
- Mavuso, B, 2006. SD in dilemma over 2008. Swazi Observer, [Online] 5 October. Posted on www.bilaterals.org 4 October 2006. Available at: http://www.bilaterals.org/article.php3?id_article=6137 [accessed 07 October 2006].
- Mbogo, S, 2007. COMESA censures EAC over trade deal with EU. Business Daily, Nairobi, [Online] 18 December. Posted on www.bilaterals.org 19 December 2007. Available at: http://www.bilaterals.org/article.php3?id_article=10745 [accessed 2 April 2008].
- Meyn, M, 2006. Regional Integration and EPA configurations in Southern and Eastern Africa -- What are the feasible alternatives? SEATINI BULLETIN, [Online] 9(7). Southern and Eastern African Trade, Information and Negotiations Institute (SEATINI). Available at: <http://saiia.org.za/images/upload/epagtzexecsum19-07-05.pdf>. [accessed 06 May 2007].
- Mold, A, 2007. Pulling Back from the Brink? Evaluations, Options, and Alternatives to the EPAs, [Online]. Available at: http://www.realinstitutoelcano.org/wps/portal/riecano_in/Content?WCM_GLOBAL_CONTEXT=/Elcano_in/Zonas_in/Cooperation+Developpment/DT+33-2007 [accessed 07 August 2007].
- Muriuki, A, and Odhiambo, A, 2007. Legal obstacles emerge over free trade deal with Europe. Business Daily Africa, [Online] 25 October. Posted on www.bilaterals.org 25 October 2006. Available at: http://www.bdafrica.com/index.php?option=com_content&task=view&id=3883&Itemid=5813 [accessed 2 April 2008].
- Mwamunyange, J, 2006. Tanzania seeks US investor for Mchuchuma coal-power project. The East African, [Online] 02 October 2006. Available at: <http://www.nationmedia.com/eastafrican/02102006> [accessed 07 October 2006].
- Nuwagira, S, 2008. Uganda: CSOs dissatisfied with EPAs, [Online]. Tralac Newsletter, 25 March 2008 [Email]. Original article from East African Business Week, Kampala. Available at: <http://www.tralac.org/scripts/content.php?id=7468> [accessed 26 March 2008].
- Odhiambo, A, 2008. African leaders reject sections of EU trade deals. Business Daily Africa, Nairobi. Tralac News [Online] 8 March. Original article from Business Daily Africa, Nairobi. Available at: https://www.givengain.com/cgi-bin/giga.cgi?cmd=cause_dir_news_item&cause_id=1694&news_id=44208&cat_id=1026 [accessed 14 April 2008].
- Odhiambo, A, and Sambu, Z, 2007. Kenya: Country Gets 25 Yr Market Protection to EU Market. Tralac Newsletter, 20 November 2007 [Email]. Original article from Business Daily, Nairobi. Available at: <http://allafrica.com/stories/200711151047.html> [accessed 20 November 2007].
- Omungu, R, 2007. East Africa: EPA signed to 'protect' small farmers. Inter Press Service, [Online] 30 November. Posted on www.bilaterals.org 1 December 2007. Available at: <http://www.ipsnews.net/news.asp?idnews=40300> [accessed 2 April 2008].

- Overseas Development Institute (ODI), 2006. The Potential Effects of Economic Partnership Agreements: What Quantitative Models Say, [Online]. Briefing Paper No. 5. London: Overseas Development Institute. Available at: http://www.odi.org.uk/Publications/briefing/bp_june06_epa_bp2.pdf [accessed 12 May 2007].
- Overseas Development Institute, 2007. The costs to the ACP of exporting to the EU under the GSP, [Online]. Available at: http://www.acp-eu-trade.org/library/files/ODI_EN_010307_ODI_Costs-to-ACP-of-exporting-under-EU-GSP.pdf [accessed 21 April 2007].
- Overseas Development Institute (ODI) and European Centre for Development Policy Management (ECDPM). 2008. Interim EPAs in Africa: what's in them? And what's next? Trade Negotiations Insights, [Online] 7(3), April 2008. Available at: http://www.acp-eu-trade.org/library/files/TNI_EN_7-3.pdf [accessed 03 April 2008].
- Oxfam New Zealand, 2006. Offering a realistic alternative: the EU's obligation to provide alternatives to the Economic Partnership Agreements, [Online]. Available at: <http://www.oxfam.org.nz/imgs/pdf/realistic%20alternatives%20to%20the%20epas.pdf> [accessed 22 March 2007].
- Pearson, M, 2007. Agreeing EPA rules of origin: a strategy unfolds. Trade Negotiations Insights, [Online] 6(4), July-August 2007. Available at: <http://www.acp-eu-trade.org/index.php?loc=tni/index.php> [accessed 30 July 2007].
- Richardson, S, 2007. EU-ACP Sustainability Impact Assessment of the Economic Partnership Agreements: twelve summary recommendations. Trade Negotiations Insights, [Online] 6(3), May-June 2007. Available at: <http://www.acp-eu-trade.org/index.php?loc=tni/index.php> [accessed 19 July 2007].
- Rwanda News Agency, 2007. Tanzania hindering regional trade talks with Europe, [Online] 23 August. Available at: http://www.bilaterals.org/article.php3?id_article=9462 Posted on www.bilaterals.org [accessed 2 April 2008].
- Semu-Banda, P, 2008. Malawi: Caught between two economic blocs, [Online] 31 January. Posted on www.bilaterals.org 31 January 2008. Available at: <http://www.ipsnews.net/africa/nota.asp?idnews=41013> [accessed 10 February 2008].
- South African Institute of International Affairs (SAIIA), 2006. A pending crisis of overlap, [Online]. E-Africa. Available at: <http://www.saiia.org.za/modules.php?op=modload&name=News&file=article&sid=422> [accessed 21 December 2006].
- South Centre, 2007. Fact Sheet No. 4: Regional integration and the EPAs, [Online]. Geneva: South Centre. Available at: www.southcentre.org/publications/analyticalnotes/other/2007mar_epa_fact_sheet_no4.pdf [accessed 13 May 2007].
- Stahl, M, 2005. Overlapping membership in COMESA, EAC, SACU and SADC: Trade Policy Options to Overcome the Problem of Multiple Memberships. Arusha: Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ).
- Stevens, C, 2005. Economic Partnership Agreements and African integration: a help or a hindrance? [Online]. University of Sussex: Institute for Development Studies. Available at: <http://www.ids.ac.uk/ids/global/pdfs/tradepapers/CSEPA&SSA-Web.pdf> [accessed 08 August 2007].
- Stevens, C, 2007. EPAs: Entering the danger zone. Trade Negotiations Insights, [Online] 6(4), July-August 2007. Available at: <http://www.acp-eu-trade.org/index.php?loc=tni/index.php> [accessed 10 August 2007].

BIBLIOGRAPHY

- Stevens, C, Meyn, M, Kennan, J, Bilal, S, Braun-Munzinger, C, Jerosch, F, Makhan, D and Rampa, F, 2008. The new EPAs: comparative analysis of their content and the challenges for 2008, [Online]. London: Overseas Development Institute (ODI) and Maastricht: European Centre for Development Policy Management (ECDPM). Available at: http://www.odi.org.uk/iedg/Projects/0708010_The_new_EPAs.html and www.ecdpm.org/pmr14 [accessed 17 April 2008].
- Stevens C and Kennan, J, 2005. EU-ACP Economic Partnership Agreements: the effects of reciprocity, [Online]. Briefing Note. Available at: <http://www.dfid.gov.uk/aboutDFID/organisation/epas-effects-reciprocity.pdf> [accessed 25 April 2008].
- The East African, 2007. Tanzania will rue the cost of starting with SADC. The East African, [Online] 20 August. Posted on www.bilaterals.org. Available at: http://www.bilaterals.org/article.php?id_article=9394 [accessed 2 April 2008].
- Third World Network Africa & Oxfam International, 2007. A matter of political will: how the European Union can maintain market access for African, Caribbean and Pacific countries in the absence of Economic Partnership Agreements, [Online]. Available at: http://www.oxfam.org/en/policy/briefing-notes/bn070425_EU_economic_partnership_agreements [accessed 12 May 2007].
- Thomson, A, 2007. EU says West Africa trade talks may stretch to 2008. Reuters, [Online] 27 April. Posted on www.bilaterals.org, 29 April 2007. Available at: http://www.bilaterals.org/article.php?id_article=8069 [accessed 12 May 2007].
- Trade Africa, 2007. Tanzania private sector divided over reviving COMESA membership. TradeAfrica, [Online] 19 March. Available at: <http://tradeafrica.blogspot.com/2007/03/tanzania-private-sector-divided-over.html> [accessed 10 December 2007].
- Trade Law Centre for Southern Africa (tralac), 2007. Tanzania defiant on SADC withdrawal, [Online]. tralac News, 30 March 2007. Available at: <http://www.tralac.org/scripts/content.php?id=6383> [accessed 12 May 2007].
- Trade Law Centre for Southern Africa (tralac) & GTZ, 2005. SADC/EAC/COMESA and EPA Negotiations: Trade Policy Options to Overcome the Problem of Multiple Memberships: Political, Legal and Economic Perspective. Cape Town: tralac.
- Trade Negotiations Insights (TNI), 2007. An interview with Louis Michel: European Commissioner for Development and Humanitarian aid. Trade Negotiations Insights, [Online] 7(1), February 2008. Available at: http://www.acp-eu-trade.org/library/files/TNI_EN_7-1.pdf [accessed 12 March 2008].
- Trade Negotiations Insights (TNI), 2007. An interview with Sir John Kaputin: Secretary General of the ACP Group. Trade Negotiations Insights, [Online] 7(1), February 2008. Available at: http://www.acp-eu-trade.org/library/files/TNI_EN_7-1.pdf [accessed 12 March 2008].
- World Economy and Development in brief, 2007. Oxfam and TWN Africa: Options in the Absence of an EPA, [Online]. The European Civil Society Round-Up, April-May 2007: WDEV News Blog. Available at: http://www.oxfam.org/en/policy/briefingnotes/bn070425_EU_economic_partnership_agreements [accessed 25 May 2007].
- World Trade Organisation (WTO), 2006. Trade Policy Review: Kenya, Tanzania and Uganda, [Online]. Available at: http://www.wto.org/english/tratop_e/tpr_e/tp272_e.htm [accessed 10 November 2007].

