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Economic Partnership Agreements Negotiations: A Comparative Assessment of the Interim Agreements

Introduction

The Cotonou Partnership Agreement (CPA), which was signed in 2002, provided for the negotiation of Economic Partnership Agreements between European Union (EU) and African Caribbean and Pacific (ACP) countries. Economic Partnership Agreement (EPAs) should aim to foster sustainable economic and social development in the ACP countries and promote their gradual integration into the world economy. EPAs are also supposed to be World Trade Organization (WTO) compatible and designed in such a way that the economic disparities between the economies of EU and the African countries are taken into account.

During the Lisbon Summit, held in Portugal in December 2008, the African Heads of State and Government stated clearly that EPAs in their current form are not in tandem with the development objectives of the continent. They stressed that EPAs should be able to bring about development in Africa as well as strengthen regional integration initiatives; so far interim agreements have not achieved this. During the just concluded Summit held in Addis Ababa in February 2008, the African Union Heads of State and Government in a declaration of EPA negotiations, requested EU to deepen the negotiating mandate of the European Commission (EC) and also welcomed the proposal by EC President for African-EU high-level consultations on EPAs. It is in this light, the AU Commission is organizing the African Union Conference of Ministers of Trade and Finance. This Conference will bring together Ministers to discuss issues of common interest in the EPA negotiations.

According to CPA, negotiations for EPAs should have been finalized by 31 December 2007. On this day, the waiver granted by WTO for the continuation of Cotonou preferences expired and was supposed to be replaced by a WTO compatible regime starting 1 January 2008. By deadline of 31 December 2007, none of the African Negotiating groups was able to conclude a full EPA. Most non-LDC countries in Africa initialed Interim EPAs with EU to avoid trade disruption. Exports from non-LDC countries faced the potential of higher tariffs in the Euro Zone if no agreement had been signed to replace the Cotonou preferences.

In Africa, EPAs are being negotiated between EU and some negotiating groups formed specifically for that purpose. Originally, there were four groups involved in the negotiations, these are: Eastern and Southern Africa (ESA-EPA), Southern Africa Development Community EPA group (SADC -EPA), Central African region under CEMAC and Western Africa grouping under ECOWAS. However, as the negotiations came to the 31 December 2007 deadline, a new EPA configuration emerged. The East African Community (EAC) moved out of the ESA-EPA group and signed a separate interim Agreement with EU. EAC community is the only Custom Union involved in the EPA negotiations in Africa whose membership also matches that of the EAC Regional Economic Community as recognized by the African Union. It is noteworthy however that since the inception of the negotiations, EU made it clear that its objective was to deepen regional integration. The eventual outcome whereby pressure was applied to individual countries within the negotiating groupings is seen to confirm fears expressed in the continent that the regional integration processes stood to be strained by EPAs.

Faced with the potential of trade disruption, all African non-LDCs except Nigeria signed interim Economic Partnership Agreements with EU under pressure. EU exerted pressure on the governments to sign the agreements or exports from these countries would face higher tariffs under the Generalized System of Preferences (GSP). The fear of losing markets to other countries and the difficulties coupled with regaining these markets presented enormous difficulties for non-LDCs and they ended up signing Interim Agreements. There was also the fear that the loss of export markets in EU could lead to company closures, which in turn led to increased unemployment, which is already a problem in Africa. However, if the impact analysis work with respect to potential social and economic effects of EPAs is recalled, it is clear that this fear of industry closure and costly adjustments in the job market emerged as a major issue. In which case, signing the interim EPAs to avoid labour market adjustments due to de-industrialization can only be viewed as a short-term solution. The market access offers made by African countries in the interim agreements will most likely result in job losses in various sectors unless there are strong mitigation measures.

There are also Least Developed Countries (LDCs) that have signed Interim EPAs despite being covered by the “Everything but Arms” (EBA) initiative. The motivation was that they would be able to have access to the improved Cotonou plus rules of origin, which some negotiating groups managed to secure in the Interim Agreement. LDCs that are not signatories to the Interim Agreement will not be able to use such rules of origin and they will also not have access to the additional funding that may come with appending signatures to the new agreement.

The dynamics of the negotiations

In every region, EU was able to secure an agreement with at least one country. The signing of the Interim Agreements has changed the nature of the negotiations somehow. For example, the leverage that African countries had to use market access as a bargaining chip in the negotiations was lost with the initialing of the Interim Agreements. EU has been able to secure WTO compatible agreements that cannot be challenged by other members of WTO. On the African side, the threat of trade disruption is no longer a source of pressure and negotiations can now continue in a relaxed environment.

As the negotiations continue, African side still has to press for EPAs to achieve development and support regional integration. Having secured WTO compatible trade in goods chapters in the Interim Agreements with African negotiating groups and countries, EU’s focus will likely shift towards negotiations on trade in services and Singapore issues. Some countries have indicated that they are not prepared for negotiations in these areas. While African countries may have lost leverage in the negotiations by signing Interim Agreements, the events that unfolded towards the end of 2007, suggest that EU can still use political pressure and development aid to get African countries to sign agreements that may not be favourable to the promotion of regional integration.

Analysis of the interim EPAs: comparisons and suggestions on way forward

In this section, a comparative analysis of the interim EPAs signed towards the end of last year is summarized, with the aim of highlighting key areas of convergence and divergence among different agreements. Moreover, the section also puts forth some observations with respect to the content of the interim EPAs vis-à-vis the common African position that has evolved over time since

the Mauritius Declaration on EPAs by African Ministers of Trade and Industry in 2003 to the Addis Ababa Declaration on the same of 2007.

Structure of the interim EPAs

The interim EPAs initialised by EU on the one hand, and SADC, ESA, Ghana and Cote d'Ivoire in West Africa and EAC countries on the other hand, deal with objectives and principles of trade in goods including trade remedies or trade defence instruments and rules of origin development cooperation. Negotiations are to continue towards broader EPAs called comprehensive or full EPAs. These negotiations are expected to deal with establishment of institutions, general and final provisions covering wider variety of issues. The provisions foreseen, will include the usual ones of entry into force, membership and accession, amendment or review, relation with other agreements, and authentic text. However, there are differences in certain cases, where some Interim Agreements deal with areas others don't; as well as some differences in the actual headings and provisions on similar subject matter.

If one was to use the Cariforum-EU full EPA as a pointer, negotiations for comprehensive EPAs as envisaged by the EC side, will cover controversial areas that African countries have had considerable discomfort. In particular, the issues of competition, government procurement, and investment, as well as intellectual property, environment, labour standards, data protection, liberalization of the capital account, and to some extent the area of services will come into sharp focus. These areas have been included in the full Cariforum-EU EPA, and in the SADC-EU EPA. This is likely to be a source of pressure on the African groups to adopt extensive or substantive commitments different from the positions adopted by developing countries including Africa at the WTO negotiations and during the earlier phases of EPA negotiations.

The structures of EPAs, in terms of sequencing of areas covered and the naming of the headings of the actual articles or provisions, can be adjusted to be similar as an initial step in promoting harmony among the agreements. This can facilitate coordination among the African negotiating groups in the ongoing negotiations and in the interpretation and implementation of the agreements when concluded and in force.

Differences in the Interim Agreements caused by unique circumstances of some regions might not be a major issue when it comes to coordination towards harmony and the continental integration process. However, differences arising from non-consideration of certain pertinent or appropriate issues could be revisited with a view to developing a common approach among the regions. Also, differences that arise from differing concessions extracted from the EC side during the negotiations could be similarly addressed. Differences that set back or discourage the regional and continental integration process should be considered cautiously and harmony insisted upon in order to support and expedite the integration process.

Ongoing negotiations for comprehensive or full EPAs will require caution and much better preparation, given that some controversial issues are up for negotiation. In addition, the time frame for the finalization of the negotiations is quite short. It will be of great help if the positions taken by African countries are evidence-based and in this regard technical input could be useful. In order to

ensure effectiveness in the negotiations, it will be important to develop and utilize common positions among the groups.

Objectives scope in the interim EPAs

The objectives of EPAs are considerably similar, focusing on development, market access, regional integration, legal framework for promoting trade and investment, and solidarity and mutual interest. However, there are some differences in that some interim agreements contain objectives that other agreements don't; distinguish between general and specific objectives; or locate objectives under different provisions.

The distinction between general and specific objectives is understandable. Interim Agreement was concluded possibly to last only a year or so and in order to avoid imminent trade disruption. While at the same time, it would not have been prudent to leave out the objectives of the envisaged full EPAs already negotiated and agreed upon. If other areas not fully explored are brought into the negotiations, the objectives might need broadening.

The objectives of various African EPAs should be the same and the basic reason for this is that all the objectives listed in the African EPAs apply to the African situation in the areas of development, market access, regional integration, and solidarity and mutual interest with EU. In light of the same wording already considerably used, this can be taken forward by harmonizing the objectives across the boarder for African EPAs.

It is possible that there could be difficulties agreeing on the common wording for the objectives. However, this is a systemic matter in harmonization of African EPAs or coordination of the negotiations among the groups. Such matters are usually amenable to establishment of a task force or a technical or drafting committee. The task force would assist in producing initial drafts that may be largely acceptable and feasible at a technical level for consideration at the political level and in final sessions of the negotiations.

Some thought will be required on how to deal with the specific objectives provided in the interim EPAs when it comes to the full EPAs. The specific objective of compatibility with Article 24 of General Agreement on Tariffs and Trade (GATT) will continue to be an objective for the comprehensive or full EPA. However, the areas for further negotiations might not, except, if no agreement is reached and if the parties will wish to keep them on board, as outstanding issues for ongoing negotiations as a built-in agenda for the full EPA.

In the SADC interim EPA, for instance, the approach taken on competition and government procurement, is that there will be a capacity-building programme as a pre-condition for envisaging negotiations in the future. On services, the approach is that subsequent to conclusion of the full EPA, SADC countries may liberalize more than the one sector in order to contribute to meeting the requirement under Article 5 of General Agreement on Trade in Services (GATS) for substantial sectoral coverage.

Principles in the interim EPAs

There are two broad approaches taken in provisions on principles. On the one hand, the EAC and ESA interim EPAs set out basic principles allowing special and differential treatment and granting of regional preferences without extending these to EU, and building the agreements on the *acqui* of the Cotonou Agreement. Other principles include promotion of regional integration and ensuring asymmetry in trade liberalization, trade related measures and trade defence instruments. The ESA goes further to specific and additional special and differential treatment provisions for LDCs.

On the other hand, the Cariforum, Pacific and SADC EPAs incorporate the fundamental principles and essential elements and the fundamental element contained in the Cotonou Agreement. To take care of the special circumstances of SADC, EPA provides for the application of the Trade Development Cooperation Agreement (TDCA) in the case of South Africa. SADC EPA, additionally provides for the principles of consistency with development policies and regional programmes, and facilitation with fulfilment and implementation of commitments.

African countries have initiated home grown initiatives in the areas of human rights, democracy, and good governance, under the Constitutive Act of the African Union and complementary instruments such as the New Partnership for Africa's Development (NEPAD) and its Africa Peer Review Mechanism (APRM). It is not surprising then that there is discomfort among some African countries in having these issues as part of a trade agreement as demanded by EU negotiators. A standard response of EU negotiators has usually been that in the partnership to be created, these are important matters that should be openly addressed by all parties, and conditions of democracy, respect for human rights and good governance are pre-requisites for social economic development. It may be a plausible argument that the Cotonou Agreement continues to apply notwithstanding the modification of its trade chapters by EPAs; and therefore there shouldn't be any strong reason for including its principles in EPAs. Furthermore, it is this similar argument that EC negotiators have made in declining to undertake financial obligations that exceed those in the Cotonou Agreement.

Moving forward, it is feasible for African EPAs to contain the same principles with the same wording. The principles could include special and differential treatment and asymmetry in obligations and commitments for LDCs and other African countries that are not high-income countries. They could also include promotion of regional integration, building upon the *acqui* of ACP-EU trade agreements, and development cooperation to assist African countries fulfil and implement their obligations and commitments, as well as respect for internationally accepted African practices regarding social and political governance contained in relevant African Union instruments.

The development focus in the interim EPAs

The interim EPAs, as well as the full Cariforum EPA, contains dedicated parts and chapters on development. The approaches taken, however, differ in some respects though there are considerable similarities. One approach taken by EAC, more or less along the lines that EC negotiators initially proposed, is to have just a few clauses setting out basic principles on development cooperation. However, the EAC EPA clearly recognizes that further work is required

on the two clauses and accordingly, provides for further consideration of development cooperation in the next phase of the negotiations.

Another approach taken by Cariforum, and to some extent the Pacific, is to have a scheme for development cooperation which sets out a basic understanding of sustainable development. It further sets the priorities for cooperation against the background of key objectives and principles for the entire agreement as well as commitments on regional integration and monitoring. Yet, another approach taken by SADC is to elaborate a more detailed scheme that sets out areas for cooperation and interventions after key objectives and principles and commitments on monitoring, regional integration, and development finance cooperation. The other approach taken by ESA is to set out the understanding of development, specific commitments and obligations, detailed areas for development cooperation including a development strategy and matrix that are incorporated into EPA as annexes, and a specific undertaking by the European Community and the member States to contribute resources.

All these approaches may have merit, though the more detailed approaches seem better, because they provide a fuller picture of development. This should be helpful given the divergence in understandings of what pro-development EPAs constitute that persisted for most part of the previous phases of the negotiations among some negotiators. The detailed approaches like that of ESA clearly set out the expectations, shared understandings, commitments of the parties and render the provisions into justifiable or at least monitorable obligations as appropriate. They already reflect the considerable work put into the development component of the EPAs, leaving less room for unfortunate disagreements in the implementation of the agreement while providing clearer guidance for the implementation exercise and for any further refinements and adjustment subsequent to the conclusion of the agreements.

The full EPAs should have parts or chapters on development cooperation, setting out specific commitments and obligations for the parties, and indicating the areas of cooperation, and required interventions. Part I of the Cariforum-EU full EPA is on the trade partnership for sustainable development. While it is a full EPA, it is comparable in detail and content to the interim SADC-EU EPA, and to some extent with the interim Pacific-EU EPA. Improvements, as appropriate, may still be made perhaps drawing on the more detailed interim EPAs such as the interim ESA-EU EPA.

Development will continue to be a matter for further consideration in the current phase of negotiations as explicitly set out in some interim EPAs (EAC and ESA), or by virtue of negotiating additional areas with implications for development. There is therefore, room for comparisons of the various approaches taken in the various EPAs, and drawing appropriate lessons, especially given that the EU side has agreed to certain commitments and obligations such as those in the ESA-EU EPA.

Based on the common African position on EPAs, a development chapter should have the following key elements. It should have shared understanding of development including references to overcoming major trade-related constraints and achieving certain satisfactory living standards within given time frames. It should also have shared unequivocal commitments to putting development at the centre of EPA and the understanding that all provisions of EPA are about and should support development. Clear commitments on adequate resources with clear obligations on EU and the member States; and an appreciable indication at some length of areas of cooperation and

interventions with a clear prioritisation of regional integration, infrastructure, regional and global competitiveness, diversification and value addition, investment generation and industrialisation, and references to key international instruments on development and aid.

Market access in the interim EPAs

The market access provisions on trade in goods are quite similar across EPAs, though they differ in some respects. The similarities mainly occur in the treatment of customs duties, non-tariff measures, and the special provisions on administrative cooperation; as well as in the provisions on trade defence measures. The Pacific and Cariforum EPAs contain provisions on agricultural export subsidies. Also, SADC, Pacific and Cariforum EPAs have additional provisions covering customs and trade facilitation, TBT and SPS measures.

Some of the differences are fundamental and provide useful areas for improvement in certain EPAs. These may include, the Pacific and Cariforum EPAs on free trade agreements with major economies or for small island countries and LDCs, the duration of certain provisions and measures, and the idea of special cooperation on priority products and sectors included in the SADC and Pacific EPAs.

There are differences also with respect to the additional areas covered in the full Cariforum-EU EPA, such as investment and trade in services, and government procurement. Other groups have taken positions that make such provisions controversial in the negotiations. The provisions on trade in goods contain some far-reaching obligations that may have fundamental implications for ACP countries under EPAs. Examples include the obligation to eliminate export taxes and duties, the prohibition of quantitative restrictions, the requirement to accord national treatment to EC imports; the maintenance of current subsidy levels in EU and the offer to phase them out over unspecified periods for some ACP countries on products that they undertake to eliminate customs duties.

The Pacific EPA includes general security and taxation exceptions under the part on trade in goods, while other EPAs have them in the last part. Also, the Cariforum EPA includes trade in goods, the provisions on agriculture and fisheries, while the EAC and ESA EPAs deal with fisheries as separate chapters. There is scope for the ACP groups to learn from each other and as appropriate harmonize provisions in key areas drawing on the important provisions in the various interim EPAs. Particular attention would need to be paid to the exceptions made to some of the far-reaching obligations, and the periods in various areas. In many cases, it is difficult to see whether the periods were based on good objective criteria for setting their duration.

Where certain obligations imposed might prove to be far reaching, the negotiating parties might usefully have another look at them in the continuing negotiations. This would be with a view to improving upon them through appropriate modifications to better take into account the trade and development needs of ACP and African countries particularly LDCs and other small and vulnerable economies. There could be merit in achieving a degree of coherence or harmony in the structures and subject matter dealt with under the chapters on trade in goods. The uniform EU offer to the ACP regions enables the EU to maintain a quite manageable common regime in respect of imports from ACP countries under EPAs. While ACP regions have specificities, there are large areas of commonality that enable a large degree of coordination or harmonization. Also, the different

agreements and obligations and rights for the regions are likely to contribute to a further weakening of the solidarity of the ACP group of states, if there are good reasons for maintaining the group as a global player and in particular in relations with the EU.

Next phase of negotiations towards comprehensive EPAs

There are four kinds of approach to the next phase of negotiations: a general approach (Pacific); an approach that specifies a few areas while providing for continuation of negotiations on all outstanding issues (SADC); an approach that lists the areas for the next phase of negotiations albeit with a saving clause for inclusion of any other areas (EAC and ESA); and an approach that emphasises that the next phase should be one that aims for and ensures a region-wide EPA to which all members of the negotiating group are happy to be parties (West and Central Africa). Some areas listed for the next phase of negotiations may be contentious, being areas that African countries have consistently objected to negotiating, particularly the Singapore issues.

The African interim EPAs take different approaches to the mandate for the next phase of negotiations; and there are significant differences in the EAC and ESA provisions though largely similar. To assist better coordination of negotiations, and the unity and solidarity of Africa, the mandates for the next phase of negotiations could be harmonized as appropriate. Any regional specificity could then be clearly set out separately as additional specific areas for negotiation, which could still benefit from discussion at the African Union level and among the regions at coordination events.

There should be a clear understanding for the current phase of negotiations, the mere listing of areas for negotiation does not pre-judge the outcome of negotiations, and indication of desired outcomes is an objective expected to be achieved rather than a binding obligation in advance of the negotiations. This understanding is consistent with the nature of negotiations.

Final provisions in EPAs

Final provisions in EPAs cover the following: parties, signature, ratification, entry into force, denunciation, depositary, accession to EPA, accession to EU, accession to African regional economic communities, territorial scope, review or revision, relation to full EPA, conflict with other agreements or relation to other agreements particularly WTO and the Cotonou Agreement, duration of EPA, amendments, authentic texts, and annexes. But not all African EPAs have all these provisions.

In some EPAs, provisions establishing the institutions are also included under final provisions, and in others, dispute settlement as well. Some EPAs cover additional miscellaneous matters, such as illegal financial activities. Perhaps a better approach could be to have provisions establishing institutions under a separate part or chapter, and those on dispute settlement also under a separate part or chapter; as these are substantive matters of a specific category.

Final provisions are important and could be given careful attention. This may require dedicated sessions in the negotiations. It would be preferable if all African EPAs covered the same areas and had similar provisions in the final provisions, subject to regional specificity. Caution may

be advisable in accepting to act collectively. As indicated in the negotiations, the possibility of collective sanctions against African groups under EPAs could be explicitly excluded.

The initialling of EPAs has averted EU threat of trade disruption through imposing high customs duties on certain products under the GSP. This now allows sober consideration of all key issues. The focus should be on the continuation of the negotiations. The controversial issues in the interim EPAs could be prioritized, as starting points of the ongoing negotiations; as well as development in the interim EPAs where this was not adequately covered. Once the ongoing negotiations are concluded, preferably on the basis of consensus of all countries in the groups, then the steps to bring the agreements into force should be taken.

For African EPAs, accession provisions should explicitly proceed from the premise of the ongoing regional integration processes, which aim to create regional customs unions and common markets as building blocs for the continental customs union and common market. It is envisaged that the African regional economic communities will have closer trade and economic ties among themselves and eventually form the African common market, which will be the institution under which African countries will jointly have trade relations with other countries including EU. Steps should therefore be taken to ensure that EPAs, as agreements of indefinite duration, do not purport to be stand-alone agreements that will operate outside the ongoing integration process.

Provision should be made for a continental review of EPAs at the time when sufficient progress will have been made towards launching the African customs union and common market in 2020. The purpose of this particular review will be to align EPAs to the common external trade regime of the African common market.

Consistency of the interim EPAs with the Common African Positions

The Assembly of Heads of State and Government and the Conference of Trade Ministers of the African Union have adopted common African positions on EPA negotiations as guidelines for African negotiators. The African Union Conference of Trade Ministers adopted Declarations on Negotiations for EPAs at their meetings in Mauritius (2003), Cairo (2005), Nairobi (2006), and Addis Ababa (2007). In many respects, the common African positions were addressed to the European Union at a political level, with the expectation that in the spirit of partnership, EU negotiators would fully take these concerns and priorities into account. But there are various areas where there are no common African positions. Nevertheless, it would appear that efforts were made to have interim EPAs that reflected the common African positions, for instance in the areas of market access by providing DFQF market access to EU markets, regional integration by references to the process, and development cooperation by provision for regional EPA funds.

The interim EPAs initialed by African countries don't satisfactorily reflect the common African positions in some significant respects. An example is the fact that inadequate resources have been committed for EPAs. Furthermore, the commitments are not as legally binding as envisaged though fairly sensible if supported by generous and good faith implementation. Another deviation from the common position is with respect to the DFQF market access as it is not available to all African countries, with possible complications for countries that have not initialed the interim EPAs.

The common African positions will remain pertinent during the current phase of the negotiations and should be adhered to. It is politically important for negotiators to faithfully abide with the common African positions as adopted collectively at the summit and ministerial levels. In light of developments since the last meeting of the African Union trade ministers, it seems appropriate to refine the common African positions in order to squarely address the current specific issues on the negotiating table. The conference would address further fragmentation of Africa into new categories of countries with EPAs both without and within regional economic communities. It would also focus on the further fragmentation of trade regimes under bilateral EPAs or bilateral schedules of tariff elimination. In particular, as the interim EPAs show, the bulk of the tariff elimination is planned for an earlier period. The BNLS countries in the SADC EPA, for instance, are to eliminate tariffs on 86 per cent of imports from EU within 8 years, that is, by 2016; the Comoros (98 per cent), Madagascar (89.3 per cent), Mauritius (96.6 per cent), Seychelles (97.7 per cent) and Zimbabwe (87 per cent in the ESA group are to eliminate their duties within 14 years, that is, by 2022¹; the EAC countries are to eliminate duties on 80 per cent of the value of imports within this period and 64 per cent within the first two years of EPA – it has been explained that the duties on these items, being 38 per cent of the tariff lines, is already zero per cent; Ghana is to eliminate duties on 80.5 per cent of the tariff lines within this period and Cote d'Ivoire on 88.7 per cent within the period. This means that by the time the African common market is established, in accordance with the set time frame, many African countries will already have obligations of indefinite duration to eliminate customs duties on imports from EU. The implications of EPAs for regional and continental customs unions and common markets, the treatment of African countries that will not conclude EPAs or for which EPAs will not enter force both LDCs and non-LDCs, adequacy of resources, private sector standards and institutional and legal capacity to enforce the WTO agreements on TBT and SPS measures, and areas for the next phase of the negotiations are other issues where a common African position is desirable.

But as the discussion in other parts of this paper has shown, it is clear that there are no common African positions on several other issues in the interim EPAs, such as in fisheries, certain elements of agriculture (net food importing countries, phasing out of subsidies by the EU as a concession for elimination of customs duties), trade-related areas of data protection and social aspects as well as environment, implications of EPAs for the programmes for formation of regional and continental customs unions and common markets, institutions under the EPAs, parties, ratification and entry into force, dispute settlement, and structure of the agreements. These are not peripheral issues at all and guidelines on them could be useful. Some of these are essential components of any agreement, such as the institutional and final provisions; or are key African priorities, such as agriculture and fisheries; while others are considered important for the EU and there is therefore a likelihood that EU negotiators might be keen to have them included during this next phase of the negotiations in some other African EPAs.

As for possible improvements in coordination of the negotiations, there could be merit in considering the formal establishment of an African working group or drafting group on EPAs, with specific functions of producing text for the negotiations and advising on evolving text in between negotiating sessions as appropriate. The next phase of the negotiations will require text in areas not yet addressed, but where improvements in the interim agreements will be considered appropriate,

¹ The figures are percentages of tariff lines. The pace of the liberalization differs for these countries.

text will also be required and in this regard such text could endeavour to harmonize approaches under all the African EPAs as may be appropriate.

Some issues for discussion

The implementation of EPAs will result in net revenue losses for African countries and this may have negative effects on the ability of the government to provide public services. African countries that have initialed EPAs and may be contemplating signing full EPAs will have to prepare for decline in revenues. Government spending in critical areas such as health and education may be reduced significantly if no measures are put in place to ensure that there is adequate compensation for such losses.

The regional integration objective of EPAs has not been achieved in the interim agreements. In the SADC region, EPAs have brought in more problems to the integration process. Taking for instance what is happening in the Southern Africa Customs Union (SACU) was South Africa, a significant player in that customs union has not signed an Interim Agreement with EU while other members of the Customs Union have done so. Ideally, a customs union should have a single trade agreement with all trading partners. A situation now exists where members of the same Customs Union are trading with the same external partner using different agreements.

Developed countries have made commitments to assist in capacity-building of developing countries to participate meaningfully in global trade through the Aid for Trade Facility. EU has indicated that a substantial amount of Aid for Trade resources has been set aside for utilization in the implementation of EPAs by those countries that will sign these agreements. The modalities for the operationalization of Aid for Trade-Facility should ensure that even those countries that eventually do not sign an EPA with EU should be able to benefit. Still on the issue of resources, the delayed ratification of the new Cotonou Partnership Agreement by some countries of ACP has affected the programming of the EDF resources.

The implementation of EPAs should be monitored to ensure that corrective action is taken in time. Monitoring the implementation of the new trade regime with EU will make it possible to identify areas that will need to be renegotiated in the agreements. Monitoring and evaluation will be necessary at the national and regional level. The African Union Commission should be involved in the monitoring and evaluation at the RECs/ negotiating groups' level.