

**A NEW ERA FOR THE EU-SADC TRADE RELATIONSHIP: A
CRITICAL ANALYSIS OF THE EU-SADC EPA AND THE
IMPACT ON REGIONAL INTEGRATION IN SADC AND SOUTH
AFRICA'S ROLE IN THE NEGOTIATIONS**

A Mini Thesis submitted in partial fulfilment of the requirement for the degree of Legum Magister (L.L.M), Faculty of Law, University of the Western Cape, South Africa



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DECLARATION

I declare that *A New Era for the EU-ACP Trade Relationship: A Critical Analysis of the EU-SADC EPA and the Impact on Regional Integration in SADC and South Africa's Role in the Negotiations* is my own work, that it has not been before any degree or examination in any other university, and that all sources I have used or quoted have been indicated and acknowledged as complete references.

Sara Regina Keller

November 2007

Signed.....

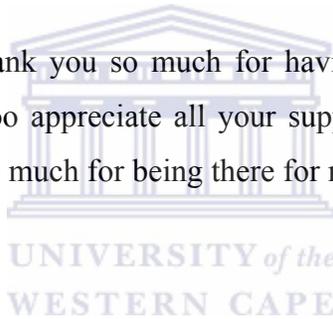


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CONTENTS

Title Page	1
Declaration	2
Acknowledgements	3
Keywords	7
Acronyms	8
Abstract	10

CHAPTER ONE

1.1	Introduction	12
1.2	Objective of the Study	12
1.3	Scope of the Research	13
1.4	Research Methodology	13
1.5	Overview of Chapters	14



CHAPTER TWO HISTORICAL OVERVIEW OF TRADE RELATIONS BETWEEN EU AND ACP

2.1	Introduction	16
2.2	The Yaoundé I and II Conventions	17
2.3	The Lomé Conventions	18
2.4	The Cotonou Agreement	20
2.5	The Southern African Development Community (SADC)	22
2.6	Conclusion	24

**CHAPTER THREE THE DEVELOPMENT OF REGIONAL ECONOMIC
INTEGRATION IN AFRICA AND SADC**

3.1	Introduction	25
3.2	Various definitions of Regionalism and Regional Integration	26
3.3	Models of Regional Economic Integration	29
3.3.1	The Macro or Globalist Approach	29
3.3.2	The Micro or Project Approach	30
3.4	Stages of Regional Economic Integration	31
3.4.1	Benefits of Regional Economic Integration	32
3.5	The Development of Regional Economic Integration in Africa	33
3.5.1	Objectives of the AEC	36
3.5.2	Factors affecting integration in the AEC	38
3.6	The Development of Regional Economic Integration in SADC	41
3.6.1	Differentiating objectives between SADC and SACU	45
3.7	Conclusion	49

**CHAPTER FOUR THE EU-SADC NEGOTIATIONS AND THE IMPACT
ON SADC**

4.1	Introduction	50
4.2	Basis of the EU-ACP Waiver	51
4.2.1	Complaints against the EU-ACP Waiver	52
4.2.2	Impact of the EU-ACP Waiver on MFN Clause	53
4.2.3	Current Trade Relationship under the EU-ACP Waiver	55
4.3	Economic Partnership Agreements	57
4.3.1	Objectives of EPA's	59
4.3.2	Aid for Trade	61

4.4	Overlapping Memberships in the Region	63
4.4.1	The Spaghetti Bowl Syndrome	64
4.5	EU-SADC Negotiation Agenda and Structure	64
4.5.1	Negotiating Agenda of the EU-SADC EPA	65
4.5.2	EU-SADC Negotiating Structure	66
4.6	Proposed EU-SADC EPA	67
4.6.1	Article 37(4) Review of the EU-SADC EPA	74
4.7	South Africa's Role and Contribution to the EU-SADC Negotiations	75
4.8	Possible Impact of the EU-SADC EPA on SADC	76
4.9	Possible Impact of the EU-SADC EPA on SACU	79
4.10	Conclusion	81
		
CHAPTER FIVE CONCLUSION AND RECOMMENDATIONS		
5.1	Conclusion	83
5.2	Recommendations	83
	Bibliography	87
	Annexure One	96
	Annexure Two	97
	Annexure Three	98
	Annexure Four	99

KEYWORDS

African Caribbean Pacific (ACP)

European Union (EU)

Cotonou Agreement

Regional Trade

Regional Economic Integration

Southern African Customs Union (SACU)

Southern African Customs Union (SADC)

South Africa

EU-ACP EPA negotiations

Economic Partnership Agreements



ACRONYMS

AASMS	African Associated and Madagascar
ACM	African Common Market
ACP	African Caribbean Pacific
AEC	African Economic Community
AMU	Arab Maghreb Union
BBC	British Broadcast Corporation
BNLS	Botswana Namibia Lesotho Swaziland
CAP	Common Agriculture Policy
CEMAC	Economic and Monetary Community of Central Africa
CEN-SAD	Community of Sahel-Saharan States
CEPGL	Economic Community of the Great Lakes Countries
CET	Common External Tariff
COMESA	Common Market of Eastern and Southern Africa
DRC	Democratic Republic of Congo
EAC	East African Community
EBA	Everything But Arms
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of Western African States
EDF	European Development fund
EEC	European Economic Community
EPA	Economic Partnership Agreement
EU	European Union
EU-ESA	European Union-Eastern and Southern African

FTA	Free Trade Area
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GSP	Generalised System of Preferences
HDI	Human Development Index
IGAD	Intergovernmental Authority on Development
IOC	Indian Ocean Commission
LDC	Least Developed Country
MAT	Mozambique Angola Tanzania
MFN	Most Favoured Nation
MRU	Mano River Union
OECD	Organisation for Economic Co-operation and Development
PTA	Preferential Trade Area
REC	Regional Economic Communities
RISDP	Regional Indicative Strategic Development Plan
SACU	Southern African Customs Union
SADC	Southern African Development Community
SADCC	Southern African Development Co-ordination Conference
TDCA	Trade, Development, Cooperation Agreement
UDEAC	Central Africa Customs and Economic Union
UEMOA/WAEMU	West African Economic and Monetary Union
UN	United Nations
WTO	World Trade Organisation

ABSTRACT

The European Union (EU) and the African Caribbean Pacific (ACP) countries have been in the process of concluding Economic Partnership Agreements (EPA) with each other. The purpose for the EPA's is to replace the Cotonou Agreement which currently governs trade between the EU and ACP. The EPA's are to be signed by 31 December 2007 and implemented on 01 January 2008. This is because they have been trading under a World Trade Organisation (WTO) waiver that was granted to the EU and ACP expiring on 31 December 2007. The EU-ACP waiver enabled the two partners to trade with non-reciprocal preferences by enforcing the special and differential treatment.

From the evolution of the Yaounde' Agreement to the Lome' Convention, it can be seen that the EU had advocated for the development and economic integration of the ACP. The current Cotonou Agreement has not been just a mere trade agreement. It has incorporated principles of integration, development and the welfare of the ACP. However, due to the expiration of the EU-ACP waiver, current trade under the Cotonou Agreement could not continue so the EU and ACP have had to conclude a new trade agreement. The new trade agreement, being the Economic Partnership Agreement (EPA), must be concluded on WTO principles and guidelines. This means that the EPA's must be geared towards trade liberalization and the special trade preferences given by the EU cannot continue as was in the past.

The EPA's will have an impact on regional integration in Africa, especially in the SADC region. The region has been split between the SADC and ESA EPA configuration therefore impacting on regional integration objectives set out under the SADC Trade Protocol.

The EPA's will be concluded separately with six of the sub groupings under the ACP grouping. With the EU-SADC EPA negotiations has come a problem of overlapping of membership of the different regions which has created confusion and conflicts. Members of Southern African Development Cooperation (SADC) did not all enter into the EU-SADC EPA has one. The EU-SADC EPA configuration consists of Angola, Botswana, Lesotho, Mozambique, Namibia, South Africa, Swaziland and Tanzania. The rest of the SADC member states are negotiating with the EU-ESA configuration. With South Africa having been allowed into the negotiations, its role should be examined and what it can contribute to the negotiations. Another conflict that has been created is the fact that South Africa has its own bilateral agreement with the EU thus putting stain on the trade relationship between South African and the rest of the SADC countries.

The most important question is whether the EPA's will truly replace the Cotonou Agreement or is it a better version of it. Will it incorporate the principles of the Agreement? Some African countries have stated that the EPA's do not represent their interests and they are being bullied into the EPA's. However, the conclusion of some form of a trade agreement is vital for the continuing of the trade relationship between the EU and ACP countries.

CHAPTER ONE

1.1 INTRODUCTION

The EU and ACP countries are currently trading under the Cotonou Agreement which is to come to an end 31 December 2007 due to the expiration of the WTO waiver. A new trade agreement has to be concluded therefore there are currently the EPA's negotiations taking place between the EU and the six regional trade blocs. The six regional blocs were derived from the already existing regional economic communities in Africa.

One of the six regional trade blocs is SADC which is not negotiating as the original fourteen members. They have been split between the EU-SADC and EU-ESA configuration. Due to this, the future of regional integration within the SADC region is uncertain. The EU-ACP EPA's will hamper SADC's objectives as far as regional integration is concerned. Besides the EPA's, the overlapping of membership to different regional blocs just adds problems to the situation. With the conclusion of the EPA's, member states will not be able to enter into any other FTA that has conditions that differ from the initial EPA.

1.2 OBJECTIVE OF THE STUDY

This study aims to investigate the EU-SADC EPA negotiations and how this will impact on the regional economic integration that has taken place in SADC. This study will also examine South Africa's role in the negotiations and what they are able to contribute since they have had experience in negotiating with the EU in particularly with the Trade, Development, Cooperation Agreement (TDCA).

The different regional groupings in the ACP strive for development, regional integration and alleviation of poverty within their own trade blocs. This study aims to

identify the problems encountered by the SADC-EU EPA negotiations and how these problems have been affecting regional integration. It is important that these negotiations been give a hard look at.

With the growing fear among African states about their future trade relationship with the EU and their fragile economies, this study wants to contribute to possible solutions to the problems encountered by the EU-SADC EPA negotiations. Ways must be found on how to accelerate development in SADC and more importantly build towards an equal standing in the trade world. The SADC has to now strive for better production and quality of trade without having to continuously relying on waivers.

1.3 SCOPE OF RESEARCH

The EU-ACP EPA negotiations are a complex issue therefore it has been confined to discussion to the EU-SADC EPA. However, the history of trade relations between the EU and ACP will be considered in order to show how exactly these negotiation came about. Regional economic integration is a major factor because the conclusion of the EU-SADC EPA will hamper the goals of the region. Therefore the nature and stages of integration will be shown as well as benefits that can be derived from it. Finally, the draft EU-SADC EPA will be the focus of the discussion as well as South Africa's contribution and the impact it will have on SADC and SACU.

1.4 RESEARCH METHODOLOGY

The method employed for this research will be by literature review. The primary source will be articles written by experts and organizations in the field. The secondary source will include textbooks and trade agreements as well as data and statistics pertaining to trade tends between the EU and ACP countries.

1.5 OVERVIEW OF CHAPTERS

1.5.1 Chapter One

Chapter 1 will introduce the subject matter, describe the methodology and identify the problem.

1.5.2 Chapter Two

Chapter two will discuss the historical background of the ACP grouping and the evolution of the trade relationship between the EU and the ACP countries in particularly, between the EU and SADC. It will discuss in detail discuss the Yaounde' I Agreement in 1963 through the four generations of the Lome' Convention to the current Cotonou Agreement. The launch and progression of SADCC to SADC will be looked at.

1.5.3 Chapter Three

This chapter will outline the regional integration that had taken place before the EU-SADC EPA negotiations. The AEC is the umbrella organization under which the regional economic communities operate. The chapter will also discuss the process of regional integration and the understanding of regional trade agreements and the concept of free trade in Africa.

1.5.4 Chapter Four

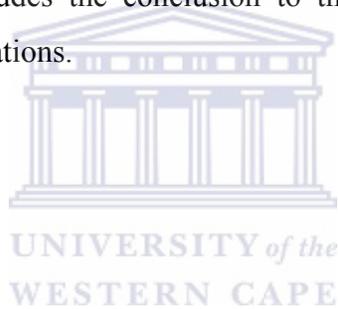
Chapter 4 will discuss the concept of EPA's and the initiation of the EU-SADC EPA negotiations. The nature and objectives will be reviewed. The problem of the overlapping membership will also be discussed and how this has impacted on the

current state of integration as well as what are the possible future ramifications from the overlapping of membership.

There will be some form of impact from the EU-SADC EPA on trade and regional integration therefore it has to be debated. This impact on the SADC region should be minimized as to avoid to closure of several sectors in vulnerable countries. The draft EU-SADC EPA provides us with a sense of direction of where the EU and SADC see themselves.

1.5.4 Chapter Five

Finally, this chapter includes the conclusion to this research as well as possible solutions and recommendations.



CHAPTER TWO

HISTORICAL OVERVIEW OF TRADE RELATIONS BETWEEN EU AND ACP

2.1 INTRODUCTION

The trade relationship had undergone various stages and generations from the Yaoundé¹ conventions to the Lomé² Conventions and finally the current Cotonou³ Agreement which the WTO waiver on it expires on the 31 December 2007.

In this chapter, a brief historical overview of the Yaoundé and Lomé Conventions as well as the Cotonou Agreement will be discussed. The evolution of these trade agreements will be examined. The launch of the Southern African Development Co-ordination Conference (SADCC) will also be looked at and the leading up to the creation of what is known today as the Southern African Development Community (SADC) since it is considered one of the pillars of the AEC.

¹ The Yaoundé Conventions were concluded in two stages, Yaoundé I and II.

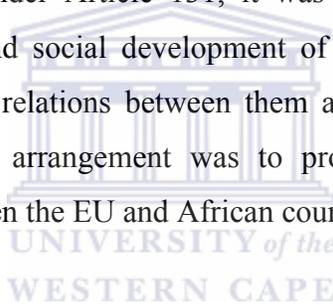
² The Lomé Conventions were concluded through four stages, Lomé I, II, III and IV.

³ The Cotonou Agreement is currently the trade agreement that governs trade between the EU and ACP and is set to expire on 31 December 2007.

2.2 YAOUNDÉ I AND II CONVENTIONS

The EU and ACP⁴ embarked on a formal trade relationship in 1958 after having had economic relations dating back to the Middle Ages.⁵ In the abovementioned year, France had convinced the other five European partners of giving African colonies preferential status under the Treaty of Rome.⁶ The five European partners were Belgium, Italy, Luxembourg, the Netherlands and West Germany. At this point in time, Britain had rejected the offer based on the supranational nature of the negotiations.

Articles 131 and 136 of the Treaty of Rome made provision for the establishment of the trade relationship. Under Article 131, it was stated that the purpose was to promote the economic and social development of countries and territories and to establish close economic relations between them and the community as a whole.⁷ Basically, this economic arrangement was to provide aid, investments and the facilitation of trade between the EU and African countries.



⁴ The ACP group is made up seventy-nine countries, forty-eight of them are Sub Saharan Africa, sixteen are from the Caribbean and fifteen are from the Pacific. They are as follows: Angola, Antigua and Barbuda, Belize, Cape Verde, Comoros, Bahamas, Barbados, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Kinshasa), Cook Islands, Cte d'Ivoire, Cuba, Djibouti, Dominica, Dominican Republic, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Ghana, Grenada, Republic of Guinea, Guinea-Bissau, Equatorial Guinea, Guyana, Haiti, Jamaica, Kenya, Kiribati, Lesotho, Liberia, Madagascar, Malawi, Mali, Marshall Islands, Mauritania, Mauritius, Micronesia, Mozambique, Namibia, Nauru, Niger, Nigeria, Niue, Palau, Papua New Guinea, Rwanda, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Solomon Islands, Samoa, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Suriname, Swaziland, Tanzania, Timor Leste, Togo, Tonga, Trinidad and Tobago, Tuvalu, Uganda, Vanuatu, Zambia, Zimbabwe [Online]. Available: <http://www.acpsec.org/en/faq.htm> [2007, November, 20]

⁵ Trade relations between Europe and Africa can be traced back to the eleventh century. North and West Africa traded various goods such as salt, gold, wood, textiles, beads, ceramics etc. At this point in time, Mali was the main supplier of gold. [Online]. Available: <http://africanhistory.about.com/library/dyk/bltimbuktumap.htm> [2007, November, 20]

⁶ Lee, M. 2003. *The political economy of regionalism in Southern Africa*. Cape Town: University of Cape Town Press. 192-234

⁷ Treaty establishing the European Community as Amended by Subsequent Treaties. Rome, 25 March 1957. [Online]. Available: <http://www.hri.org/docs/Rome57/Rome57.txt> [2007, November, 20]

The trade relationship unfolded in various stages. Firstly, Yaoundé I was concluded followed by stage two which was Yaoundé III. Yaoundé I Convention was first concluded after French colonies had received their independence in the 1960's. With this came about the renegotiation of the association status between the then EEC and the African Associated and Madagascar (AASMS).⁸ It was signed on 20 July 1963 in Yaoundé, Cameroon by Walter Hallstein, President of the European Commission while the AAMS constituted eighteen African states.

When the trade relationship was being formalized, the European Development Fund (EDF) was also created. The EDF is a financial instrument aimed to supply the ACP countries with financial aid that promotes development in their respective states. The fund is used to build on much needed infrastructure and capacity building resources. At this point in time, the funding from the EDF was being channelled to former French colonies of sub-Saharan Africa, reason being that other colonies were not as yet independent. The first EDF was from 1958-1963, second EDF (1964-1969) was covered under the Yaoundé I convention. The third EDF (1964-1969) was covered under Yaoundé II convention.

Both the Yaoundé Conventions were based principles of development and allowed some of the African states products to enter the Community duty free thus starting trade based on non-reciprocal preferences.

2.3 THE LOMÉ CONVENTIONS

The first generation Lomé Convention was signed on 28 February 1975 between the EU and forty-six ACP countries and entered into force on 1 April 1976. The George Town Agreement had formally established the ACP group on 6 June 1975.⁹

⁸ The AAMS has also been referred to as Associated African and Malgache countries.

⁹ Karl.K. (2000) *From GeorgeTown to Cotonou: The ACP Group faces up to new challenges*. The Courier. [Online]. Available:

At this time; the United Kingdom had acceded to the European Community thus incorporating the former British African colonies into the trade relationship between the partners.

Under Lomé I convention, the main feature of the agreement was the non-reciprocal preference given to most of the exports from the ACP countries. The fourth EDF had been covered as well as important principles which were mutual respect and equality between the States and the fundamental right of each state to determine its own policies.

The STABEX system was introduced which was a system that was devised to cater to ACP countries in the event of a shortfall in export earnings due to fluctuation in the prices or supply of commodities.¹⁰

Lomé I went through a review process to establish whether various issues were being addressed thus Lomé II was concluded on 31 October 1979 with fifty-eight ACP countries. It entered into force on 01 January 1981. With regards to the EDF amount, €4.207 million was pledged to the ACP countries.¹¹ In December 1984 saw the conclusion of Lomé III and the ACP signatures had increased to sixty-five countries. The EU had allocated €7.882, 6 million for the EDF. Finally, Lomé IV was signed on 15 December 1989 and entered into force 1 March 1990 with sixty-eight ACP countries.¹² The EU signatories had increased to twelve countries and pledged €11.583 million towards the EDF.¹³

http://ec.europa.eu/development/body/publications/courier/courier_acp/en/en_020.pdf [2007, November, 20]

¹⁰ David. D. (2000) 40 Years of Europe-ACP Relationship. [Online]. Available: http://ec.europa.eu/development/body/publications/courier/courier_acp/en/en_011.pdf [2007, November, 20]

¹¹ *Ibid*

¹² European Commission. Trade Issues: Bilateral Relations. *Africa, Caribbean, Pacific: ACP and EU, a long and preferential relationship*. [Online]. Available: http://ec.europa.eu/trade/issues/bilateral/regions/acp/lprel_en.htm [2007, November, 20]

¹³ *Supra* n 10

In 1995 the membership of the ACP countries was extended to 70 states. Lomé II and III had very little change except for the introduction of the SYSMIN system which was used to help in the mining industry in ACP countries that were depended on this sector. Before Lomé IV, each of the agreements was over a five year period. Lomé IV was the first agreement to be extended over a ten year period having a mid-year review between 1994 and 1995. It took place to review the political and economic changes that have taken place in the ACP countries and in the EU. Fundamental principles were introduced during the revision such as human rights and rule of law in aid to promote development and cooperation among the ACP countries. Therefore, Lomé IV *bis* Convention was signed with fifteen EU member states and seventy ACP member states. The EDF had also increased to €13.151, 10 million.¹⁴

2.4 THE COTONOU AGREEMENT

The expiration of the Lomé Convention in the year 2000 lead up to the conclusion of the Cotonou Partnership Agreement in Benin which was set for a twenty year period with a clause stating that every five years there were to be a revision of the agreement. Signatories had increased to seventy-seven ACP members and the EU member states had remained at fifteen. The agreement defines progression in the movement towards the sustainable development of the ACP countries as well as the integration of these countries into the world economy.¹⁵

The agreement is founded on five interdependent pillars: comprehensive political dimension, participatory approaches, strengthened focus on poverty reduction, a

¹⁴ *Ibid*

¹⁵ European Center for Development Policy Management. *The Cotonou Partnership Agreement in Brief*. [Online] Available: http://www.ecdpm.org/Web_ECDPM/Web/Content/Navigation.nsf/index2?readform&http://www.ecdpm.org/Web_ECDPM/Web/Content/Content.nsf/7732def81ddd7ac1256c240034fe65/1942efab4c863cfdc1256e97004d1c78?OpenDocument [2007, July 17]

framework for economic and trade cooperation, and a reform of financial cooperation.¹⁶

The first pillar, being the political dimension, was introduced as a key to open political dialogue between the two trading partners to address conflicts and political tension as well as peace building policies. Respect for human rights and democratic principles are emphasized in the agreement. Procedure for dealing with corruption in public finance had been highlighted due to the vast amount of EDF capital being channelled into the ACP countries. This new procedure was to ensure the combat any possible corruption.

The participatory approach, the second pillar, of the agreement is a method devised to interact with civil society and economic and social players providing information to them on the EU-ACP partnership agreement. The aim is to facilitate the implementation of programs and projects. This involvement had also included non state actors providing them with capacity building techniques.

It has always been a goal of the western world to reduce poverty in disadvantaged countries thus it was an obvious inclusion in the Cotonou agreement as the third pillar. A general framework had been utilized to include general international strategies geared towards poverty reduction. These international strategies are those from UN conferences and OECD. Within these strategies, there would be individual development strategies tailored specifically for each of the ACP countries according to national needs.

The fourth pillar is a framework for economic and trade cooperation which can be effectively implemented. This new framework would still retain the core principle being trade liberalization. Objectives that have been included are the enhancement of

¹⁶ European Union. Summaries of Legislation. Cotonou Agreement [Online]. Available: <http://europa.eu/scadplus/leg/en/lvb/r12101.htm> [2007, November, 20]

trading and production capacities while ensuring that trade that will take place observes WTO principles and obligations.

The last pillar is that of financial cooperation. Guiding principles have been utilized to enhance financial cooperation between the EU and the ACP countries. Flexibility and coherence is highlighted as one of the principles in the assistance of ACP countries and each member state is to be held accountable for its own reviews and policies.

2.5 THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY

The establishing of SADC took place in July in 1979 in Arusha, Tanzania. It was first named the Southern African Development Co-ordination Conference (SADCC) with the official launch in April 1980. The idea behind this initiative was the integration of the region and to reduce the economic dependency of other countries on South Africa.¹⁷ Nine countries were involved at this point in time which were Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe.

SADCC was formed on the following principles:

- to reduce Member States dependence, particularly, but not only, on apartheid South Africa
- to implement programmes and projects with national and regional impact;
- to mobilise Member States' resources, in the quest for collective self-reliance; and
- to secure international understanding and support.

The transformation from the conference to the present regional community took place on the 17 August 1992 in Windhoek, Namibia where ten countries signed the treaty

¹⁷ Buthelezi S. (2006) *Regional Integration in Africa: Prospects & Challenges for the 21st Century*. East London. Ikhwezi Afrika Publishing. 162-186

establishing the Southern African Development Community. With the new treaty, the focus on integration intensified where the promotion of self reliance and sustainable development was the order of the day.

Since then four more countries have become members making that a total of fourteen member states. Over the years immense trade within the SADC region had grown amounting to billions of US dollars with agriculture being the dominant sector especially in tobacco, tea, sugar, maize, cotton and timber.¹⁸ The facilitation of trade and investment in the region is a very important objective to SADC where they aspire to the creation of a single regional market by the removal of trade barriers and the free movement of goods, people and resources.

The SADC operates on four fundamental principles that the members states are bound to set out in Article four of the Treaty:

- Sovereign equality of Member States
- Solidarity, peace and security
- Human rights, democracy and rule of law
- Equity, balance and mutual benefit

To avoid past mistakes, SADC followed a plan of a decentralized institutional arrangement as to ensure that each member state were principal actors in the formulation and implementation of policy decisions. However, unavoidable problems have been encountered such as inadequate resources and staffing and different management and administrative procedures that have conflicted between the different member states.

Such problems could affect programs that SADC had implemented such as the SADC Programme of Action known as SPA. This programme encumbers the entire goals and objectives of the SADC region where several protocols had been developed and

¹⁸ *Ibid*

signed for the various sectors. One of the protocols signed and entered into force in 2000 was the Trade Protocol. This protocol is vitally important for the process of integration.

An important initiative that governs SADC is the SADC Trade Protocol which was signed in August 1996 however it only into force on 1 September 2000. The main purpose of the protocol was to ensure the liberalization of goods within the SADC region. One of the objectives was that by 2008, 85% of products were to be at a zero tariff for SADC countries and by 2012, the rest of the 15% to be liberalized paving the way to the establishment of a SADC FTA.¹⁹

However, the SADC Trade Protocol is not limited to just trade in goods. It includes of measures to facilitate investments throughout the region and sanitary and phyto-sanitary as well as the trade in services but this has not to date been included in the negotiation agenda.

Since not all member states are negotiating in the EU-SADC configuration, there could be a possible impact on the trade protocol. The possible impact and process of integration as well as conflicts in the SADC region that have risen through current EPA negotiations will be discussed in the following chapters.

2.6 CONCLUSION

In conclusion, it has been a turbulent road that has led to the Cotonou Agreement. From the Yaoundé Conventions it can be seen how trade between the EU and ACP countries had evolved not into a mere trade agreement but one that encumbers human rights and development for the region. Cooperation in every respect between the two trading partners has been very important to ensure an amicable trade relationship.

¹⁹ Kalenga.P. (2004) *Implementation of the SADC Trade Protocol: Some Reflections*. TRALAC. [Online]. Available: http://www.tralac.org/pdf/Trade%20Brief_SADC%20Trade%20Protocol.doc [2007, November, 20]

CHAPTER THREE

THE DEVELOPMENT OF REGIONAL ECONOMIC INTEGRATION IN AFRICA AND SADC

3.1 INTRODUCTION

Regional Economic Integration has been a growing trend in the last fifty years where countries have turned to regional trade agreements in efforts to strengthen their economies. Almost every country in the world is a signatory to these agreements and African countries have caught onto this trend.

The establishment of the African Economic Community (AEC)²⁰ followed suit when the European Union was formed and grew to gigantic proportions. Throughout this process, regional groupings emerged through Africa. However, objectives cannot be realized if the regional integration process throughout the African continent is not solid. The different regional blocs must have reached a certain stage of integration to be able to merge together into one economic and monetary union. The foundation laid should be concrete and though policies are geared towards integration, the process has not been properly implemented due to the lack of capacities and resources.

This chapter aims to illustrate the integration process and how it is beneficial to member states in Africa. The focus point will however be SADC and how the fourteen members contribute to the integration process.

²⁰ The AEC was established in 1991 based on the Final Act of Lagos and the treaty is commonly known as the Abuja Treaty. AEC: History and Present Status. [Online]. Available: <http://www.dfa.gov.za/foreign/Multilateral/africa/aec.htm> [2007, November, 21]

3.2 VARIOUS DEFINITIONS OF REGIONALISM AND REGIONAL ECONOMIC INTEGRATION

There have been various definitions to describe regionalism and regional integration. Some use strict economic perspectives and interpretations while others give a much broader definition and approach.

Regional integration was defined by Paul-Henri Bischoff²¹ as being:

*“a process where a group of States voluntarily and to various extent get access to each others markets and establish mechanisms and techniques that minimize conflicts and maximize the internal market and external economic, social, political and cultural profits of their cooperation”*²²(Bischoff 2004: 121)

From an economic perspective, Andrew Wyatt-Walter²³ defined regionalism as:

*“a process consisting of a group of countries that implement a set of preferential policies designed to enhance the exchange of goods and/or factors among themselves.”*²⁴
(Wyatt-Walter, 2000:78)

²¹ Professor Paul-Henri Bischoff is an Associate Professor in the International Studies Unit, Department of Political Science at Rhodes University, South Africa. [Online]. Available: http://www.accord.org.za/ct/1999-2/ct2_1999_pg33-36.pdf [2007, November, 21]

²² Karlsson C, “Regionalism from Outside: The EU Foreign Aid Policy and Regional Integration in SADC” Lund University, Department of Political Science pg 5 [Online]. Available: <http://theses.lub.lu.se/archive/2007/01/08/1168288378-23300-700/C-uppsats2.PDF>

²³ Dr. Andrew Wyatt-Walter is a Senior Lecturer for the Department of International Relations for the London School of Economics. [Online]. Available: <http://personal.lse.ac.uk/wyattwal/> [2007, November, 21]

²⁴ Lee, M.C (2003) *The Political Economy of Regionalism in Southern Africa*. Cape Town: University of Cape Town Press. Lynne Rienner Publishers. pg 8

Using a more restrictive approach in defining economic regionalism, it was defined as:

*“a process based on the fact that trade and investment in a specific region grows faster than that with the rest of the world.”*²⁵ (Haggard, 1997:fn. 1)²⁶

Marianne Marchand, Morten Bøås²⁷ and Timothy Shaw had included political factors and defined regionalism as the following:

*“concerns the ideas, identities and ideologies related to a regional project”*²⁸(Marchand *et al.*, 1999:900)

Maksimova (1976, p.33) had defined economic integration as:

*“a process of developing deep and stable relationships about the division of labour between national economies”.*²⁹

Holzman (1976, pg 59) defined economic integration as:

*“a situation in which the prices of all similar goods and similar factors in two regions were equalized.”*³⁰

²⁵ *Ibid*

²⁶ Stephan Haggard is Visiting Fellow and the Lawrence and Sallye Krause Professor for the Graduate School of International Relations and Pacific Studies at the University of California, San Diego. [Online]. Available: <http://irps.ucsd.edu/faculty/faculty-directory/stephan-m-haggard.htm> [2007, November,21]

²⁷ Morten Bøås, PHD in Political Science, is a researcher and a Regional Coordinator for Africa for FAFO. [Online]. Available: <http://www.faf.no/pers/bio/mbo.htm> [2007, November, 21]

²⁸ *Ibid*

²⁹ Jovanović. M.N. (1998) *International Economic Integration: Limits and Prospects*. London and New York: Routledge. Second Edition. Pg 6

³⁰ *Ibid*

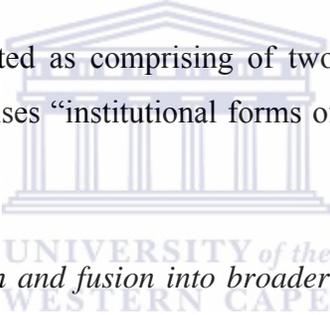
Drysdale and Garnaut (1993, p.189) views economic integration as:

“a movement towards one single price for a good, service or factor of production.”³¹

Mennis and Sauvart (1976, p. 75) defined economic integration as:

“a process whereby boundaries between nation-states become less discontinuous, thereby leading to the formation of more comprehensive systems.”³²

Regionalism has been stated as comprising of two types by Daniel Bach. One is formal regionalism comprises “institutional forms of cooperation or integration’ and is defines as³³:



“the aggregation and fusion into broader units of existing territories of fields of intervention” (Bach, 1999a:152)

The second type, being Network Regionalism, comprises of “trans-state or informal integration and results in the exploitation of dysfunction and disparities generated by existing boundaries, with debilitating effects on state territorial control”. (Bach, 1999a:152)

With the various definitions, it demonstrates the complexity of the theory surrounding regional economic integration. In trying to define Regional Economic Integration, I concur with Bischoff’s interpretation. It is best suited to describe integration and the elements that are needed. Integration can only be achieved on a voluntary basis and

³¹ *Ibid*

³² *Ibid*

³³ *Ibid*

not only restricted to trade and investment. It should encumber other aspects in order to uplift each other's economies. Haggard based regional integration on the speed at which it grows which should not be the case. That specific region could be integrated and trade within that region would not necessarily be faster than the rest of the world. The economic growth rate could be slower as compared to the West. This is especially true in Africa's case. The integration process would most likely be slower than Europe's because of factors that have to be dealt with.

3.3 MODELS OF REGIONAL ECONOMIC INTEGRATION

Regional Economic Integration is based on various models and consists of two main types which is the Macro or Globalist approach and the Micro or Project Approach.³⁴

3.3.1 The Macro or Globalist Approach

The Macro Approach deals with two aspects; the marketing integration approach and the development integration or "dirigist" approach.

The market integration approach was often referred to as the customs union theory however it does not represent market integration as a whole because a custom union is only one stage in the process towards regional economic integration (Østergaard, 1993:29).³⁵ This approach was developed by Viner (1950), Meade (1955) and Lipsey (1957). This approach was developed to address problems encountered in economic integration processes in industrialized countries.³⁶

Two factors that influence integration is trade creation and trade diversion. Trade creation is the transfer of use from high cost products to low cost products. This is

³⁴ Haarløv J. (1988) *Regional Cooperation in Southern Africa: Central Elements of the SADCC Venture*. CDR Research Report No. 14. Copenhagen.

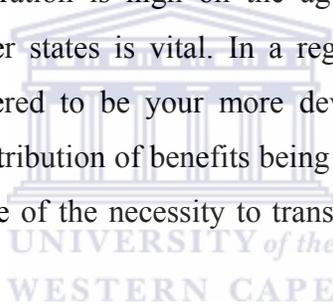
³⁵ *Supra* n 22

³⁶ *Supra* n 34

achieved from the reduction of tariffs thus indicating how much trade is created between member states. Trade diversion is virtually the opposite of trade creation where the shift is from low cost products to high cost products thus incurring loss through the implementation of external custom duties.

The development or “digirist” approach also consists of the “globalist” characteristic and is made up of two areas which are; political cooperation and intervention as well as the distribution of benefits.³⁷

To ensure success with this approach, a supra-national body must be established at a very early stage of integration therefore having a collective plan will be possible. Obtaining political cooperation is high on the agenda and is imperative because commitment from member states is vital. In a regional grouping, you have “core states” which are considered to be your more developed and you have the least developed states. With distribution of benefits being an element of this approach, it is not easily realized because of the necessity to transfer resources from core states to least developed states.³⁸



3.3.2 The Micro or Project Approach

The Micro approach is based on the development of the member states at a national level.³⁹ When projects are initiated, their focus will be on the country where there is a possibility of benefits being derived from. Not all countries will be involved in that particular project if no benefit will be obtained for that country. Decisions are reached by way of consensus and the countries enter into legally binding agreements which are created for the various projects.⁴⁰

³⁷ *Supra* n 29

³⁸ *Supra* n 29

³⁹ *Supra* n 29

⁴⁰ *Supra* n 29

The main advantage derived from this form of integration is that there are minimal problems in relation to distribution of costs and the ceding of powers from the national level to supra-national level.⁴¹

3.4 STAGES OF REGIONAL ECONOMIC INTEGRATION

Regional Economic Integration is strengthened through the following five stages⁴².

1. **A Trade Bloc**: A trade bloc is created when a group of countries binds themselves to a trade agreement. There are concessions and preferential access to members' markets. Trade blocs are normally established to promote not only trade interest but political and social interests.⁴³ More importantly, cooperation between countries is developed.
2. **Free Trade Area (FTA)**: It is a trade area established by a group of countries within a geographical region. Within that area, tariff and quotas are eliminated on most trade. At this stage, policies as regard to non-members and tariffs have not been harmonized.
3. **Customs Union**: This is a more advanced stage of a FTA. The member states of the FTA apply a Common External Tariff (CET) to trade with non members.
4. **Common Market**: At this stage of the integration, a common market comprises of custom union and common policies on the movement of goods, services, labour and capital.

⁴¹ *Supra* n 29

⁴² *Supra* n 20

⁴³ UC Atlas of Global Inequality. The Role and Function of Regional Trade Blocs. [Online]. Available: http://ucatlas.ucsc.edu/trade/subtheme_trade_blocs.php [2007, November, 21]

5. **Economic and Monetary Union**: This is the final stage of regional integration and besides having a common market; a single currency is established and economic policies and integrated into the member states.

In the SADC region, they have set several goals in which these stages will be achieved. The deadline for the establishment of a Free Trade Area is January 2008, for a Customs Union is 2010 and for a Common Market is 2015. Currently, SADC is still in stage one of the process because it has not been fully established as a free trade area.

3.4.1 Benefits of Regional Economic Integration

Peter Robson had stated the sources of gain from economic integration to include the following⁴⁴

There is the benefit of comparative advantage. Member states would maximize in that particular sector where they would have the advantage in. This of course, leads to an increased output because of the better exploitation of scale economies.

With regional integration, the improvements in trade with the rest of the world are vast and lead to a more stable trade relationship. Integration obliges member states to step up on efficiency in their national states because with integration brings increased competition. The member states would be forced to make these changes to ensure that they keep up with standards in the region. However, these changes can affect the quality or quantity of factor inputs for instance, capital inflows and changes in the rate of technological advance (Robson, 1980:3). A member state who lacks in resources and technology would be uplifted by a stronger member state in that region.

⁴⁴ *Supra* n 24

However, there are conditions that need to be in place in order for the above mentioned gains to be achieved. They are as follows⁴⁵:

- The level of industrial development among member countries must be similar.
- National macroeconomic policies must be harmonized.
- Regional macroeconomic stability should be in place.
- Existing intra-regional trade should be significant. One way to succeed at regional integration is to ensure that there is tariff protection. The tariffs must be selective and limited plus they provide an additional incentive for foreign direct investment.⁴⁶
- Member countries should have complementary industrial development.
- The prospective benefits from integration should be widely distributed, including opportunities for securing foreign investment.
- Factor endowments among member countries should be significantly different.
- Member countries must be willing to cede some level of sovereignty to a supra-national body that has enforcement authority.
- The region must be politically stable (Mwase and Maasdorp, 1999: 200; Collier and Gunning, 1999: 94; Onotiri, 1997: 414).

3.5 THE DEVELOPMENT OF REGIONAL ECONOMIC INTEGRATION IN AFRICA

It is important to indicate the pre-existing REC's in Africa before the EPA negotiations had commenced and the objectives the AEC had mapped out. There are fourteen major REC's which are AMU, ECCAS, COMESA, SADC, IGAD, ECOWAS, CEMAC, EAC, CEN-SAD, UEMOA/WAEMU, CEPGL, IOC, MRU and

⁴⁵ *Supra* n 24

⁴⁶ Andresen H, Brandt H, Gsänger H, Otzen U, Qualmann R & Stahl H. (2001) *Promoting Regional Integration in SADC*. German Development Institute. [Online]. Available: <http://www.isn.ethz.ch/pubs/ph/details.cfm?lng=en&id=27867> [2007, October, 16]

SACU. Several REC's have been designated as pillars and building blocks of the AEC.⁴⁷ The treaty establishing the AEC was concluded on the 3 June 1991 in Abuja, Nigeria and entered into force in 1994. It was named the Abuja Treaty.

There are several reasons for integration in Africa.⁴⁸ The first reason was politically motivated. The African continent is notorious for political tension therefore regional integration could be used as a tool to appease the situation. Secondly, economic reasons played a role. Due to the fact that Africa is economically suffering, regional integration could strengthen the economies in the member states. A stronger member state could uplift the economy of a weaker member by pooling resources and share in the benefits. Geographical positioning plays a major role in regional integration and that is where the Abuja Treaty comes into effect.

Only six of the regional groups were designated as building blocks of the AEC:

The Arab Maghreb Union (AMU) was established on the 17 February 1989 in Marrakech. As of May 1997, there were a total of 37 Maghrebi conventions. The AMU consists of five members, Algeria, Libya, Mauritania, Morocco and Tunisia.

The Common Market of Eastern and Southern Africa (COMESA) was established in 1993 as a successor to the Preferential Trade Area for Eastern and Southern Africa (PTA) of 1981. It was formally established on the 8 December 1994 and the FTA was signed on 31 October 2000 by nine members.⁴⁹ It is considered the

⁴⁷ The Role of the Regional Economic Communities (REC's) as the Building Blocks of the African Union. [Online]. Available: <http://www.dfa.gov.za/docs/2003/au0815.htm>, [2007, September, 12]

⁴⁸ South Centre. Brussels. (2006) *High Level Conference on EU-ACP Trade Relations: The Development Challenge of the Economic Partnership Agreements*. [Online]. Available: http://www.southcentre.org/Events/2006Oct_EPA_conference_Report.pdf [2007, August 06]

⁴⁹ Djibouti, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia and Zimbabwe. [Online]. Available: http://www.comesa.int/about/Multi-language_content.2007-04-30.2847/view [2007, November, 26]

biggest REC as it has twenty members⁵⁰ however three of those members have not as yet ratified the COMESA Treaty.⁵¹ It is currently based in Lusaka, Zambia.

The Economic Community of Central African States (ECCAS/CEEAC) was established on the 18 October 1983 by UDEAC and members of the Economic Community of the Great Lakes States (CEPGL) as well as Burundi, Rwanda, the former Zaire and Sao Tome´ and Principe.⁵² Due to an overlapping of membership, in 2003, the EU had concluded a financial agreement with the two organizations to merge the two into just one regional organization.⁵³ However, this REC has been inactive since 1992 due to conflicts and the area and non-payment of membership fees.

The Economic Community of Western African States (ECOWAS) was established in 1975. There was a membership of sixteen states until Mauritania withdrew its membership recently.⁵⁴

The Intergovernmental Authority on Development (IGAD) was formed in 1986 and has a membership of seven states.⁵⁵ They had a very narrow mandate which was to deal with drought and desertification.⁵⁶ During the 1990's it evolved into a fully

⁵⁰ The members are Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe. [Online]. Available: www.comesa.int/countries/index_html/view [2007, November, 22]

⁵¹ Those three members are Angola, Namibia and Swaziland.

⁵² The members are Angola, Burundi, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Democratic Republic of Congo, Equatorial Guinea, Gabon, Rwanda and Sao Tome´ and Principe. [Online] Available: http://www.iss.co.za/Af/RegOrg/unity_to_union/eccasprof.htm [2007, September 13]

⁵³ Profile: Economic Community of Central African States (ECCAS/CEEAC). [Online] Available: http://www.iss.co.za/Af/RegOrg/unity_to_union/eccasprof.htm [2007, September 13]

⁵⁴ The current members are Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo. [Online]. Available: <http://www.ecowas.info/> [2007, September 13]

⁵⁵ The members are Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan and Uganda. [Online]. Available: http://www.iss.co.za/AF/RegOrg/unity_to_union/igadprof.htm [2007, September 13]

⁵⁶ Profile: The Intergovernmental Authority on Development [Online] Available: http://www.iss.co.za/AF/RegOrg/unity_to_union/igadprof.htm [2007, September 13]

fledged regional economic community where IGAD would incorporate the northern part of COMESA and SADC would represent the southern part.⁵⁷

The Southern African Development Community (SADC) was officially launched on the 17 August 1992 in Windhoek, Namibia.⁵⁸ It has fourteen members⁵⁹, five of them belonging to Southern African Customs Union (SACU).⁶⁰ It is based in Gaborone, Botswana.

3.5.1 Objectives of the AEC

The objectives of the AEC have been provided for by Article 6 of the AEC Treaty. It outlines the six stages of integration over a period of thirty-four years.⁶¹ These stages incorporate existing REC's and provides for the establishment of any future REC. Each stage has a designated time frame. The stages are as follows:

Stage One: The first stage was given a period of five years in which to achieve its goals. The AEC aimed to strengthen existing REC's and establish new REC's.⁶²

Stage Two: In the second stage, eight years were set aside to establish tariff and non-tariff barriers, custom duties and internal taxes at the level of each REC.⁶³ Another goal was to harmonize the activities of the REC and strengthen integration in the various sectors.

⁵⁷ *Ibid*

⁵⁸ SADC Profile. [Online]. Available: http://www.sadc.int/about_sadc/index.php [2007, September 13]

⁵⁹ The members are Botswana, the Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe. [Online]. Available: http://www.sadc.int/about_sadc/index.php [2007, November. 26]

⁶⁰The member states are Botswana, Lesotho, Namibia, South Africa and Swaziland. [Online].

Available: <http://www.sacu.int/> [2007, November, 26]

⁶¹ Pan-African Perspective: The African Economic Community. (2006) Prepared by the Economic Co-operation and development Department (EDECO). [Online]. Available: <http://www.panafricanperspective.com/aec.htm> [2007,September 13]

⁶² *Ibid*

⁶³ *Ibid*

Stage Three: Stage three was give ten years in which the AEC aimed to set up free trade areas and a custom union in the REC's.⁶⁴

Stage Four: At stage four, the goal was coordinate and harmonize tariff and non-tariff barriers among the REC's with an ultimate goal of establishing a continental customs union.⁶⁵ This stage was given only two years in which to achieve this goal.

Stage Five: The AEC had set aside four years for this stage and the goal was to establish an African Common Market (ACM).⁶⁶

Stage Six: The final stage would consist of the establishment of a single domestic market, a Central Bank, currency and Parliament. Basically evolve into what the EU is today.⁶⁷

The maximum time allocated was forty years for this transition. In later discussions, it will be shown how the current EPA's, being negotiated, could possibly impact on these objectives of the AEC.

The following provides the timeline for the different regional groupings that were established in Africa.

In 1966, The Central Africa Customs and Economic Union (UDEAC) was formed however the Central African Monetary and Economic Community (CEMAC) replaced the UDEAC in 1998. The following year, in 1967, saw the East African Community (EAC) I was established and the EAC II was then formed in 1999.

⁶⁴ *Ibid*

⁶⁵ *Ibid*

⁶⁶ *Ibid*

⁶⁷ *Ibid*

The Southern African Customs Union was officially launched however it was first created in 1910 however, in 1969, a new agreement was concluded by the member states and it is simply known as the 1969 Agreement. In 1973, the Mano River Union was established as well as the West African Economic Community (CEAO). However, it was replaced in 1994 by the West African Economic and Monetary Union (WAMU).

ECOWAS, the Economic Community of West African States, was established in 1975 followed by the forming of the Economic Community of the Great Lakes countries (CEPGL) in 1976. In 1980, the Southern African Development Coordination Conference convened and went on to formally establish the Southern African Development Community (SADC) in 1992. The Preferential Trade Area (PTA) was created in 1981.

The Economic Community of Central African States (ECCAS) was established in 1984. The year 1991, saw a step in the right direction with the establishment of the African Economic Community (AEC) is considered the umbrella organization for all the regional groupings and all members of the AU are signatories to the AEC. Finally, the biggest regional bloc, the Common Market for Eastern and Southern Africa (COMESA) was launched in 1993.

3.5.2 Factors Affecting Integration in the AEC

There are many factors affecting integration in Africa however there has been few success. The following demonstrates how the AEC is affected⁶⁸:

Firstly, the number factor that affects the AEC is the economic situation of its member states. As it stands, most African States cannot sustain themselves and

⁶⁸ F.A.O (2003) Chapter Six: *Regional Integration in Africa*. [Online]. Available: <http://www.fao.org/docrep/004/y4793e/y4793e0a.htm> [2007, October, 17]

millions are borrowed from developed countries therefore states are weighed down with foreign debt. Currencies are highly inflated and a typical example is the Zimbabwean dollar that is bordering at the 6000% rate. Numerous member states rely heavily on custom duties as a source for their GDP.

Secondly, being colonized by European countries created a very unhealthy relationship between the two. The dependence of African states on Europe has created distractions from their intended long term goals of regional integration.

Thirdly, trying to gather support from the private sector has proved fruitless thus not being involved in the process of regionalism. They do not see the potentials and possibilities in the process. This is considered to be another factor that hampers regional integration.

Fourthly, another crucial factor that hampers the process is too many regional groups being created which are not institutionally strong and sound. Many of the regions lack effective management which lack of commitment could be attributed. The regions lack mechanism of enforcement thus crucial decisions are not being enforced.

Lastly, the most important factor is fragile and inadequate states. The political system of governance plays a vital role. Many African states do not proper oppositions mainly due to the fact ruling parties want to hang onto power.

Economic integration in Africa seems to be based on the European model taking into account the steps of economic integration. However, certain differences between the EU and AEC must be pointed out.

Firstly, the time allocated for the AEC is vastly different from the EU. The EU has been in existence for fifty years now and the economic integration process roughly took forty-two years to achieve the current status of being an Economic and Monetary

Union. The AEC might be considered to be overly ambitious by wanting to achieve an economic and monetary union in just thirty-four years⁶⁹

Secondly, when considering the time frame in which the EU achieved its integration objectives, one must not forget the number of states. The EU currently is comprised of twenty-seven members while the AEC has fifty-one members. The main difference between the two is that the EU started out with only six members and gradually expanded, having member states accede to the EU. However, the AEC had almost all its member states sign the treaty at the same time thus there is no gradual accession process. How does the AEC expect to integrate fifty-one members in less the time it took the EU to integrate twenty-seven members.

Lastly, the political, social and culturally circumstances of the AEC are vastly different from the EU. First thing to remember is that at the time of the creation of the EU, the political conditions were fairly stable as compare to the AEC. There was no form of dictatorships in the EU. However, with the AEC, there still isn't political stability in most of the countries making the decision making process in relation to economic integration very challenging. In a report that was compiled by T. Mmerekhi, cultural perspectives were taken into account making the integration process far more difficult for the AEC.⁷⁰ The merging of the different member states is proving to a challenge because a major part of Europe is culturally similar whereas in Africa, there seems to be an unnecessary clash among tribes.

The AEC should not compare its integration process to Europe and try and live up to its standards. It should rather concentrate on creating its own standards taking into consideration factors that affect the Africa continent.

⁶⁹ Kössler A and Zimmer M (eds). (2007) *Global Voices on Regional Integration*. Discussion Paper C176/2007. European Commission. [Online]. Available:

http://www.zei.de/download/zei_dp/dp_c176koesler_zimmek.pdf [2007, October,15]

⁷⁰ Mmerekhi T. (2007) *Is Africa Ready to Copy the European Model?* Mmegi Online. Wednesday.8 August 2007.[Online]. Available: <http://www.mmegi.bw/2007/August/Wednesday8/223.php> [2007,October, 29]

3.6 THE DEVELOPMENT OF REGIONAL ECONOMIC INTEGRATION IN SADC

As stated above, SADC has a membership of 14 countries, with some of the member states belonging to COMESA and SACU⁷¹. Out of the five members belonging to SACU, four are members of the Common Monetary Area (CMA). Botswana had decided not to join. The SADC region has had to deal with different sub-groupings being SACU and the CMA. SADC is based on the development integration approach.⁷² These will be discussed and the impact of what SACU and CMA has on SADC.

When SADCC was established in 1980, nine countries⁷³ were involved in the strategizing of initiatives aimed at building a strong region and more specifically, regional integration. Before the SADCC, SACU had been in existence for at least seventy years when it was established by the 1910 Customs Agreement. One of the objectives was regional integration coupled with the economic development of member states. Both the two organizations, SACU and SADCC had similar objectives but at this point in time, political tension affected relationships between the countries. Logically, it would have made sense for SACU and SADCC to just amalgamate and become just one regional trade bloc however, there were fears by several countries of South Africa's dominance over other countries. Though one of the reasons was to reduce the dependency on South Africa, they kept in mind that they were not to completely alienate themselves from South Africa.

Sir Seretse Khama, the First President of Independent Botswana had stated the following at the 1980 inaugural meeting of SADCC:

⁷¹ The members of SACU are Botswana, Lesotho, Namibia, South Africa and Swaziland,

⁷² Carbone M. *Regional Integration and Development: The Challenges facing SADC*. The Courier. This was an interview with Dr.Prega Ramsamy who is the Executive Secretary of SADC.[Online]. Available:

⁷³ The nine countries were Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe.

“Our goal is to achieve economic liberation and to reduce our economic independence on the Republic of South Africa”⁷⁴

The Common Monetary Area was established in 1986 from the Trilateral Agreement between Lesotho, South Africa and Swaziland.⁷⁵ However, before 1986, a Currency Union was formed in 1974 from the Rand Monetary Area (RMA). This was due to the fact that South Africa’s currency was used in Botswana, Lesotho, Namibia and Swaziland quite freely and there were no restrictions placed on transactions across the borders. Before 1961, South Africa made use of the British Pound until making the change to the South African Rand. However, after the establishment of the RMA, Botswana decided to opt out of the agreement. The RMA was then revised thus forming the current CMA. Namibia joined in 1992 after receiving independence in 1990.

The objectives of the CMA are provided for by Article 2 which is the Preamble to the agreement which states as follows:

“Monetary arrangements which provide for the sustained economic development of the Common Monetary Area and the arrangements should encourage the advancement of less developed members of the Common Monetary Area and should afford to all parties equitable benefits arising from the

⁷⁴ Dikotla M & Verhof G. (2003). Paper Presentation to the International Economic History Congress, Buenos Aires. *The Development of Trade in SADCC : the first decade of trade in the new regional formation, 1980-1989*. [Online]. Available: <http://eh.net/XIIICongress/Papers/Dikotla.pdf> [2007, August 23]

⁷⁵ Wang J, Masha I, Shirono K & Harris L. (2007). IMF Working Paper. WP/07/158. *The Common Monetary Area in Southern Africa: Shocks, Adjustment, and Policy Challenges*. [Online]. Available: <http://www.imf.org/external/pubs/ft/wp/2007/wp07158.pdf> [2007, August 21]

maintenance and development of the Common Monetary Area as a whole.”

The CMA had a total GDP of round about US\$ 224billion in 2004. Lesotho totalled in the region of US\$ 1, 348 million, Namibia had US\$ 5,721 million, South Africa had US\$ 214, 989 million and Swaziland had US\$ 2,351 million.⁷⁶ Even though these member states belong to the CMA, they were allowed to establish their own national currencies.⁷⁷ These currencies are pegged to the South African Rand meaning they are of equal value. The Botswana Pula has always been slightly higher than the SAR and has not been part of the CMA. However, the South African Rand has been widely accepted throughout the CMA but as for the rest of the members of CMA, their currencies are not being used within the South African borders.

It must be stated that the CMA does not operate as a full Monetary Union. This is because there is no common currency but rather a *de facto* common currency. Also, there is no central bank, no common pool of reserves and no regional surveillance of domestic policies.⁷⁸

A report was compiled in 1988 by the Centre for Development Research to assess the SADCC venture.⁷⁹ There was an observation noted, that in order for SADCC to succeed in its objectives, there was a desperate need for peace and stability and that it was imperative that it be built on a solid foundation. It was further stated that development could not be achieved by way of force and by having gross inequalities among the member states.⁸⁰

⁷⁶ *Ibid*

⁷⁷ As it is, Lesotho uses the Loti, Namibia, the Namibian Dollar and Swaziland, the Lilangeni.

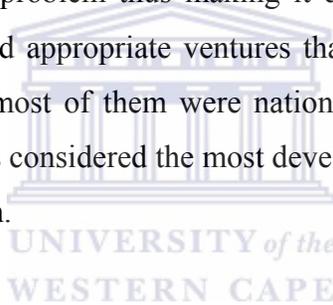
⁷⁸ *Supra* n 76

⁷⁹ The report was named *Regional Cooperation in Southern Africa: Central Elements of the SADCC Venture*. Haarløv J. CDR Research Report No. 14. Copenhagen. 1988

⁸⁰ *Supra* n 29

In the first seven years of SADCC, they had managed to secure international cooperation and funding for projects. Their progress was considered to be remarkable since it had taken place during a world recession and the fact that South Africa had exerted efforts to split the SADCC and halt its progress.⁸¹ The difficulties that SADCC had encountered were highlighted in the above mentioned report. They are as follows:

One of the problems encountered was policies concerning development which were vastly different between member states as well as opinions of member states towards South Africa. There were also difficulties in securing investments from donor countries in foreign currencies. The lack or inadequate administrative capacity was considered to be another problem thus making it difficult to administer the region effectively. Trying to find appropriate ventures that would suit regional objectives proved difficult because most of them were nationally orientated. In the mid 80's, Zimbabwe's economy was considered the most developed thus there were fears that it would dominant the region.



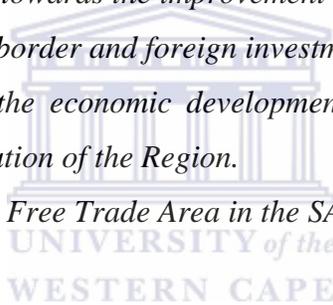
In terms of the transport sector, the coastal states were very important and fear had set in that they would end up receiving a disproportionate share of projects. Another difficulty encountered was ascertaining priorities with regards to projects set up by SADCC. During times of war, “rebels” from one country would set up base and plan attacks in other member states. When the Preferential Trade Area for Eastern and Southern Africa was established, responsibilities were split because of the overlapping of SADCC projects with the projects from the PTA. Lastly, SADCC was dependant on foreign donors therefore they would dictate which SADCC projects would have to be regarded as important.

The SADC Trade Protocol entered into force in 1996 and implemented in the year 2000 and has been the key tool for regional integration in the SADC region. SADC

⁸¹ *Supra* n 29

members also adopted the Regional Indicative Strategic Development Plan (RISDP) which is aimed to assist in the integration of the region. Article two of the Trade Protocol provides for objectives. They are as follows⁸²:

- “1. To further liberalise intra-regional trade in goods and services on the basis of fair, mutually equitable and beneficial trade arrangements, complemented by Protocols in other areas.*
- 2. To ensure efficient production within SADC reflecting the current and dynamic comparative advantages of its Members.*
- 3. To contribute towards the improvement of the climate for domestic, cross-border and foreign investment.*
- 4. To enhance the economic development, diversification and industrialisation of the Region.*
- 5. To establish a Free Trade Area in the SADC Region.”*



3.6.1 Differentiating Objectives between SADC and SACU

The division of the members within SADC does hamper the achievement of objectives.⁸³ Firstly, you have the first group which is the SACU members, and then you have the developing countries⁸⁴ and finally the Least Developed Countries (LDC).⁸⁵ Even though both SADC and SACU substantially have the same aims as far as development of the region is concerned, they are somewhat different. SADC aims to develop the region and promote peace and integration among the member states

⁸²Protocol on Trade. [Online]. Available:

<http://www.sadc.int/english/documents/legal/protocols/trade.php#article2> [2007, November, 27]

⁸³ Draper P, Halleson D & Alves P. (2007) South African Institute of International Affairs. Trade Policy Report No. 15 SACU, *Regional Integration and Overlap Issue in Southern Africa: From Spaghetti to Cannelloni?* [Online]. Available: <http://saiia.org.za/images/upload/SAIIA%202007%20-%20Trade%20Report%20No%2015.pdf> [2007, August 06]

⁸⁴ Mauritius and Zimbabwe

⁸⁵ Malawi, Mozambique, Tanzania and Zambia

while SACU is more interested with promoting its members globally through trade and investment.

One of the main reasons for the establishment of SACU was for the facilitation of regional integration and trade in the region. SACU's objectives are provided for in Article 2 of the SACU Agreement 2002 and are outlined as follows:

- 
- a) *to facilitate the cross-border movement of goods between the territories of the Member States;*
 - b) *to create effective, transparent and democratic institutions which will ensure equitable trade benefits to Member States*
 - c) *to promote conditions of fair competition in the Common Customs Area*
 - d) *to substantially increase investment opportunities in the Common Customs Area;*
 - e) *to enhance the economic development, diversification, industrialization and competitiveness of Member States*
 - f) *to promote the integration of Member States into the global economy through enhanced trade and investment*
 - g) *to facilitate the equitable sharing of revenue arising from customs, excise and additional duties levied by Member States; and*
 - h) *to facilitate the development of common policies and strategies.*

SADC's objectives are provided for in Article 5 of the SADC Treaty.⁸⁶ They are as follows:

- a) *Achieve development and economic growth, alleviate poverty, enhance the standard and quality of life of the people of Southern Africa and support the socially disadvantaged through regional integration;*
- b) *Evolve common political values, systems and institutions;*
- c) *Promote and defend peace and security;*
- d) *Promote self-sustaining development on the basis of collective self-reliance, and the interdependence of Member States;*
- e) *Achieve complementarities between national and regional strategies and programmes;*
- f) *Promote and maximise productive employment and utilisation of resources of the Region;*
- g) *Achieve sustainable utilisation of natural resources and effective protection of the environment;*
- h) *Strengthen and consolidate the long-standing historical, social and cultural affinities and links among the people of the Region.*

Having stated the objectives of the two organizations, SACU and SADC, it is apparent that the process of regional integration in SADC is dominated by conflicts. These conflicts would range between economic clashes that have caused rifts such as the Zimbabwe crisis. International countries having been calling on countries to deal

⁸⁶ Southern African Development Community website. SADC Objectives. [Online] Available: <http://www.sadc.int/english/about/objectives/index.php> [2007,September,18]

with this crisis thus having South Africa to take a stand against it. Other types of conflicts are the war torn areas and rebel fighting such as fighting in the DRC. All these conflicts do impact negatively on the region and on the achievement of these goals.

Very few of these conditions have been achieved in the SADC region. The first condition that of industrial development, is not even close to being met. Out of the fourteen countries, South Africa is the most developed and not many countries are able to compete. The member states are not developing at the same pace. SADC is considered heterogeneity based on their surface area and population figures, size of their domestic markets, functional specialization of their economies, their per capita of their economies and political and social situations.⁸⁷ In 2001, South Africa contributed over 70% towards the region's GDP and 40% of people in SADC are living below the poverty line. A number of countries within the region are considerably lower in terms of their GDP's as compared to South Africa. Examples of these countries are Angola, DRC, Mozambique and Tanzania and they also range lower on the Human Development Index (HDI).⁸⁸ Currently, Zimbabwe is the worst off where the inflation rate is hovering at 6000% and seems to be heading for an economic melt down.

However, in terms of natural resources, the least developed countries (LDC's) are far richer in such resources as compared to South Africa. The major exporters in water are Angola, DRC, Lesotho and Mozambique whereas South Africa is a major importer in water relying heavily on Lesotho for a constant supply. Angola, DRC, Tanzania, Zambia and Zimbabwe are more advantageous in the agricultural sector since their climates are favourable. South Africa heavily relies on labour from neighbouring countries. In terms of transportation through SADC, six of the SADC countries rely on other members for transportation between them and the ocean.⁸⁹ It is

⁸⁷ *Ibid*

⁸⁸ *Ibid*

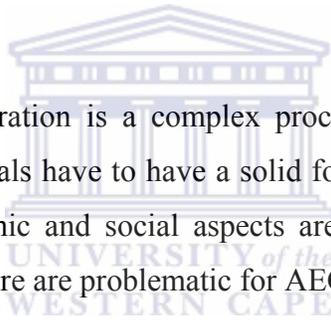
⁸⁹ *Ibid*

therefore palpable that where one country lacks in one sector, the other country makes up for it.

The region is not politically stable thus not meeting that requirement. Many countries in SADC are still being ravaged by internal conflicts, which impacts negatively on the region such as DRC and Angola. Democracy is still a foreign concept thus dictatorship is still rife and it is highly unlikely that many of the countries would cede to a supra-national power. The EU cannot be used as a model for integration because member states were willing to cede power and did not experience the same kind of political problems as Africa did.

3.7 CONCLUSION

Regional Economic Integration is a complex process involving issues that would affect it. Objective and goals have to have a solid foundation in order for them to be realized. Cultural, economic and social aspects are taken into consideration. With regard to these aspects, there are problematic for AEC and SADC in that conflicts and political tensions prevents the two organizations from progressing with their goals and objectives.



CHAPTER FOUR

THE EU-SADC NEGOTIATIONS AND THE IMPACT ON SADC

4.1 INTRODUCTION

With the deadline for the conclusion of the EPA's upon us, uncertainty and fear is setting in among African states. As stated before, the EPA's are currently being negotiated to replace the Cotonou Agreement. The mandate is provided for by Article XXIV of the GATT 1994.⁹⁰ The Cotonou Agreement has not been operating in accordance with general WTO principles such as the MFN clause. As a result, some of the Latin countries have complained that the Cotonou Agreement had impacted negatively on their trade with the EU.

This chapter will discuss the basis of the WTO waiver and why there was a need for it. It is important to highlight the origins and reasons for the EPA negotiations. The EPA's are ushering a new era for the trade relationship between the EU and the ACP countries so the nature of the EPA's will be examined. It was seen that there was a need to move from the Lomé conventions to a new trade agreement that was WTO compatible. Finally, the problem of overlapping regional memberships and the EPA configurations does have an impact on the ACP countries especially on the SADC region because it has been split between the SADC and ESA configuration.

⁹⁰ Article XXIV allows for regional trade agreements to be concluded however they are subject to strict criteria's and exceptions. It says if a free trade area or customs union is created, duties and other trade barriers should be reduced or removed on substantially all sectors of trade in the group. Non-members should not find trade with the group any more restrictive than before the group was set up. [Online]. Available: http://www.wto.org/english/thewto_e/whatis_e/tif_e/bey1_e.htm [2007, September 11]

4.2 BASIS OF EU-ACP WAIVER

In order to conclude trade agreements with countries that discriminates against WTO members, that country has to request for a WTO waiver that is governed by the “UNDERSTANDING IN RESPECT OF WAIVERS OF OBLIGATIONS UNDER THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994”.

The enabling provision is Article 1 which states as follows:

“ A request for a waiver or for an extension of an existing waiver shall describe the measures which the Member proposes to take, the specific policy objectives which the Member seeks to pursue and the reasons which prevent the Member from achieving its policy objectives by measures consistent with its obligations under GATT 1994”

In relation to this provision, paragraphs 3 and 4 of Article IX of the Marrakech Agreement establishing the WTO has established the framework within which procedures for requests for waiver were explicitly clear. Such a process is based on two processes which are as follows⁹¹:

Firstly, the Ministerial Conference has been empowered to grant requests of members seeking waivers. These waivers would enable the member state to deviate from its general obligations under WTO agreements. However, there is a condition that is attached to the decision and that is that the decision must be reached by way of three quarters majority.

⁹¹ Bassilekin.A. (2007) *New ACP-EC Waiver at the WTO*. ECDPM Discussion Paper No. 71. Maastricht. [Online]. Available: www.ecdpm.org/dp71 [2007, November, 08]

The second half of the process is a ninety day examination period which involves a presentation to the Council on Trade in Goods, the Council on Trade in Services or the TRIPS Council.

Such a request was submitted by the EU to the WTO Goods Council in March 2000. It was based on the first process as highlighted above. At the time of the request, the previous waiver that operated under the Lomé Convention had expired on the 29 February 2000.⁹² It was granted on the 14 November 2001 at a DOHA Ministerial Conference. It states as follows in Articles 1⁹³:

“Subject to the terms and conditions set out hereunder, Articles I, paragraph 1 of the General Agreement shall be waived, until 31 December 2007, to the extent necessary to permit the European Communities to provide preferential tariff treatment for products originating in ACP countries as required by Article 36.3, Annex V and its Protocols of the ACP-EC Partnership Agreement, without being required to extend the same preferential treatment to like products of any other member”

4.2.1 Complaints against EU-ACP Waiver

This process had been flogged by complaints mostly lodged by the Latin American grouping in particular, the banana producing countries. They attempted to block the process because the waiver was to be valid until 2008 whereas the EU's tariff quota system for bananas had been set to expire at the end of 2006.

⁹² *Ibid*

⁹³ DOHA MINISTERIAL CONFERENCE 2001: The ACP-EC Partnership Agreement WT/MIN(01)/15 14 November 2001

The main contention of the Latin American countries were based on the fact that they had been exporting bananas with a structured tariff and felt that if the EU-ACP waiver were to be granted it would threaten their market in the EU. To overcome this obstacle, the EU had to hold consultations and assure that access into the EU market would not be adversely affected by the granting of the EU-ACP waiver. This was done by promising to consult on a new tariff structure for the Latin American grouping.⁹⁴

A second grouping of countries that complained against the EU-ACP waiver was the Eastern countries in particular Thailand, the Philippines and Indonesia. They had originally been offered a tariff quota of 24% and upon hearing of the request for the EU-ACP waiver; the EU had then offered the Eastern countries 12%. Baring in mind, under the Cotonou agreement the tariff quota had been fixed at 0% for the ACP grouping. Through this process, the EU had promised these various countries a platform for which further consultation would be possible should they have found the new offering unsatisfactory. The EU was also open to any form of mediation between themselves and aggrieved countries.

Due to the impact the complaints had on the entire process, two waivers had to be granted. The first was for the general export of products from African member states while the second related to the export of bananas.

4.2.2 Impact of EU-ACP Waiver on MFN Clause

One of the founding principles of the WTO is the Most Favoured Nation Clause. It is stated in Article 1:1 of the GATT which as follows:

“With respect to custom duties and charges of any kind imposed on or in connection with importation or

⁹⁴ *Supra* n 91

exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all matters referred to in paragraphs 2 and 4 of Article III, any advantage, favour, privilege or immunity granted by any Member to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other Members.”

The application of this article is that when a Member State sets a certain tariff for a product, that tariff must be applied across to the board to all Member States that trades in like products.

This is the area where the conflict is created. The EU claims their true intentions in relation to trade with ACP member states are that of pro-development and trade liberalization. The EU is under obligation to respect rules and principles of WTO agreements yet there has been a conflict created from the conclusion of the Cotonou Agreement. The EU-ACP waiver had provided some leeway in which to trade under however the waiver cannot be a long term solution.

It is increasingly difficult to be granted a waiver by the WTO and the prospect of it being granted again is highly unlikely. Without waiver being granted, it is seemingly obvious that ACP countries are unable to compete in the world market. With this conflict, the WTO has to look at which interest outweighs the other. On the one hand, all members are entitled to benefit under the MFN clause and on the other, we have the special and differential treatment for developing countries. The question is how long the WTO will be willing to extend the special and differential treatment. Even

with waivers in place, the developed world could still be able to compete in the market with goods from the Least Developed Countries.

4.2.3 Current Trade Relationship under the EU-ACP Waiver

Since the inception of the first trade agreement between the EU and ACP, it had seemed that the few ways the ACP had benefited from the trade agreement was from funding from the EU. However when examining the figures below, one can see that trade has slowly diminished.

EU IMPORTS FROM THE ACP

1976	6.7%
1996	3.8%
2002	3%
2005	2.9%

One of the main reasons for the diminishing figures is that in 1996, the EU had proposed that the non-reciprocity comes to an end and trade had almost halved.⁹⁵ Thus the non-reciprocity clause had a negative impact on trade between the EU and ACP. ACP exports to the EU constitutes mainly of eight products in which petroleum products account for 28% of the total exports.⁹⁶ Diamonds account for 9%, followed by cocoa 8%, fish 6%, wood 4%, sugar 3 %, aluminium 2 % and finally tobacco 2 %.⁹⁷ These are figures representing trade in the year 2002.

⁹⁵ “*Economic Partnership Agreements: Mean and Objectives*” Sourced from the European Commission

⁹⁶ EU-Africa Caribbean Pacific (ACP) Trade Relations Key Facts and Figures. Brussels, 02 October 2003.[Online]. Available: http://trade.ec.europa.eu/doclib/docs/2003/october/tradoc_113858.pdf [2007, November, 05]

⁹⁷ *Ibid*

When you exclude South Africa from trade statistics, only ten countries account for 60% of ACP exports. Nigeria is the highest export accounting for 16 %. The Ivory Coast then follows with 9 %. Angola represents 7 %. Both Botswana and Cameroon account for 5 % and are considered the most important exporters. Finally, the DRC, Ghana and Mauritius account for 4 % each.⁹⁸

Annexure one, two, three and four represents figures of trade between the EU and ACP's top ten trading countries. The two top countries with the most exports to the EU are South Africa and Nigeria. In Annexure two, there has been a steady increase for South Africa and Nigeria with Nigeria doubling its export between 2004 and 2006. However, for countries like the Bahamas and Ghana, trade is not as stable. Only a few countries in the ACP group truly benefits from this trade relationship. Topping the table in Annexure three is the trade in petroleum and petroleum products making this ACP's most valuable trading commodity. It has been on a steady increase since 2000. Products like vegetables and fish have not really made an impact on the market and have barely changed between 2005 and 2006.

According to Annexure Four, the types of products the ACP imports from the EU are that of machineries, transport equipment and pharmaceutical products. Road vehicles seem to be the most imported product almost doubling the year 2000 and 2006. Many of the ACP countries do not have the capacity and resources to manufacture equipments and machinery. When looking at the amount of ACP imports and comparing it EU imports from the ACP, the EU has been importing more than the ACP importing from the EU. In 2006, EU imports from the ACP totalled at €58 992 million whereas the ACP imports from the EU totalled at €55 583 million. Even though the EU imports more than the ACP, it has not put the ACP on par with the EU as far as trading in concerned. When negotiating, the ACP still does not have negotiating power despite them having the upper hand in the amount of trading that takes place between the two partners.

⁹⁸ *Ibid*

4.3 ECONOMIC PARTNERSHIP AGREEMENTS

Economic Partnership Agreements are currently being concluded in order to replace the current Cotonou Agreement. They were launched in September 2002 having the deadline of 31 December 2007 in mind. These negotiations were divided into six regional negotiations⁹⁹ making it easier to control the negotiation process. 77 of the 79 countries are involved thus it would have been impossible to conclude a single EPA with each country. These EPA's will or at least try to encompass principles of the Cotonou agreement with the exception to the non-reciprocal trade preference which the ACP countries had been enjoying for over 25 years with the EU. With the aim to abide by WTO founding principles, the ACP countries will have to open up its markets to the EU. In essence, the EPA's will be creating Free Trade Area's (FTA) between the EU and the ACP countries while conforming to WTO regulations and building on already existing regional arrangements in the ACP groupings.

According to WTO rules, an EPA must include the following:¹⁰⁰

1. the elimination of import duties and all taxes having an equivalent effect on "substantially all trade" between the countries which sign the agreement
2. be fully in place within a 10 to 12 year transition period;
3. exclude no economic sector from the coverage of the free trade area include agreements on trade in services and trade related areas

The European Commission mandate was to negotiate a free trade agreement and is stated as follows:

⁹⁹ The six EPA regional groupings are ECOWAS, CEMAC, SADC, ESA which emerged from the COMESA group, CARICOM and the PACIFIC group.

¹⁰⁰ EPA ABC (2004) [Online]. Available:

<http://www.epawatch.net/archive/general/abc.php?menuID=62#175> [2007, September 11]

“The timetable for tariff dismantling and the final product coverage of trade liberalization by the ACP countries will reflect the economic, social and environmental constraints they are facing as well as their capacity to adapt their economies to the liberalization process. Therefore, a transnational period, compatible with the objectives of the Cotonou Agreement and the WTO rules, will be applied in a flexible way, to take into account specific constraints of the ACP countries concerned. The same flexibility will be applied in relation to product coverage and the calendar/rhythm of liberalization commitments by the ACP countries”¹⁰¹

It is one of the EU’s arguments that this will be beneficial to the ACP group in that it will increase productivity and competition thus raising the standards on the African continent. It also their view that it would reduce consumer prices and attract greater investments and economic growth.¹⁰² However, the ACP grouping is not quick to concur with these opinions. They hold an opposite view in that the EPA’s will not achieve what the EU claims it to do. ACP groupings fear that the EPA’s will have a catastrophic effect on their economies thus crippling existing markets in the various sectors.¹⁰³

In a BBC radio interview with Peter Mandelson, the Trade Commissioner has stated that the ACP countries are in dire need of a trade agreement that is pro development

¹⁰¹ “ *Economic Partnership Agreements: Mean and Objectives*” Sourced from the European Commission

¹⁰² South Centre.(2007) *Trade Liberalisation and the Difficult Shift Towards Reciprocity in the EPA’s* Analytical Note SC/AN/TDP/EPA/3 Fact Sheet No3 [Online]. Available: http://www.southcentre.org/publications/AnalyticalNotes/Other/2007Mar_EPA_Fact_Sheet_No3.pdf [2007, August 06]

¹⁰³ Several Trade Ministers hold the opinion that sectors like the farming sector will crumble under pressure from EU imports such as agriculture.

and would have the ability of delivering on those goals.¹⁰⁴ He also mentioned that in the past, European policies have failed to promote these goals. A very interesting fact that he had mentioned is that developing economies outside the ACP group have been growing in terms of their trade share with the EU however; the ACP group have been slowly declining despite having received special privileges and trade preferences.¹⁰⁵ In essence, the EU aims to use the EPA's to rectify past mistakes as far as trade is concerned. The EU wants what was a trade relationship based on dependency be turned into one based on diversification and growth. These were the views expressed in an article by Peter Mandelson and Louis Michel, the Development Commissioner for the EU.¹⁰⁶

In negotiating the EPA's, there have been five areas that the EU and ACP were faced with.¹⁰⁷ Firstly, countries have been trading in products in poorly integrated regional markets. Secondly, each of the regional groupings has been provided with varying levels of tariff peaks and MFN protection. Thirdly, there is an estimated loss that would be suffered due the EPA agreements. Fourthly, the Singapore issues have been the main troublesome aspect as well as service markets that are not integrated and liberalized. Lastly, aid for trade and infrastructure is another negotiating area.

4.3.1 Objectives of EPA's

Objectives and principles of the EPA's are based on the Cotonou Agreement therefore they have been distinguished between general and special objectives.¹⁰⁸ The

¹⁰⁴ BBC Radio 4. Interviewed by Simon Jack. 31 October 2007.[Online]. Available: http://trade.ec.europa.eu/doclib/docs/2007/october/tradoc_136673.pdf [2007, November, 07]

¹⁰⁵ *Ibid*

¹⁰⁶ Mandelson P and Michel L (2007) *This is not a Poker Game: Critics of the EU's Trade Agreements are gambling with livelihoods in the developing world*. The Guardian. 31 October 2007. [Online]. Available: http://trade.ec.europa.eu/doclib/docs/2007/october/tradoc_136671.pdf [2007, November, 07]

¹⁰⁷ Hinkle. L, Hoppe M and Newfarmer R "Beyond Cotonou: Economic Partnership Agreements in Africa." Pg 268

¹⁰⁸ The Secretariat of the African, Caribbean and Pacific Group of States. Economic Partnership Agreements. [Online]. Available: http://www.acpsec.org/en/epa/note_on_epa.htm [2007, October, 30]

general objectives are the continuing integration process into the global market, the eradication of poverty and most importantly sustainable development of the ACP states.¹⁰⁹ The special objectives consists of the expansion of productions and supply capacities, improving sustainable growth, the promotion of structural processing and economic diversification bearing in mind regional integration.¹¹⁰

The guiding or negotiating principles¹¹¹ of an EPA are as follows:

Mechanisms for Development: The EPA should aim to be used as a mechanism for development. With specific reference to the EU-SADC EPA, it has to accommodate policies that are already in place that promote development. The EPA must complement strategies and not hamper progress in the region. Other factors that should be considered are current social, economic, environmental and infrastructure that would hamper the implementation of the EPA. The economies ought to acclimatize to the conditions which the EPA is being implemented.

Regional Integration: The SADC-EC EPA has to be put into operation according to SADC's regional integration policies consequently it will be drafted with these policies as a foundation. These policies cannot be obstructed by the EPA otherwise they would not have served their purpose.

Conservation of the Cotonou Trade Acquis: The conservation of the Cotonou Trade Acquis is vital because of the EBA preferences for SADC products into the EU market. In fact, the EPA is intended to enhance ACP and EBA preferences as well as SADC member states once the EPA becomes operational.

¹⁰⁹ *Ibid*

¹¹⁰ *Ibid*

¹¹¹ SADC-EC Joint Roadmap for the Economic Partnership Agreement Negotiations. [Online]. Available: <http://www.euacpepa.org:8080/pm-docs/Roadmaps/SADC.pdf> [2007, October, 29]

Compatibility of WTO principles: The most important factor to take into account is that compatibility with WTO principles and rules. The EPA would not be able to function without being compatible and endorsed by the WTO.

Sustainability: The EPA has to be economically sustainable in that the impact it has on SADC has to be positive and contribute to the region. It is essential that the EPA have the tools to enhance the region.

Special and Differential Treatment: It was decided that SADC should receive special and differential treatment considering the fact that many of its member states are least developed countries and their economies are small and vulnerable.

Legitimacy and Transparency: The negotiation and implementation process has to be legitimate and transparent to all stakeholders and parties involved.

Resources and Support Adjustment: During the implantation process, resources and support will be needed by SADC. Productive resources, human resources and institutional capacities will have to be improved. There will be heavy EPA adjustment costs that will be incurred by SADC therefore assistance would be necessary.

4.3.2 Aid for Trade

The Aid for Trade has been a significant component of the EU-ACP trade relationship. Since the beginning, the European Development Fund (EDF) has not been only a tool for aid but the focal point in the relationship between the ACP and EU. It was established in 1958 and is based on contributions from EU member states.¹¹² The EDF operates over a five year cycle. The first EDF was from 1959 until

¹¹² South Centre. (2007) *Aid for Trade and Financial Assistance to Implement the EPA's*. Analytical Note SC/AN/TDP/EPA/6. Fact Sheet N 6. May 2007. Geneva. Switzerland. [Online]. Available:

1964 and has continued where the EU is now in ninth EDF cycle. Its expiry date is the 31 December 2007. Roughly around €13.5 billion had been dispersed for the ninth EDF.¹¹³

The aid for trade consists of five components. Firstly, governments and the private sector are need of technical assistance in trade opportunities and their accessibility.¹¹⁴ Secondly, many of the countries lack capacity so the assistance would aid them in capacity building processes in relation to trade regulations and disputes.¹¹⁵ The third form of assistance is with the creation of a framework to deal with institutions for trade, custom authorities and customs and tariff structure.¹¹⁶ Lastly, the aid for trade would assist with the development of infrastructure such as the transportation sector and would also with adjustments costs as explained above.¹¹⁷

The tenth EDF will be offered together with the EPA's and in December 2005, the EU had committed €22.6 billion, which will also have to cover costs for the installation of the EPA's. From the 22.6 billion, 21 966 billion will be distributed among the ACP countries.¹¹⁸

In 2005, a study had been conducted by the Commonwealth Secretariat to estimate adjustment costs for the implementation of the EPA's.¹¹⁹ It had been projected that the ACP countries will incur €9.2 billion in adjustment costs and has been categorized into fiscal support, trade facilitation, production and employment adjustment assistance and skills and productivity enhancement support.¹²⁰ Comparing

http://www.southcentre.org/publications/AnalyticalNotes/Other/2007May_EPA_Fact_Sheet_No6.pdf [2007, October, 29]

¹¹³ European Development Fund (2007) [Online]. Available: <http://europa.eu/scadplus/leg/en/lvb/r12102.htm> [2007, November, 07]

¹¹⁴ *Ibid*

¹¹⁵ *Ibid*

¹¹⁶ *Ibid*

¹¹⁷ *Ibid*

¹¹⁸ *Supra* n 111

¹¹⁹ *Supra* n 108

¹²⁰ *Ibid*

the ninth EDF to the tenth, there is an increase of €7.4 billion which can be viewed as a positive act from the EU.

4.4 OVERLAPPING MEMBERSHIPS IN THE REGION

Within the ACP grouping, the various countries belong to their own regional sub groups.¹²¹ However, overlapping of regional membership has occurred creating confusion and possible ramifications for future regional integration. It is important to identify the original regional groupings before the EPA negotiations had commenced and compare the current situation and how these negotiations have affected the regional groupings. Article 37(5) of the Cotonou Agreement provided for member states to establish their own EPA grouping.¹²²

The overlapping of memberships to several regional groups has become such a predicament that a decision was taken at the 7th AU Summit in 2006, held in The Gambia.¹²³ It was decided that only eight REC's will be recognized by the AU in order to ensure a much smoother integration process. Those eight were ECOWAS, COMESA, ECCAS, SADC, IGAD, AMU, CENSAD and EAC. It also was decided to suspend the recognition of any other new REC's. The REC's were urged to coordinate and harmonize their policies among themselves and with the Commission with a view to accelerate Africa's integration process.¹²⁴

¹²¹ The countries hold several membership within the fourteen regional economic communities.

¹²² Kruger.P. March (2007) *The Impact of the EPA Negotiations on SACU*. TRALAC. [Online]. Available: <http://epa.tralac.org/scripts/content.php?id=6241> [2007, October, 29]

¹²³ Decision on the Moratorium on the Recognition of Regional Economic Communities (REC's) DOC. EX. CL/278(IX) [Online]. Available:

<http://un.cti.depaul.edu/Countries/AfricanUnion/1153972237.pdf> [2007, November, 09]

¹²⁴ *Ibid*

4.4.1 The Spaghetti Bowl Syndrome

The concept has been used to describe the current situation in the EPA-SADC negotiations because the region had been divided three ways and various countries have ended being members of different trade arrangements.

The Democratic Republic of Congo had originally opted to join the negotiations of the Central African configuration however since then it is negotiating under the ESA configuration. For the EPA-SADC consists of the BNLS countries, Mozambique, Angola and Tanzania (MAT countries) and South Africa who was allowed to join the negotiations on 12 February 2007. The rest of the SADC, being DRC, Malawi, Zambia and Zimbabwe opted to join the Eastern and Southern African configuration. However, matters were complicated when Tanzania made an announced that it would withdraw from the SADC configuration on the 13 April 2007 however according to the draft EU-SADC EPA, it is cited as one of the member states. Tanzania is a member of the EAC which officially became a custom union in 2005 whilst Angola and Swaziland are currently members of COMESA.¹²⁵

One of the proposals that were presented was that Angola, Tanzania and Mozambique join SACU. However, in the case of Tanzania, this would not be possible since it already opted to join the Eastern African Community. The SACU Agreement does provide for accession of new members. It had been stated that would be beneficial for Mozambique and Angola to accept these proposals.

4.5 EU-SADC NEGOTIATION AGENDA AND STRUCTURE

When the negotiations were launched in July 2004 in Namibia, the original countries were each given a negotiating trade area. The Joint Road Map for EPA Negotiations

¹²⁵ ECDPM. (2007) *Overview of Article 37(4) Reviews of the EPA's Negotiations*. (ECDPM Discussion Paper 81). Maastricht. [Online]. Available: www.ecdpm.org/dp81 [2007, October, 29]

was the agreement that was concluded and the Minister of Trade and Industry for Botswana was appointed to be Chief Coordinator for SADC.¹²⁶ A comprehensive agenda and structure was drawn up where roles for each member states were defined.

4.5.1 Negotiation Agenda of the EU-SADC EPA

Countries	Negotiating Trade Area
Angola	Agriculture
Botswana	Standards, SPS issues
Lesotho	Data base, rules of origin, legal provisions and institutional arrangements
Mozambique	Non-agricultural market access and fisheries
Namibia	Trade facilitation and development cooperation
Swaziland	Trade-related areas, TRIPS & TRIMS
Tanzania	Trade in services and ‘Singapore issues’

When this agenda was drafted, South Africa was not a negotiating partner in the SADC configuration. Now that it had been allowed to form part of the negotiations, it plays a vital role in the negotiations. First of all, they bring some experience in concluding such agreements with the EU, this coming from the conclusion of the TDCA. Secondly, because South Africa does not have a negotiating role, how can its role be defined? The EU is of the view that South Africa’s inclusion has just only frustrated the negotiations. EU’s Trade Commissioner, Peter Mandelson has described South Africa’s role as “deeply negative” making it more difficult to

¹²⁶ South Centre. (2007) *EPA Negotiations in Southern Africa: Some Issues of Concern*. Analytical Note SC/AN/TDP/EPA/10. October 2007. Geneva, Switzerland. [Online]. Available: http://www.southcentre.org/publications/AnalyticalNotes/Other/2007Oct_SADC_background_Note.pdf [2007,October, 29]

conclude the negotiations.¹²⁷ South Africa seems to be an obstacle as far as negotiations surrounding the “Singapore Issues” are concerned even though Botswana, Namibia and Swaziland seem more than willing to negotiate.¹²⁸

4.5.2 EU-SADC Negotiating Structure

The Negotiating Structure has been divided into three levels consisting of the Ministerial, Senior Officials and Technical Levels.¹²⁹

At the Ministerial level, the Minister of Trade and Industry of Botswana has been leading the negotiations for SADC. On the senior level, a chief negotiator had to be appointed. In SADC’s case it was Botswana’s Ambassador to Brussels.¹³⁰ At technical level, an EPA unit of SADC Secretariat was put together.¹³¹

For the EU negotiation team, the European Commission was mandated to negotiate on behalf of the EU lead by the Trade Commissioner on the Ministerial level. The Senior level comprises of a senior official of DG Trade and lastly, representing the technical has been a DG Trade Unit.¹³²

Initially, the SADC-EU negotiations had been given three stages whereby each timeline had been set with a timeline.¹³³ Stage one was dedicated for the setting of priorities and preparation for negotiations. The prescribed time was from July to December 2004. Stage two was allocated for substantive negotiation for between the

¹²⁷Creamer.T. Engineering News Online. Published 28 September 2007.[Online]. Available: http://www.engineeringnews.co.za/article.php?a_id=117005 [2007, November, 27].

¹²⁸ *Ibid*

¹²⁹ *Supra* n 102

¹³⁰ Agritrade. (2006) *EPA Negotiations, SADC Configuration: Executive Brief*. [Online]. Available: <http://agritrade.cta.int/en/content/view/full/2494> [2007, October, 29]

¹³¹ *Supra* n 102

¹³² *Ibid*

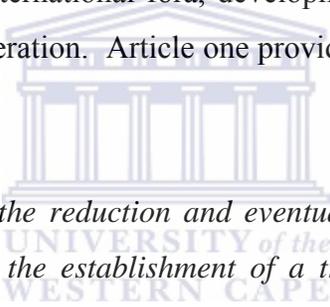
¹³³ *Ibid*

periods, January 2005 until June 2007. Finally, the third stage was assigned for finalization of the EPA's from July 2007 until December 2007.

4.6 PROPOSED EU-SADC EPA

In June 2007, a draft of the EU-SADC EPA was released subject to changes by both negotiating teams. This chapter will incorporate the draft EPA into the discussion and examine the suggested articles and scrutinize them.

Part One of the EPA provides for Trade Relationship for Sustainable Development. It contains proposed objectives, principles, sustainable development, regional integration, cooperation international fora, development cooperation framework and development finance cooperation. Article one provides for intended objectives of the EPA and is as follows¹³⁴:

- 
- a) *Contributing to the reduction and eventual eradication of poverty through the establishment of a trade partnership consistent with the objective of sustainable development, the Millennium Development Goals and the Cotonou Agreement;*
 - b) *Promoting regional integration, economic cooperation and good governance in the SADC EPA region;*
 - c) *Promoting the gradual integration of the SADC EPA States into the world economy, in conformity with their political choices and development priorities;*

¹³⁴ Draft EU-SADC EPA. (2007) [Online]. Available: http://www.bilaterals.org/IMG/doc/280m-07_EC-SADC_EPA_draft_consolidated_June_2007-2.doc [2007, October, 15]

- d) *Improving the SADC EPA States' capacity in trade policy and trade related issues;*
- e) *Establishing and implementing an effective, predictable and transparent regional regulatory framework for trade and investment in the SADC EPA region, thus supporting the conditions for increasing investment and private sector initiative and enhancing supply capacity, competitiveness and economic growth;*
- f) *Strengthening the existing relations between the Parties on the basis of solidarity and mutual interest. To this end, consistent with WTO obligations, the Agreement shall enhance commercial and economic relations, consolidate the implementation of SADC Trade Protocol and support a new trading dynamic between the Parties by means of the progressive, asymmetrical liberalisation of trade between them and reinforce, broaden and deepen cooperation in all areas relevant to trade.”*

The principles of the EU-SADC EPA will be based on principles previously set out in the Cotonou Agreement, the TDCA and previous EU-ACP trade agreements. A very interesting clause is that of Article 2:2 whereby it states that the EPA will replace trade provisions under the TDCA from the date of entry into force.

Part Two contains provisions that would govern Trade and Trade related matters. This section of the EPA has been divided up according to the following subsections:

- **Title I: Trade in goods:** Customs Duties: Industrial Products, Agricultural Products, Processed Agricultural Products, Fisheries Products, Trade Defence

Instruments, Non-Tariff Measures, Customs and Trade Facilitation, Rules of Origin, Technical Barriers to Trade, Sanitary and Phytosanitary.

- **Title II: Establishment of Trade in Services/E-commerce**
- **Title III: Current Payments and Capital Movement**
- **Title IV: Trade Related Issues:** Competition, Innovation and Intellectual Property, Public Procurement, Environment, Social Aspects, Personal Data Protection, Cooperation in the tax and Judicial Area.

Article one under this section provides for the establishment of a free trade area on the SADC EPA side. South Africa has been excluded from this provision and the number of years has not yet been included. The proposed EPA does make room for a transitional period and it will cover free movement of goods, liberalization of trade in services, government procurement, establishment and free movement of capital.¹³⁵ When the FTA is launched, this will hamper SADC's goal for their FTA. Subsection three has provided for the inclusion of the liberalization of trade in services, establishment, government procurement and the free movement of capital. It must be pointed out that these issue included in subsection three has been the stumbling block in the negotiations.

Since the DRC, Malawi, Mauritius, Zambia and Zimbabwe joined the EU-ESA configuration, it is essential to point out that under the proposed EU-ESA EPA, the exact same clause has been inserted. It is provided for under Article 8 and their transitional period has been suggested at twenty-five years.¹³⁶ Assuming SADC would continue with its objectives to establish its FTA, the member states from the EU-SADC and ESA configuration would be unable to join. A country is unable to belong to two FTA's. Therefore, does this mean SADC should abandon their goal of

¹³⁵ *Ibid*

¹³⁶ Draft EU-ESA EPA. (2007) [Online]. Available: http://www.bilaterals.org/IMG/doc/draft_joint_ESA_EPA_text_Brussels_july_07.doc [2007, October, 15]

a FTA? Assuming they would be able to realize this goal, who would be signatory to the FTA? The only member state standing would be South Africa. It is quite possible that this could be the beginning of the disintegration of SADC as far as trade is considered.

Article three brings about a very interesting situation because it regulates the establishment of FTA and Custom Unions with third parties. It states as follows:

“1. The Agreement shall not preclude the maintenance or establishment of customs unions, free-trade areas or other arrangements between either of the Parties and third countries, except in so far as they alter the rights and obligations provided for in this Agreement.

2. Consultation between the Community and SADC EPA States shall take place within the Cooperation Council concerning agreements establishing or adjusting customs unions or free-trade areas and, where required, on other major issues related to their respective trade policy with third countries. In particular, in the event of a third country acceding to the European Union, such consultation shall take place so as to ensure that account can be taken of the mutual interests of the Community and SADC EPA States.”

This article could create future conflicts. It does not prohibit parties to the EPA to establish FTA's and Custom Unions with third parties as long as they don't deviate from their obligations under the EPA. If or when SADC establishes its custom union that might pose a problem for the member states that concluded an EPA with ESA and CEMAC. If the obligations created under a SADC custom union are to be

different from the EPA the member state concluded with then that member state may not join the custom union. This will have a negative impact on the region because then SADC goals will not fully be realized. We would have a fragmented SADC and could eventually lead to the deterioration of the organization.

Another important aspect is how custom duties will be eliminated. Article eleven has distinguished between the eliminating of tariffs from SADC EPA members who belong to SACU and non-members. It covers how each year; tariffs will be lowered on products originating from SACU. It provides a basic twelve year plan on percentages to the point that at the end of the twelve years, tariffs will be totally abolished. Article eleven bis provides for the MAT countries and products originating from these countries. Basically, custom duties applicable to imports into the MAT countries will be progressively abolished.

As far as agricultural products are concerned, Article thirteen provides that custom duties regarding imports originating from the BNLS and MAT countries will be abolished upon the entry into force of the Agreement. However, agricultural products originating in South Africa will be progressively abolished.

Part Three provides for Dispute Avoidance and Settlement mechanisms. According to Article one, the objective of parties involved is to avoid and settle disputes with the aim of arriving at an amicable and mutually agreed solution. Throughout part three, it sets out the processes employed to deal with disputes, starting at consultations, through to mediation and then arbitration.

Part Four includes General Provisions relating to arbitrators. This part basically describes the method in how arbitrators should be selected.

Part Five comprises of provisions for General Exceptions.

Part Six incorporates Institutional Provisions relating to the various joint EPA councils. It is currently still being under consideration by the EC thus it is blank.

Part Seven contains General and Final Provisions that relate to general obligations of parties, duration, entry into force and applicable accession clauses.

Overall, the SADC EPA should include four individual market access schedules. Angola, Mozambique and Tanzania will each have a market access schedule and one for SACU.¹³⁷ Currently the market access schedule for SACU is being negotiated and it had been stated by officials that Angola most likely won't make its market access offer by the end of 2007.¹³⁸

The EPA's have been described as not being development friendly and would not be solution. Critics assume that there would be an immediate opening of African markets for the EU on the 01 January 2008. However, this is not the case. European markets will be open to ACP imports but there will be a transitional phase as set out in the draft EPA's. This transitional phase will stretch over a period of twenty-five years. The ACP countries have been given the advantage of safeguarding sensitive products by excluding them from the trade schedule.¹³⁹ The aim of these long transitional periods is to give ACP economies and industries an opportunity to develop while protecting delicate agricultural industries.¹⁴⁰

¹³⁷ ACP-EU Trade Website. (2007) *EPA Negotiations: Where do we stand?* 02 November 2007[Online]. Available: <http://www.acp-eu-trade.org/> [2007, November, 07]

¹³⁸ *Ibid*

¹³⁹ *Supra* n 108

¹⁴⁰ *Supra* n 108

The Christian Aid Organization has compiled a report examining the EPA's.¹⁴¹ In this report they had stated the ACP's desired outcomes for the negotiations as well as the EU's responses to those desires. These outcomes shall be discussed below.

The ACP's desire was to open up its markets to EU exports at a very slow pace preferably over a five year transitions. This was not accepted by the EU because the WTO would not allow such a regional trade agreement to be accepted.

They, being the ACP wanted to incorporate the Doha Round Agenda into the negotiating agenda in relation to the rules of special treatment under Article XXIV of the GATT. However, the EU had stated that there was enough flexibility under this article and that there was no need to include any further special treatment.

Another desire was to have common rules of origins to be applied as one standard across all ACP countries. The EU turned down this offer by stating that they would prefer to negotiate the rules of origins separately with each of the four regional EPA groupings.

The ACP wanted an investigation to be launched on how the Common Agricultural Policy had on ACP economies. The EU responded by stating that such investigations would be held on a case to case basis.

Lastly, the ACP desire was to receive more additional finding apart from the EDF budget to support infrastructure and increase productivity to cope with EU imports. The EU absolutely would not budge on this point as there are no more additional funds for the ACP.

¹⁴¹ Christian Aid (2005) “*For Richer of Poorer: Transforming Economic Partnership Agreements between Europe and Africa*” April 2005. [Online]. Available: This report is no longer available on the internet however it is still used as a reference.

4.6.1 Article 37(4) Review of the SADC EPA

According to Article 37(4) of the Cotonou Agreement, a review process of the EPA's had to take place. The results of that review were presented in May 2007 at a joint ACP-EC Council Meeting.¹⁴²

A series of reviews were commissioned to investigate the progress of the SADC-EU EPA negotiations.¹⁴³ Firstly, a continentally review was conducted by the ATPC, mandated by the ACP Secretariat. Secondly, the Trade Law Centre for Southern Africa (TRALAC) performed their own internal review of the SADC region and finally, a review had taken place to investigate the impact of the EPA on small scale farmers. It was commissioned by the Southern Africa Confederation of Farmers Organization (SACAU).

The main challenge faced by SADC-EU EPA negotiations is the fact that the members are each at different stages of development. There is South Africa, the Least Developed Countries (LDC's) and the non-LDC's.¹⁴⁴ Trying to conclude one standard policy for development proves to be difficult because it cannot be applied cross the board. The needs of Swaziland or Lesotho are vastly different from South Africa's needs.

It had been apparent that there has been an overall lack of negotiating capacity within the ACP. SADC is no exception to that. The results from the review were that the SADC region suffers from that and proves to be a strenuous challenge. Financial and human resources as well as technical and administrative structures are desperately needed. The EPA process has not as yet been entrenched into process on a national level in each of the member states.

¹⁴² *Supra* n 122

¹⁴³ *Ibid*

¹⁴⁴ *Ibid*

4.7 SOUTH AFRICA'S ROLE AND CONTRIBUTION TO THE EU-SADC NEGOTIATIONS

On the 12 February 2007, South Africa was allowed to be part of the EPA-SADC negotiations by the EU Council of Ministers. This obviously has changed the role South Africa plays in these negotiations. Initially, South Africa had been only allowed observer status in the negotiations however, now it is a fully fledged negotiating member. The advantage of this is that all member states of SACU are now negotiating under a single trade agreement, being the EU-SADC EPA.

The difference between South Africa and other negotiating countries in the EPA-SADC negotiations is that South Africa is not under pressure to conclude any form of trade agreement with the EU because they already have the security of the TDCA. In the event of the EU-SADC EPA not being concluded, South Africa would continue with its trade relationship under the TDCA whilst the rest of negotiating member states would be subjected to either the Generalised System of Preferences (GSP) or the Everything But Arms (EBA) initiative.

South Africa's economic relationship with the EU is very different to the relationship the rest of ACP countries have with the EU and cannot be compared. This could be because of the competitive edge South Africa has over the ACP countries in that they are able to compete in the world economy. Since South Africa has experience in negotiating with the EU from the TDCA, South Africa has pledged to assist the ACP countries in this aspect. However, it had been stated that the inclusion of South Africa would complicate the EPA-SADC negotiating structure. South Africa has been accused of harbouring self interest tendencies in that it would be trying to negotiating better trade preferences than what it already it has under the TDCA. It is considered the power house of Africa thus having the appearance of holding up the negotiations.

4.8 POSSIBLE IMPACT OF THE EU-SADC EPA ON SADC

There have been studies conducted just to demonstrate the effects a liberalized EPA would have on the region. It was stated at a high level conference for ACP countries in Brussels in October 2006 that there would be an estimated export loss of 29% from the SADC region.¹⁴⁵

The method in which the EPA would be implemented is very important as so to ensure a smooth and effective process. A proposed method was suggested at the above mentioned conference.

At the outset of the EU-ACP EPA's negotiations, there have been myths circulating the trade world about the impact of the EPA's on the ACP member states. Some of the myths have been very damaging to the negotiation process. These myths will be discussed below as well as statements offered as some form of correction to the myths.

Firstly, it had been stated the EU has "*divided SADC*".¹⁴⁶ However, it was the individual member state's decision to join their desirable configuration. The EU cannot be held responsible if SADC as a regional organization were to collapse because of problems due to the overlapping of memberships. It can be assumed that because some of the member states of SADC abandoned SADC and joined with other regional groupings, they truly are not interested in advancing the interests of SADC. In essence, SADC themselves has divided SADC. The EU did not force SADC member states into a particular EPA configuration. Once the EPA are signed and

¹⁴⁵ South Centre. (2006) Brussels. 12 October 2006. *High Level Conference on EU-ACP Trade Relations: The Development Challenge of the Economic Partnership Agreements*. [Online]. Available: http://www.southcentre.org/Events/2006Oct_EPA_conference_Report.pdf [2007, August 06]

¹⁴⁶ EU-SADC EPA Negotiations. The Myths and Truths. [Online]. Available: <http://www.eusa.org.za/PDFdownload/PressReleases/EU-SADC%20EPA%20Negotiations%20Factsheet%20Sept%202007.pdf> [2007, October, 22]

entered into force, those member states will have taken on contractual obligations that they are bound by.

Secondly, it is alleged that the EU is “*differentiating South Africa from other SADC/SACU countries*”.¹⁴⁷ It was not the aim of the EU to differentiate South Africa from the rest of the SADC/SACU members. South Africa had agreed to conclude the TDCA with EU only because they were not receiving preferential treatment under the Cotonou Agreement. The EU is trying to minimize existing differences between South Africa and other SADC/SACU members thus having allowed South Africa to negotiate with SADC in the EPA’s negotiations.

Lastly, the EU had been accused of having “*imposed the 31 December 2007 deadline*.”¹⁴⁸ The EU did not impose such a date. It was the WTO who had imposed the date on both the EU and ACP countries which in fact also appears in the Cotonou Agreement.

Some of the reactions from African parliamentarians have been somewhat harsh and negative towards the EPA-ACP negotiations. Kwame Oesi-Prempe, a Ghanaian Member of Parliament had stated the following at a Joint Parliamentary Assembly in Brussels on 5 February 2005:

*“I am convinced that EPA’s stand to knock us back. EPA’s stand to harm us...It will only benefit our European partners. The ACP must sit up and look at this issue critically”*¹⁴⁹

¹⁴⁷ *Ibid*

¹⁴⁸ *Ibid*

¹⁴⁹ *Supra* n 141

A further negative comment was uttered by Amadou Ali Niangdou, a Member of Parliament for Mali at the same above mentioned Joint Parliamentary Assembly:

“We are extremely wary of these EPA’s because income is going to fall dramatically in a country like Mali. If we sign EPA’s and our income drops by 20 or 30 per cent, it seems we are going around in circles. We have a lot of misgivings...it may lead to revolution”¹⁵⁰

The impact of the EPA on regional integration would be that the EPA would in essence dominate over existing regional arrangements. This is according to the Neorealism Theory.

The Neorealism Theory introduced by Professor Kenneth Waltz¹⁵¹ at the end of the 1970’s introduced an interesting explanation of behavioural patterns of States in the economic world and is based on realism. It is in fact a system of survival and of self-help. Because a State is power driven, that State never wishes to see another State grow thus would not contribute to this growth. So, no State would ever do something unless it would benefit from that action. This would ensure its security and independence in the world economy.

The Neorealism theory thus explains the EU’s action as looking for a new market place and marking its position in the international system. This inference can be drawn from the fact the more emphasis is place on trade and not on the provision of aid to Africa which seems to be the case in the EU-ACP negotiations.¹⁵²

¹⁵⁰ *Ibid*

¹⁵¹ Rajagopalan. R. (1998) *Neorealist Theory and the India-Pakistan Conflict*. [Online]. Available: http://www.ciaonet.org/olj/sa/sa_98rar01.html [2007, November, 27] This is just a general overview of the theory.

¹⁵² Karlsson C, “*Regionalism from Outside: The EU Foreign Aid Policy and Regional Integration in SADC*” Lund University, Department of Political Science pg 12. [Online]. Available:

The regional arrangement would take a backburner and it had been stated that if SADC were to reject the agreement, there would be a fear of losing aid from the EU.¹⁵³ This implies that the EU uses its aid funding advantage over Africa to gain access into its markets.

In a speech by Trade Commissioner, Peter Mandelson, while addressing the European Parliament Development Committee, he drew similarities between Central American countries and the ACP group.¹⁵⁴ He stated that countries like El Salvador have concluded free trade agreements with the EU and have estimated to liberalize 100% of their industrial products in the next ten years and 95% of their agricultural products in fifteen years. Guatemala and Nicaragua have been classified as very poor and developing thus are similar to most of the ACP countries. The basic contention was that the ACP countries have not been asked as much as the Central American countries yet they were willing and able to conclude free trade agreements with the EU. Another important point is that the Central American countries do not receive any form of development assistance like the type that the ACP countries are receiving. The bottom line is that if other developing countries have the ability to conclude such agreements and are willing to liberalize 100% of their products, why should the ACP countries be allowed to continue to trade under the current conditions they having been trading under.

4.9 POSSIBLE IMPACT OF THE EU-SADC ON SACU

Since the creation of SACU, the BNLS have enjoyed certain benefits of being members. South Africa has the fastest growing and gigantic economy as compared to the BNLS countries. They have depended heavily on South Africa as far as sharing in

<http://theses.lub.lu.se/archive/2007/01/08/1168288378-23300-700/C-uppsats2.PDF> [2007, November, 05]

¹⁵³ *Supra* n 96 pg 14

¹⁵⁴ European Parliament Development Committee meeting. 05 November 2007. Speech delivered by Trade Commissioner to the EU, Peter Mandelson. [Online]. Available:

the revenue pool is concerned. South Africa is a major contributor to SACU's revenue pool. Seeing that South Africa had been classified as a developed country, it did not receive full membership to the Cotonou Agreement therefore concluding the Trade Development and Cooperation Agreement (TDCA) with the EU. This has impacted negatively on the BNLS countries.

In relation to the relationship BNLS has with the TDCA, there have been several consequences experienced by them.¹⁵⁵ Firstly, SACU's revenue pool was reduced thus each member receiving far less. The main reason for this was the elimination of tariffs on trade with the EU. Secondly, the level of protection they had enjoyed has too reduced thus making them vulnerable. Because of the nature of the TDCA, the goal of free trade would be realized much quicker than any other ACP country. Thirdly, the TDCA was not designed to suit the economic and development needs of the BNLS so desired goals and objectives were not geared towards them. Lastly, the BNLS countries do not have direct consultation with the EU concerning the TDCA and so any future alterations or negotiations would be between the EU and South Africa.

Keeping in mind already existing complications for the BNLS due to the TDCA, there will be further complications if the EU-SADC EPA is not concluded. The countries to be burdened the most with the complications are Botswana, Namibia and Swaziland. They have not been classified as least developed countries thus they do not qualify for EU's EBA policy. Automatically, they would be offered EU's GSP which would prove detrimental to their economies.

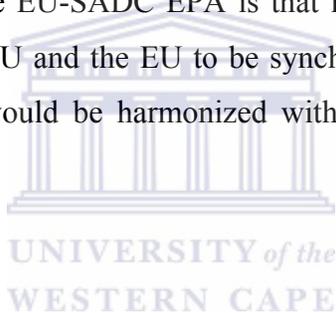
The Generalised System of Preferences is an initiative by the EU offered to non-least developed countries that are committed to development, protection of human rights

¹⁵⁵ *Supra* n 104

and good governance.¹⁵⁶ However, in order to receive special trade preferences, the country would have to satisfy a certain criteria. They would have to ratify and implement a number of international conventions twenty seven to be exact. Unfortunately, none of the no-least developed countries meet the criteria as they have not ratified all of the conventions.

According to Agritrade, Namibia's beef and fish industry would feel the brunt of the GSP policy.¹⁵⁷ In the study conducted by Agritrade, it was estimated that an astounding N\$ 675 million per annum or US \$ 100 million would be lost per annum. This is due to the fact that the meat exports would be subjected to tariffs of up 130 %.

A positive outcome of the EU-SADC EPA is that it is an opportunity for the trade relationship between SACU and the EU to be synchronized. With the conclusion of the EPA, South Africa would be harmonized with the BNLS countries under the EPA.¹⁵⁸



4.10 CONCLUSION

Concluding the EPA negotiations is in the best interest of member states in the long run. They don't really have an option when considering what the alternatives are to the EPA's. Short term the EPA's will impact negatively and could possibly play a role in the closing down of several manufacturing sectors. Looking at what the impact the EPA will have on the region, all SADC can do is try and minimize the negative impact.

¹⁵⁶ *Is GSP an alternative to an Economic Partnership Agreement?* Brussels 27 September 2007. [Online]. Available: http://trade.ec.europa.eu/doclib/docs/2007/september/tradoc_136097.pdf [2007, November, 07]

¹⁵⁷ *Supra* n 130

¹⁵⁸ Vilakazi. J. (2007) *Can SADC and the EU conclude a fair deal before January?* Business Report: Opinion/ Analysis. 10 October 2007. [Online]. Available: <http://www.busrep.co.za/index.php?fSectionId=553&fArticleId=4072523> [2007, November, 05]

What the EU-ACP EPA's aim to conform to principles of the WTO which the ACP cannot escape from, because WTO obligations were inherited by acceding to the organization. For decades, the ACP has depended heavily on the EU however the time has to liberalize trade and face up to the reality that they cannot continue to trade as they have been trading.



CHAPTER FIVE

5.1 CONCLUSION

The future of the ACP countries depends on the outcome of the EPA's negotiations. Regional integration is at stake because the divisions that were created due to the EPA configuration have caused a rift in regional blocs.

The SADC region has been split between the SADC and ESA EPA configuration causing that rift. Overlapping memberships will not be able continue as countries will eventually have to choose between the regional blocs. With each of the blocs have custom unions as a long term goal; they will have to find a way to unravel the spaghetti bowl. COMESA, EAC, SACU and SADC are following similar paths towards economic regional integration. Member states perhaps joined various regional blocs in an effort to receive the best trade preferences possible. Once the custom unions have been established, those member states that have multiple memberships will have the difficult task of choosing the custom union that will suit their needs.

The EU-SADC EPA was expected to be signed on the 15 November 2007 and implemented on 01 January 2008. This will bring about the end to the Lomé/Cotonou era, ushering in a new trade agreement that is considered to be WTO compatible. However, whether it is a pro-development instrument is yet to be seen. The most important aspect of the negotiations was that the ACP countries were not to be left worse off than in the Cotonou Agreement. The principles from this agreement have to be entrenched into the EPA's thus being not a pure trade agreement. Only time will tell whether the EPA's were truly a better alternative for the ACP countries.

5.2 RECOMMENDATIONS

Finding a solution to problems that have been created due to trade imbalances between the EU and ACP seems to be somewhat of a mammoth task. The SADC region particularly needs viable options to deal with the three-way split. For those countries that are classified as non-least developed countries do not qualify for the EBA initiative therefore being forced to accept preferences offered under the EU's GSP. In addition to the normal GSP, there was a GSP+ that was created to provide further special trade preferences to countries who were working towards good governance and sustainability of development as well as a good human rights record. In the event that a non-LDC does not sign an EPA, they would have to trade using the GSP. The GSP+ is not an option readily available to them. The requirements set out by the EU are stringent because five¹⁵⁹ of the SADC countries have as yet not met those requirements.¹⁶⁰ For these five countries, the normal GSP prevails resulting in them having to spend millions extra on tariffs. They have no option but to ensure that they do conclude the EPA negotiations. The overall impact of developing countries in the ACP will be of astronomical proportions because they would no longer enjoy benefits that were received under the Cotonou Agreement.

As for LDC's in the ACP grouping, the EBA can be seen as safety net for them. As stated before, the "Everything But Arms" provides tariff and quota free access into the EU market but only for countries that have been classified as least developed. This access is extended to all types of goods except arms and ammunition. However, sugar, bananas and rice are subjected to a gradual process of liberalizing them to a zero tariff.

¹⁵⁹ Those five countries are Botswana, Mauritius, Namibia, Swaziland and Zimbabwe. However, the World Bank has classified Zimbabwe as a Least Developed Country. *Is GSP+ an Alternative to an Economic Partnership Agreement?*. Brussels, 27. September 2007. [Online]. Available: http://trade.ec.europa.eu/doclib/docs/2007/september/tradoc_136097.pdf [2007, November, 07]

¹⁶⁰ *Is GSP+ an Alternative to an Economic Partnership Agreement?*. Brussels, 27. September 2007. [Online]. Available: http://trade.ec.europa.eu/doclib/docs/2007/september/tradoc_136097.pdf [2007, November, 07]

The Common Agricultural Policy (CAP) of the EU has always had a negative impact on the ACP countries. With the transitional period of liberalizing products, the CAP will continue to create trade distortions and a dumping effect on the market. This policy will have to be negotiated with the EU because it subjects ACP's products to unfair competition due to the heavily subsidized agricultural products. The EU cannot expect the ACP to trade freely with subsidized products while maintaining that development is the focal point. A common ground has to be reached especially with the EPA's being concluded. With the opening up of African markets, the dumping effect will grow and local producers will not be able to compete with the influx. This is a make or break situation where ACP economies will have to find methods and solutions to deal with the problem.

Since many of the member states cannot decide to which regional bloc to belong to, the best option for SADC, COMESA and EAC would be to merge into one trade bloc as a solution to the overlapping problem. The two blocs share similar goals and objectives therefore fusing them together would make the most sense. Either each SADC and COMESA realize their goal of becoming a custom union then the two custom unions can merge together or dissolve SADC and COMESA as they are and establish a new regional bloc, the Eastern and Southern Community. A FTA could be established within the entire Eastern and Southern Region. This could be a step closer to achieving the AEC's objective of a single domestic market with a central bank. This would eliminate confusion and uncertainty between the two regional blocs. The two could build on the existing structure of SACU, it being the oldest custom union and perhaps the most experienced. It is certain some countries would not be open to the idea because of South Africa's dominant economy in Africa but this could be viewed as a positive aspect because South Africa could help to uplift other economies. Members of SACU could also be hesitant because this would mean the reduction of their share in the revenue pool. However, members of the AU had signed

the Abuja Treaty committing to the progression in economic integration ending up with an economic and monetary union.

In the event of SADC, COMESA and EAC amalgamating, then the ESA and SADC EPA could be renegotiated to be incorporated into one EPA, taking into consideration the needs of the LDC's in the region.¹⁶¹ Kenya is considered to be the power house of the east and South Africa of the south, the two countries could make meaningful contributions to the region if they were to pool together resources. This region would be the biggest single market in the world, trading under a single EPA.



¹⁶¹ Charalambides. N, Hartzenberg.T. and Jakobeit C. (2005)*Overlapping Membership in COMESA, EAC, SACU and SADC. Trade Policy Options for the Region and EPA Negotiations*. Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH. [Online]. Available: <http://www.gtz.de/de/dokumente/en-epa-overlapping-memberships-2005.pdf> [2007, November, 05] The members of ESA and SADC are Angola, Botswana, Burundi, DRC, Comoros, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Rwanda, Seychelles, South Africa, Sudan, Tanzania, Uganda, Zambia and Zimbabwe. Out of these countries the following have been classified as LDC's: Angola, Burundi, DRC, Comoros, Eritrea, Ethiopia, Lesotho, Madagascar, Malawi, Mozambique, Rwanda, Sudan, Tanzania, Uganda, Zambia and Zimbabwe

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[SADC%20EPA%20Negotiations%20Factsheet%20Sept%202007.pdf](http://www.eusa.org.za/PDFdownload/PressReleases/EU-SADC%20EPA%20Negotiations%20Factsheet%20Sept%202007.pdf) [2007,

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ANNEXURE ONE

EU EXPORTS TO ACP(€MILLION)

	2000	2004	2005	2006
SOUTH AFRICA	11 810	16 051	18 107	19 843
NIGERIA	4 011	5 283	5 972	6 974
ANGOLA	1 030	1 623	2 017	3 024
CAMEROON	932	918	881	950
IVORY COAST	1 443	1 182	1 127	1 146
GHANA	1 281	1 195	1 251	1 449
CUBA	1 450	981	1 305	1 678
KENYA	942	959	989	1 203
EQUATORIAL GUINEA	137	269	459	391
BAHAMAS	1 019	645	1 256	1 103
ACP	40 427	43 933	50 207	55 583

Source: Eurostat¹⁶²

¹⁶² European Commission.[Online]. Available:
http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-07-073/EN/KS-SF-07-073-EN.PDF [
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ANNEXURE TWO:

EU IMPORTS FROM ACP (€MILLION)

	2000	2004	2005	2006
SOUTH AFRICA	14 696	15 812	16 835	18 455
NIGERIA	6 419	5 235	8 389	10 628
ANGOLA	1 530	974	2 633	2 176
CAMEROON	1 703	1 646	1 985	2 742
IVORY COAST	2 059	2 207	1 978	2 488
GHANA	1 173	1 038	978	1 111
CUBA	707	710	716	733
KENYA	845	875	957	1 054
EQUATORIAL GUINEA	740	850	1 637	1 735
BAHAMAS	638	637	1 089	968
ACP	44 645	46 023	54 620	58 992

Source: Eurostat¹⁶³

¹⁶³ European Commission.[Online]. Available:
http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-07-073/EN/KS-SF-07-073-EN.PDF [
2007, November, 05]

ANNEXURE THREE:

EU MAIN PRODUCTS IMPORTED FROM ACP (€MILLION)

	2000	2004	2005	2006
PETROLEUM, PETROLEUM PRODUCTS	8 261	6 570	11 966	14 352
NON-METALLIC MINERAL MANUFACTURERS	5 010	4 839	5 955	5 686
NON-FERROUS METALS	1 845	1 961	2 368	3 947
COFFEE,TEA, COCOA, SPICES	2 891	3 060	3 173	3 117
GAS, NATURAL AND MANUFACTURED	569	994	1 391	3 002
METALLIFEROUS ORES AND METAL SCRAPS	2 132	1 984	2 365	2 959
COAL, COKE AND BRIQUETTES	1437	2 116	2 833	2 683
VEGETABLES AND FRUIT	2 049	2 294	2 327	2 373
IRON AND STEEL	1 165	1 760	1 855	2 020
FISH	1 867	1 970	1 989	1 989
TOTAL	44 465	46 023	54 620	58 992

Source: Eurostat¹⁶⁴

¹⁶⁴ European Commission.[Online]. Available:
http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-07-073/EN/KS-SF-07-073-EN.PDF [
2007, November, 05]

ANNEXURE FOUR:

ACP MAIN PRODUCTS IMPORTED FROM THE EU (€ MILLION)

	2000	2004	2005	2006
ROAD VEHICLES	3 671	4 991	5 774	6 753
GENERAL INDUSTRIAL MACHINERY AND EQUIPM	2 205	2 977	3 242	3 722
PETROLEUM, PETROLEUM PRODUCTS	1 386	1 590	2 378	3 557
MACHINERY FOR PARTICULAR INDUSTRIES	1 907	2 634	2 954	3 488
TELECOMMUNICATIONS	2 056	2 322	2 888	3 434
ELECTRICAL MACHINERY	1 757	1 950	2 250	2 651
TRANSPORT EQUIPMENT(OTHER THAN ROAD)	6 167	3 555	4 500	2 547
POWER-GENERATING MACHINERY	1 470	1 838	2 172	2 460
MEDICINAL AND PHARMACEUTICAL PRODUCTS	1 487	1 797	1 962	2 148
OFFICE MACHINES	1 391	1 545	1 887	2 052
TOTAL	40 427	43 933	50 207	55 583

Source: Eurostat¹⁶⁵

¹⁶⁵ European Commission.[Online]. Available: http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-07-073/EN/KS-SF-07-073-EN.PDF [2007, November, 05]