

**Position Paper of the Commission Services
Sustainability Impact Assessment of
EU-ACP Economic Partnership Agreements**

16 November 2007

Introduction

This paper provides the reaction of Commission Services to the Sustainability Impact Assessment (SIA) of the Economic Partnership Agreements (EPAs) between the EU and the African, Caribbean and Pacific (ACP) countries.

The SIA was launched in September 2002, together with the opening of the EPA negotiations, and finalised in August 2007 in advance of the completion of the negotiations. The work was carried out by independent consultants lead by PriceWaterhouseCoopers (PWC).

A summary of the SIA and all reports produced can be downloaded at the Commission's and PWC websites:

http://ec.europa.eu/trade/issues/global/sia/studies_geo.htm#acp

<http://www.sia-acp.org>

Background documents and information about the state of play of the EPA negotiations can be found at the Commission's website:

http://ec.europa.eu/trade/issues/bilateral/regions/acp/index_en.htm

Objectives of the SIA

The overall objective of the SIA is to help ensure that trade between the EU and the ACP is sustainable from an economic, social and environmental point of view and to assist trade negotiators in fine-tuning negotiating positions. In order to achieve this, the SIA assessed the potential impacts of different EPA scenarios and developed recommendations to prevent or mitigate any negative consequence and to enhance positive ones. SIA findings are public and accessible to all interested parties, including negotiators, stakeholders and partner countries. The SIA has also been an important tool for consultation and communication with interested European and ACP stakeholders and for promoting their involvement in the negotiating process.

Outputs

The SIA takes into account that the EPAs are being negotiated with six different ACP regions and cover a wide range of issues and sectors. A number of specific reports have therefore been produced, one for each of the six regions, each one assessing a specific sector or issue of relevance to that region. These reports are complemented by

a general report summarising the findings of the regional reports and exploring the applicability of the recommendations to the other regions, as well as a report on the dissemination process and stakeholder engagement.

This work was carried out in four phases:

- Phase I included a preliminary overall SIA and two pilot regional SIAs for West Africa and the Caribbean.
- Phase II focused on three specific sectors in three of the six regions: agro-industry in West Africa, tourism in the Caribbean and fisheries in the Pacific.
- Phase III focused on three sectors and issues in the remaining three regions: financial services in Central Africa, horticulture in East and South Africa and rules of origin in Southern Africa.
- Phase IV completed the SIA, bringing together the results of the previous phases, drawing up detailed conclusions and recommendations for stakeholders and policy makers across the regions and summarising the dissemination process and stakeholder engagement.

All phases have included substantial consultations of stakeholders in order to raise the awareness of the EPAs and to incorporate their concrete proposals and suggestions concerning the possible impact and direction of the negotiations. This has been done through regional workshops in the ACP regions, internet consultations, seminars for EPA negotiators and meetings with civil society in Brussels.

In addition to the SIA, which is the subject of this paper, the Commission has provided funding for regional and national ACP impact assessments undertaken and managed by the ACPs.

Rationale of EPA negotiations

After thirty years of preferential market access, the ACP countries still export just a few basic commodities to the EU. Most of these are sold at lower prices than they were twenty years ago. At the same time the ACP share of the EU market is steadily declining. The existing trade preferences have not had the intended effect of helping the ACP diversify their economies into higher value products, and they now attract only a small part of world foreign direct investment.

Moreover, the existing trade preferences have until now been protected by a special WTO waiver, which will expire on 1 January 2008, after which they will no longer be compatible with the international rules on non-discrimination. These provide that WTO members are not allowed to offer special preferences to a select group of developing countries such as the ACP; they must give equal preferences to all developing countries. Non-ACP developing countries have already been successful in challenges concerning non-compliance with these rules.

A replacement for the existing trading regime in the form of EPAs is therefore necessary, not only from a legal point of view but also in terms of creating a process of sustainable development that will foster the gradual integration of the ACP into the world economy, thereby contributing to sustainable economic growth and lifting

people out of poverty, while addressing any potentially negative social and environmental impacts.

This is why the Commission's approach to the EPAs is to change the relationship between the EU and the ACP from one of dependency on EU tariff preferences to a WTO-compatible partnership, guided by the need to promote development that is economically, socially and environmentally sustainable.

Position of Commission Services on the SIA

1. General remarks

Throughout the EPA negotiations the SIA has provided detailed analyses of various scenarios and advised on their potential positive and negative economic, environmental and social impacts. Occasionally, there have been problems with the SIA, mainly due to misunderstandings concerning the contents and direction of the negotiations, which resulted in outputs of limited use to negotiators. But overall the analyses and recommendations produced by the consortium have been useful, not just for Commission Services, but also for a wide range of other stakeholders. Commission Services have taken into account the findings of the SIA, including through detailed assessments of the reports, regular contacts with the consortium and participation in the consultation of external stakeholders concerning the SIA. Commission Services can therefore provide overall endorsement of the SIA.

2. Response of Commission Services to key recommendations

The key recommendations of the SIA have been reproduced below together with the response of Commission Services.

Recommendation #1:

The EU and ACP countries should strive to ensure coherence between EPA negotiating configurations and overlapping efforts at regional integration and should ultimately pursue, at regional level, strategies for developing key economic and industrial sectors and for promoting sustainability.

Position of Commission Services:

Commission Services fully agree that regional integration and cooperation should be at the core of the EPAs. In many cases, individual ACP countries have stronger trade linkages with the EU than they do with their neighbours. The EPAs are a means of strengthening trade within the regions. The creation of bigger and more dynamic regional markets mean more potential customers for businesses, and this can help the regions compete for the attention of investors that would otherwise focus on other emerging markets. The EPAs will deliver the confidence in rules and the more

business-friendly environment investors need to spark off a regionally-based virtuous circle of growth and investment.

The ACP themselves have developed the regional configurations for the EPAs. Commission Services fully agree that there must be coherence between the EPA configurations and regional integration processes. We have therefore encouraged the relevant regions to ensure that such coherence is achieved. With regard to African ACP countries, Commission Services support the efforts undertaken under the African Union to rationalise Regional Economic Communities.

Recommendation #2:

All ACP countries should retain duty free and quota-free access to the EU market and access to the EU should be improved for the few products not yet fully liberalised.

Position of Commission Services:

The Commission Services have put an unprecedented market access offer on the table which grants duty and quota free access for all ACP countries' exports to the EU with the only significant transition arrangements being for sugar. No other country or region in the world has offered anything remotely comparable to this offer, which demonstrates the EU's commitment to put trade at the service of development.

Recommendation #3:

To mitigate potential negative impacts of reciprocity and encourage positive impacts, negotiators should classify some products as “sensitive” and ensure that there is a safeguard provision taking into account the goal of promoting sustainable development.

Position of Commission Services:

Commission Services agree that it should be possible to classify certain products as sensitive. Indeed, Commission Services have consistently advocated flexibility on this issue: sensitive products should be liberalised within an appropriate period of time – up to 25 years in some exceptional cases – and the most sensitive ones could be totally excluded. In addition, Commission Services agree that safeguard mechanisms should enable the EPA regions to address unforeseen surges in EU imports.

This is part of the overall strategic, pro-development approach, which Commission Services have adopted concerning the issue of ACP liberalisation towards the EU. In addition to allowing for protection for sensitive products and safeguard mechanisms, EU goods which strengthen the competitiveness of ACP industries, including through lowering their production costs, should be liberalised from the entry into force of the EPAs or as soon as possible thereafter: imposing high duties on goods that are essential for development and have little or no prospects for being produced locally is, in effect, a tax on development.

Recommendation #4:

Negotiators should explore policy options to simplify and relax rules of origin that will encourage increased trade in transformed products.

Position of Commission Services:

Commission Services agree with this recommendation and have offered significant changes to EPA rules of origin - a longstanding request of African countries in particular - which will make the EPAs at least as generous in this respect as any other preferential trade scheme on offer today. In particular, Commission Services have offered a relaxation of the rules in key sectors for ACP countries, i.e. agricultural and processed agricultural products, fisheries products and textiles and clothing. Single transformation (i.e. global sourcing) for textiles is expected to strongly stimulate the export-oriented textile and clothing sector, having a significant impact on development in terms of economic growth and job-creation with subsequent poverty reduction in particular for the ACP LDCs and important secondary positive economic and social effects.

As for the other sectors, it is expected that more relaxed rules adapted to the specific needs and requests from the ACP countries will encourage investments in production of quality products, which, when exported to the EU market, will increase income and contribute development.

Recommendation #5:

Negotiators should increase commitments in all categories of services to improve certainty and transparency, encourage trade, and support sustainable development.

Position of Commission Services:

Commission Services believe that a strong regional framework for services is essential for development. The approach of Commission Services to services liberalisation is based on asymmetry, flexibility and gradual liberalisation, recognising also the need to exclude certain sensitive sectors, as identified by respective governments. Commission Services are not calling for liberalisation in all sectors, including health and education and other basic social services, but for GATS Article V-compatible trade agreements, which will increase certainty and transparency and foster the development of efficient services, particularly in infrastructure-related sectors important for sustainable development and economic growth.

Recommendation #6:

The EPAs should contribute to a stable climate for FDI and encourage FDI and regional investment that support sustainability through, *inter alia*, including means of

cooperation to achieve compliance with the enforcement of environmental and social regulations at the national level.

Position of Commission Services:

In line with this recommendation, Commission Services believe that a strong regional framework for investment, in both the services and the manufacturing sector, is essential for development. The approach of Commission Services to investment, taking the GATS provisions for commercial presence in services sectors as a model, is based on asymmetry, flexibility and gradual liberalisation. While recognising the sovereign choice of ACP countries as regards their priorities for development, Commission Services believe that binding the current levels of liberalisation in sectors for which ACP countries wish to attract FDI will provide the kind of legal predictability that foreign investors seek before taking an investment decision. Commission Services are ready to ensure appropriate cooperation for the implementation of environmental and social regulations underpinning the different economic activities covered by the EPA.

Recommendation #7:

EU-ACP cooperation on standards should focus on addressing obstacles to trade, maintaining high levels of protection for consumers and the environment and assisting ACP countries to develop their own national and regional approaches to SPS and TBT.

Position of Commission Services:

Commission Services agree with this recommendation. It is important to avoid the creation of any unnecessary obstacles to trade when developing new regulations and standards, but at the same time the health and safety of consumers, animals and plants, and the protection of the environment, is not negotiable. Recent food scares show the need to adjust safety standards to changing circumstances. Such adjustments are always made in conformity with international rules. Food safety is just as important for the ACP as it is for the EU.

Commission Services take a flexible approach aiming to facilitate market access through a range of technical assistance and capacity building programmes.

The EPAs will go even further. In line with the above recommendation, negotiations on sanitary and phytosanitary measures (SPS) and technical barriers to trade (TBT) focus on enhancing cooperation on a wide range of issues, including transparency, consultations and support for regional integration and harmonisation within the EPA regions. In addition, priority areas for technical assistance and capacity building have been identified.

Recommendation #8:

The EU should engage in ongoing cooperation with the ACP in several areas related to trade facilitation including, inter alia, customs, transportation, technology, business information and human resources.

Position of Commission Services:

Commission Services agree that provisions on customs and trade facilitation are important to maximise the benefits of the EPAs. Therefore, negotiations in these fields are focussed on three main pillars: binding commitments on trade facilitation, customs cooperation and assistance to customs reforms in view of assisting EPA countries to meet their commitments. Cooperation is therefore an essential dimension of this chapter of the negotiations and should focus on areas such as simplification and modernisation of customs procedures, enhancement of administrative capacity and support to regional integration.

Recommendation #9:

Development cooperation should focus on priority needs for diversification of production and exports towards higher value-added products, with an emphasis on reinforcing economic and industrial sectors impacted by the EPAs, while ensuring the sustainability of new development.

Position of Commission Services:

Commission Services agree that development cooperation should include cooperation on diversification of production and exports towards higher value-added products. The EU has already committed itself to deliver €2bn per year in trade-related assistance (TRA) by 2010. A part of this is specifically focused on enhancing the capacities of the ACP to export more sophisticated products and to climb up the value added ladder.

This increased attention to trade issues is also illustrated in the EC Country Strategy Papers. Throughout these papers there is a high reflection of trade-related concerns in the analysis and in the response strategies. At the current stage of the programming process, TRA is a special sector in around a third of the countries, and in many cases, the focal sectors show "TRA sensitiveness", e.g. SPS matters can be included in a rural development programme and trade facilitation in an infrastructure one.

More broadly, in line the sustainability dimension of the EU Aid for Trade strategy, approved on 15 October 2007, the EU will support important cross sector dimensions, including gender issues and the promotion of positive interactions between Aid for Trade and the decent work agenda. The EU will also explore possibilities for consultation with stakeholders, in particular small producers at local level. The EU will focus on productive capacity building and integrate SIA results into in-country needs assessments processes. This has been done in the programming relating to the European Development Fund (EDF) at national level, and some EPA regions have indicated that they would like to prioritise this at regional level as well.

Recommendation #10:

Development cooperation should focus on technical assistance to collect information and data on trade and sustainability to support sound policy development.

Position of Commission Services:

Commission Services agree that solid data on trade and its potential economic, social and environmental impacts is essential to correctly assess and support sound policy development. Economic, social and environmental policies must be coherent and mutually supportive in order to maximise the positive impacts of the EPAs and adequately address any negative impacts. The objective of the EPA institutions will be to monitor EPA implementation and the EC will support these institutions as appropriate. The related funding will mainly be channelled via the Regional Indicative Programmes to the regional organisations, in order to enhance their ability to effectively contribute to monitoring EPAs.

Recommendation #11:

Development cooperation should focus on capacity building to promote sustainable development in both the private and public sectors, with an emphasis on training, research and development, and a sound regulatory framework.

Position of Commission Services:

Commission Services fully support this recommendation. Sustainable development is already enshrined in the Cotonou Agreement as a central element of EU cooperation with ACP countries. Consequently, EC development cooperation through the EDF implements this priority both at national and regional level. Capacity building takes place, including under the headings of governance (for the public sector) and support to non-state actors (for the private and civil society sector).

Recommendation #12:

A permanent institutional mechanism should be developed to monitor the implementation of the EPAs from the perspective of economic, environmental and social sustainability.

Position of Commission Services:

The modalities of the institutional framework relating to the monitoring of the implementation of the EPAs and their economic, social and environmental impacts will be defined towards the end of the negotiating process, including concerning the participation of stakeholders. Commission Services support the recommendation that issues concerning economic, environmental and social sustainability shall be covered

within this institutional framework. Commission Services will ensure that due consideration is paid to pertinent outcomes of the SIA and appropriate follow-up.

3. *Remarks on cross-cutting issues*

The above recommendations give rise to a number of remarks on cross-cutting issues. An important area is the environmental aspects of the EPAs, which are highlighted in many recommendations. In this connection, Commission Services are fully committed to further pursue its efforts to incorporate an environmental dimension into the EPAs. Similar efforts will be made in relation to social and labour issues.
