

Trade Relations Between the EU and Africa

Development, challenges and options
beyond the Cotonou Agreement

Edited by

**Yenkong Ngangjoh-Hodu and
Francis A.S.T. Matambalya**



Routledge Studies in Development Economics

Trade Relations Between the EU and Africa

Trade liberalisation and openness, as linchpins for development, have been flagships of conventional economic policy advice to most African countries over the last few decades. Much of the orientation of the focus, however, has been on the impact of international trade on development rather than the requirement that development should inform the shaping of the international trading system so that African countries may be able to benefit from such trade. This view has permeated both academic debate and the Economic Partnership Agreement (EPA) negotiation between the European Commission and groups of African Caribbean and Pacific (ACP) states.

This timely volume advances an alternative set of interrelated, interdisciplinary perspectives and debates which contribute to overlapping genres and discourses, notably how rules of origins may stifle the development dimension of EPAs, and how special agricultural safeguards may be used in balancing the effects of trade liberalisation on small farm holders in Africa. It also discusses the centrality of aid for trade in trade negotiations, and mainstreaming development in the EPAs debate to enhance the domestic supply-side in Africa and the various regional integration processes in the region.

This book focuses on areas of trade that may inform the development dimension of international trade. With this edited volume, a team of specialists provide a comprehensive survey of ACP–EU trade and Africa trade relation in the global context, placing it in its legal, economic and political contexts. The book's innovative approach, coupled with a stimulating and accessible writing style, allows the reader to engage fully with the content. It will be of most value to students, scholars and related policymakers of international, development and trade economics.

Yenkong Ngangjoh-Hodu is Lecturer in Law at the University of Manchester and is also the head of NAI's Trade and Globalisation programme. **Francis A.S.T. Matambalya** is Professor of International Economics and Marketing at the University of Dar Es Salaam, Tanzania. He is currently working at the United Nations Industrial Development Organisation (UNIDO) as an International Development Consultant.

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Foreword

*H.E. Abdoulaye Wade, President of the
Republic of Senegal*

After more than three decades of fruitless co-operation, first via the two Yaoundé Conventions (1963 and 1969) and then via the four Lomé Conventions beginning in 1975, the heads of 79 African, Caribbean and Pacific (ACP) countries set out to put an end to the history of imbalance in relations between Europe and Africa by signing the Cotonou Agreement in 2000. Based on three solid, closely interrelated pillars – policy, economy and trade – the Cotonou Agreement aimed to abolish the existing system by 1 January 2008 and establish free trade between partners through Economic Partnership Agreements (EPAs) that would harmonise the current commercial framework with World Trade Organisation (WTO) regulations. The key principle of the Agreement is that commercial matters must not eclipse the need for development, but remain subordinate to it. Development is the end; trade is one of its means.

At the European Union–Africa Summit in Lisbon in December 2007, most of the African heads of state maintained that EPAs should focus primarily on development. This was to be the most important condition of a new, genuine strategic partnership between Africa and Europe. Of course, all parties hoped that the EPAs would last for at least two years beyond 2007. The conclusions of the Lisbon summit crushed this hope. By the end of 2007, 18 African states had signed the interim EPA on trade in goods. The interim agreements imposed on these countries a political obligation to do business based on reciprocity with the European Union (EU), without providing any specific details.

This book, edited by eminent African specialists, lucidly presents a collection of interrelated arguments and clear proposals as to how commercial relations between the EU and Africa might be pursued in the future. It contains contributions that show how the rules of origin can stifle the development dimension in EPAs, and how special protective measures for agriculture can balance the effects of liberalised trade on African smallholder farmers. The book also notes how important aid is to trade during commercial negotiations, and integrates the development dimension into the debate over EPAs with a view to increasing domestic supply in Africa and the various regional integration processes underway there.

Some weak progress has been made towards achieving the Millennium Development Goals (MDGs) in sub-Saharan Africa, despite persistent protests against agricultural subsidies and other contradictory commercial measures in

Europe and America, aiming to level the playing field in the international trade system. In the meantime, the commission assumes that these economic partnerships will facilitate the achievement of the common goal of the EU's and the Cotonou Agreement's development policies (to reduce and hopefully eradicate poverty), moving in the direction of sustainable development and the progressive integration of the ACP countries in the globalisation trend. As regards a less-developed country (LDC) like Senegal, there is reason to be even more prudent in EPA negotiations. This is because, despite numerous appeals for their postponement, the Commission has consistently raised issues such as investment, competition and the like not dealt with in the WTO Doha Round regarding EPAs. In fact, in my country, these EPAs cut 35 per cent out of our budgets. Consequently, we will have to cut back on schools, pharmacies, hospitals, projects and roads, and make civil servants redundant and so on.

This is why I have proposed initiating a deeper dialogue for the establishment of Development Partnership Agreements (DPAs) and of more equal relations based on five points:

- Agreements between regions of the world: Europe–Africa, Africa–USA, Africa–Asia.
- Financing of African infrastructures, allowing its economies to be more competitive.
- Creating a mixed European–African zone based on emerging economies and favouring the free movement of people, goods and capital with or without the right of establishment.
- Agreements on homogenous products.
- Moving industries from Europe to Africa, which would benefit the continent.

These so-called 'Singapore issues' were not necessarily considered instruments of short-term development. The access of African products to European markets was a key issue.

This book, containing contributions from great African and international minds, makes this point clear. China and India are increasingly acquiring a privileged position in African political economies. Generally, the relationship between Africa and emerging countries continues to grow and awakens great hope for the continent's foreign trade.

Paradoxically, hope is being renewed at a time when African countries are faced with great difficulties and must struggle hard to escape them and embrace this rapidly changing world of speed, innovation and pragmatism. Globalisation creates new demands dictated by the paradigms of competition and competitiveness.

Thus, this book offers valuable ideas on the difficulties that the new wave of globalisation presents to African countries, and brings to light many considerations that will be of use not only to the academic world, but also to the professional sector and to policymakers.

Foreword

H.E. Jakaya Mrisho Kikwete, President of the United Republic of Tanzania

The trade relations between the African states and their European Union (EU) partners have evolved over a long period of time in tandem with the evolving relations between African and European powers. In the post-colonial era, the most important blueprint for these relations was provided by the subsequent arrangements between the European Economic Community (EEC)/EU on the one side, and their former colonies in the African, Caribbean and Pacific (ACP) regions, on the other. In this context, a 'culture' of Africa–Europe development co-operation, which was enshrined in the Treaty of Rome of 1957, has essentially provided the basis for trade relations between the African countries and their European partners for a good part of the subsequent 50 years.

Moreover, with the publication of the *Green Paper* by the European Commission (EC) in 1996, which for the first time proposed fundamental changes in the trade relations between the EU and ACP group of countries, and the signing of the Cotonou Agreement on 23 June 2000 to this effect, there has been a substantial shift in the concept of ACP–EU development co-operation. The main innovation through the Economic Partnership Agreement (EPA) enshrined in the Cotonou Agreement was introducing reciprocity in ACP–EU trade. This move was intended to make the ACP–EU trade relations conform with the World Trade Organisation (WTO) rules. Moreover, conscious of the disparities in the levels of economic development between the ACP and EU economies, a built-in asymmetry in the EPA trade liberalisation schedules was intended to mitigate the negative aspects associated with liberalisation shocks.

It was further anticipated by economic theorists that such a move would encourage ACP economies to strive towards becoming more efficient, and improve the convergence of the prices of imports by ACP countries with world market prices.

Despite the purported good intentions of the reforms, a series of challenges remain for African countries. It appears, among other things, that EPAs are seriously threatening the regional integration efforts in Africa. Notably, within the context of the EPA process, the existing African integration blocs have been disjointed, with their core members falling into different configurations (in fact, the only exception is the East Africa Community (EAC)).

Also, there are still worries that unless the EU's practice of trade-distorting

measures (including the wide range of subsidies) is curtailed, the opening up by the African economies of their markets will over-proportionally disrupt trade through the displacement of domestic production and trade diversion. Besides, there is a genuine risk that, without flanking measures to salvage the industrial base of the African countries, what little industry there is may be wiped out. Yet another challenge is that the African countries, which depend on tariff revenue, may experience over-proportional budget deficits and fragile states may be further destabilised due to a lack of resources to finance development.

This volume, which has been produced with the generous support of the Nordic Africa Institute, based in Uppsala, Sweden could not have come at a more opportune time. Spearheaded by two African scholars, Dr Yenkong Ngangjoh-Hodu (Nordic Africa Institute) and Professor Francis Shasha Matambalya (University of Dar es Salaam/SITRADE Foundation/Guest Researcher Nordic Africa Institute), the publication is based on a thorough analysis of the evolving Africa–EU trade relations in the twenty-first century under the EPA model of development co-operation. It captures, in a comprehensive manner, the practical implications of the dynamics of the Africa–EU trade relations ushered in by the EPA, and highlights issues of strategic significance for Africa, namely:

- market access issues, i.e. the nature of challenges facing the access of African exports to EU markets;
- the key concerns and interests of African countries in their negotiations with the EU, considering the overwhelming commodity dependence of the African economies;
- the thrust of the aspired-for EPA trade regimes between the EU and various configurations of African countries;
- the relevance of the evolving EPA trade regime in promoting innovative economic development in Africa;
- the prospects of the evolving EPA trade regime to stimulate sustainable development and thereby contribute towards poverty alleviation.

Concrete examples are used to highlight the implications of the unfolding situation for Africa.

Overall, this book is very valuable for practitioners, academics in Africa, the Caribbean, the Pacific and Europe, and to students of economics, law and international relations.

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Yenkong Ngangjoh-Hodu and Francis Shasha Matambalya
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Abbreviations and acronyms

AACP	African ACP
AB	Appellate Body
ACP	African, Caribbean and Pacific
AGOA	Africa Growth and Opportunity Act
APRODEV	Association of World Council of Churches related Organisations in Europe
BoT	Bank of Tanzania
CAADP	Comprehensive Africa Agricultural Development Programme
CAFTA	Central American Free Trade Area
CAP	Common Agricultural Policy (CAP)
CARICOM	Caribbean Common Market
CARIFORUM	Caribbean Forum for EPA Negotiations
CEMAC	Communauté Economique et Monétaire de L'Afrique Centrale
CET	common external tariff
COMESA	Common Market for Eastern and Southern Africa
COMTD	Committee on Trade and Development
CPA	Cotonou Partnership Agreement
CRTA	Committee on Regional Trade Agreements
CTC	change of tariff classification
DAC	Development Assistance Committee
DDA	Doha Development Agenda
DFQF	duty-free, quota-free
DPA	Development Partnership Agreements
DSB	dispute settlement body
EAC	East African Community
EBA	Everything But Arms
EC	European Commission
ECCAS	Economic Community of Central African States
ECJ	European Court of Justice
ECOWAS	Economic Community for West African States
ECU	European currency unit
EEC	European Economic Community
EEZ	economic exclusion zone

EFTA	European Free Trade Area
EIF	Enhanced Integrated Framework
EPA	Economic Partnership Agreement
EPZ	export processing zone
ESA	Eastern and Southern Africa (EPA configuration)
EU	European Union
EUOT	EU overseas territory
FAO	Food and Agriculture Organisation
FDI	foreign direct investment
FOA	frequency of access
FTA	Free Trade Area
GATS	General Agreements on Trade in Services
GATT	General Agreement on Tariffs and Trade
GCC	Gulf Cooperation Council
GDP	gross domestic product
GI	geographical indication
GSP	Generalised System of Preferences
HS	Harmonised System
ICTSD	International Centre for Trade and Sustainable Development
IDL	international development law
IFAD	International Fund for Agricultural Development
IRA	Institute of Resource Assessment
ITC	International Trade Centre
ITS	international trading system
ITU	International Telecommunication Union
LDC	least developed country
MAFC	Ministry of Food, Agriculture and Cooperatives (Tanzania)
MDGs	Millennium Development Goals
MFN	most favoured nation
MP	magnitude of preference margin
MPPE	Ministry of Planning, Economy and Empowerment
MRA(s)	Mutual Recognition Arrangement(s)
MTN	multilateral trade negotiations
MTS	multilateral trade system
NAFTA	North America Free Trade Area
NAMA	non-agriculture market access
NBS	National Bureau of Statistics (Tanzania)
NEPAD	New Partnership for Africa's Development
NGO	non-governmental organisation
NIEO	new international economic order
NPC	net production costs
NTB	non-tariff barrier
ODI	Overseas Development Institute
OECD	Organisation for Economic Cooperation and Development
ORC	other regulation of commerce
ORRC	other restrictive regulations of commerce

PANEURO	Pan European System
PCA	Permanent Court of Arbitration
PCD	policy coherence for development
PSIA	<i>Poverty and Social Impact Analysis</i>
PTA	Preferential Trade Agreements
RoO	rules of origin
RTA	regional trade agreement
SACU	Southern Africa Custom Union
SADC	Southern African Development Community
SAP	structural adjustment programme
SCM	subsidies and countervailing measures
SD	suspended duty
SDT	special and differential treatment
SIA	sustainability impact assessment
SP	Special Product(s)
SPS	sanitary and phytosanitary measures
SSG	Special Safeguard
SSM	Special Safeguard Mechanism
TBT	technical barrier to trade
TDCA	Trade and Development Cooperation Agreement
TEU	Treaty of European Union
TPA	Trade Promotion Agreement
TR	Technical Requirement
TRIPS	Trade Related Aspects of Intellectual Property
TRQs	tariff rate quotas
TZS	Tanzanian shillings
UN	United Nations
UNAIDS	Joint United Nations Program on AIDS
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNHabitat	United Nations Human Settlements Programme
UNHCR	United Nations High Commission for Refugees
UNICEF	United Nations Children's Fund
UNIDO	United Nations Industrial Development Organisation
UNIFEM	United Nations Development Fund for Women
UNODC	United Nations Office on Drugs and Crime
VA	value added
VC	Vienna Convention (VC)
VCLT	Vienna Convention on the Law of Treaties
WCED	World Commission on Environment and Development
WFP	World Food Programme
WHO	World Health Organisation
WMO	World Meteorological Organisation
WTO	World Trade Organisation
YVLA	Yallahs Valley Land Authority

Notations and variables

$C_{i,\tau}$	index of NTBs coverage ratio
$F_{i,\tau}$	frequency ratio of coverage (i.e. the <i>value</i> of a country's imports, which is subjected to NTBs)
FOA	frequency of access
FRP	frequency ratio of preferences
MT	metric tones
MP_1	margin of preference in percentage terms, i.e. $(T_{MFN}) - (T_{PR})$
MP_1	margin of preference in revenue terms, estimated by multiplying MP_1 by the export quantity
T_{PR}	preferential tariff rate
T_{MFN}	MFN tariff rate
U	utilisation rate of preferences
Φ	utility rate of preferences

Part I

Africa–EU trade relations in the twenty-first century

An introduction

1 Contextualising the debate of the Africa–EU trade relations beyond the Cotonou Agreement

*Yenkong Ngangjoh-Hodu and
Francis Shasha Matambalya*

Trade between Europe and the Africa, Caribbean and Pacific (ACP) group of states has been guided by a set of non-reciprocal trade regimes for the past 30 years. The 1975 Lomé Convention and subsequently the 2000 Cotonou Agreement have guided the trade arrangements between the ACP countries and the European Union (EU). The Cotonou Agreement established the basis for the end of the non-reciprocal trade regime and for the negotiation of a reciprocal trade arrangement (the Economic Partnership Agreements (EPAs)) between the ACP and the EU. According to the European Commission (EC), EPAs are meant to constitute an integral part of the implementation of the EU–ACP¹ Partnership Agreement. They are regarded as integral because of their expected positive impact on development through trade in ACP regions and countries.

With the initialling of interim EPAs covering trade in goods by the EU and 18 African countries, December 2007 marked a turning point in the long-standing trade relationship between Europe and Africa. Although international treaty law imposes no obligations on parties to an initialled agreement to apply the agreement as it is,² there is political commitment on the parties not to defeat the object and purpose of such agreements. Implicitly, while initialling the agreement was arguably germane for the EU extension of preferences to the African ACP countries (AACP) beyond December 2007, certain provisions of the initialled agreements may still be re-negotiated. For instance, since December 2007, questions have been raised as to the relevance of certain provisions, such as the standstill and MFN clauses³ in most of the AACP-initialled EPAs.

More generally, at least three issues are important for understanding the essence and implications of the evolving legal framework of trade regimes between the AACP countries and the EU. These are the merits associated with international trade, the evolution of regional trade agreements (RTAs) within the framework of the Multilateral Trade System (MTS), and the integration of development dimensions in international trade arrangements.

1.1 International trade and development

Trade liberalisation and openness, as linchpins for development, have constituted primary elements of policy advice extended to developing countries over the last