



THE FUTURE OF AFRICA-UK TRADE AND DEVELOPMENT COOPERATION RELATIONS IN THE TRANSITIONAL AND POST BREXIT PERIOD

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FOREWORD FROM THE CHAIR



Africa is a rising continent. That much is clear from the figures: Africa's population is expected to reach 2.5 billion by 2060, with 1.1 billion of these counted as part of the emerging 'middle class'. In economic terms, Africa's GDP growth has exceeded the world average, at about 3.7 per cent last year and a predicted 4.5 per cent next year. The sheer size and diversity of the African continent – 54 countries with their own geographical, economic, and cultural characteristics – means that the true economic and cultural potential of Africa has yet to be fully unleashed on the world stage. It's clear, however, that the current framework for trade between the UK and Africa is not adequate for the purpose of unleashing this potential.

Trade is critically important to emerging economies. One of my first decisions as Chair of this APPG was to focus on trade, and out of this came a delegation to Southern Africa in September 2016 to examine the European Economic Partnership Agreements (EPA) that determine many trade tariffs. The model of EPAs between the EU and African nations is flawed, both due to a lack of transparency and the manner in which EPAs limit the scope for African governments to make their own development choices and industrialisation plans.

While few aspects of the UK's imminent exit from the European Union are uncontroversial, it is perhaps near-universally recognised that Brexit will provide a valuable opportunity for the UK to re-evaluate its trading arrangements with Africa. The upcoming challenge is to ensure that trade deals support economic

development across Africa, giving African governments the freedom to help their communities flourish. In the short term, it is essential that the UK Government reduces uncertainty for post-Brexit trade with Africa by introducing interim measures such as non-reciprocal duty free and quota free preference schemes.

I believe this report is an important and timely contribution to this debate, and I am proud to have played a role in its creation. It also promotes the key aim of the All-Party Parliamentary Group on Africa: to further a positive and mutually beneficial relationship between the United Kingdom and the African continent. It is a testament to the support enjoyed by this group that it continues to be the largest APPG in Parliament. This is the twelfth full policy and research report produced by the APPG since it was founded in 2003, and the consistency and regularity of the APPG's output would not be possible without the support of my Parliamentary colleagues.

In addition to international trade and post-Brexit agreements, the APPG will also work in the coming months on democratic oversight and civil society, infrastructure to support industrialisation, the creative economy, and regional trade within Africa. We also intend to look at the quality of decision making within UKVI on UK visas for African applicants. All of these endeavours are important, but they are all conditioned and delimited by the international trade context in which we operate. As chair of the APPG, I truly believe that positive trading relationships are in the interests of us all, and that now is the time to make that happen.

A handwritten signature in blue ink that reads "Aki Ominah".

Chair, Africa All Party Parliamentary Group

ACRONYMS AND ABBREVIATIONS

APPG	All Party Parliamentary Group
ANC	Africa National Congress
ACP	African, Caribbean and Pacific states
COMESA	Common Market for Eastern and Southern Africa
COSATU	Congress of South African Trade Unions
CPA-UK	Commonwealth Parliamentary Association UK
DFID	Department for International Development
DTI	Department for Trade and Industry
EAC	East African Community
EP	European Parliament
EPA	Economic Partnership Agreement
EU	European Union
FCO	Foreign and Commonwealth Office
IMF	International Monetary Fund
IPPR	The Institute for Public Policy Research
MP	Member of Parliament
NEDLAC	South Africa's National Economic and Development Council
RAS	Royal African Society
SACU	Southern African Customs Union
SADC	Southern African Development Community
SAIIA	South African Institute for International Affairs
SPS	Phytosanitary Measures
SWAPO	South West Africa People's Organization
TDCA	Trade and Development Cooperation Agreement

EXECUTIVE SUMMARY

A post Brexit Britain could offer African countries mutually beneficial and fairer trade deals that would be better than the existing Economic Partnership Agreements (EPAs) made between individual African countries and the European Union (EU). Negotiated over the past decade the EPAs are free trade agreements between the EU and seven sub-regions of African, Caribbean and Pacific states. Five are in Africa.

A delegation of UK Members of Parliament (MP), who visited Southern Africa in September 2016, found that that EPA trade deals had been agreed behind closed doors by professional negotiators with little or no input from parliaments or public debate. African parliaments had only superficial oversight of the process, did not scrutinise the conditions and did not understand the long term implications of trade agreements and their impact on their nation's economic development. All the agreements have faced criticism from a variety of commentators who have observed the widening gap between rich and poor countries over the past decade. The EPAs often restricted development space for economic diversification and industrialization. Following the Brexit vote there are now profound implications for trade relations between the United Kingdom and African countries as well as other less developed countries.

This report reflects the observations and conclusions of the Africa All Party Parliamentary Group (APPG) delegation. These are followed by a series of essays by distinguished experts, commentators and activists who explore the outcomes and lessons learned from the EPAs and their impact on poverty and development in Africa.

Preliminary meetings were held by the APPG before the visit and heard African perspectives on EPAs from Ghanaian and Kenyan MPs, Finance Ministers from Lesotho, Namibia and Swaziland and the UN

Economic Commission for Africa as well as other informants.

The two core study questions for the delegation were:

- Was there democratic and parliamentary oversight in the negotiation of the Southern African Development Community (SADC) EPA and was there engagement with civil society on the terms of the EPA?
- What do a range of South African and Namibian stakeholders consider the main impacts of the SADC EPA on development policy space, economic diversification and African regionalism. What are the implications of these for UK-Africa trade and development cooperation following the Brexit vote?

The delegation met a variety of stakeholders from parliamentary committees, civil society groups and private sector representatives. The key findings from these conversations are summarised below and discussed in detail in the report.

Common concerns emerging from these meetings included:

- The shrinking of development policy space for African countries seeking economic diversification and industrialisation
- Subsidised EU crops creating competition for African agricultural exports
- Power imbalance in negotiations resulting in a relationship which favours EU growth rather than the growth of African economies
- Regional economic integration

The EPA negotiations are normally held behind closed doors by EU representatives, government officials and professional trade negotiators. Parliaments rarely have input into the process, with only superficial top line oversight of trade agreements. The media does not follow them in depth so popular engagement only occurs where

there is significant public opposition or support from citizens or parliamentarians.

Trade can bring mutually beneficial economic development and a reduction of poverty but it presents risks as well as opportunities for developing countries which are trying to industrialise and trade. The international playing field is uneven and highly politicised and has resulted in increasing levels of global wealth disparity which are unsustainable in the long term. The underlying causes that perpetuate such trends need to be addressed.

A delegation of UK MPs who visited Southern Africa in December 2016 found that Britain could offer African countries much better trade deals than the existing EPAs made between African countries and the European Union. The European EPA trade deals have been held behind closed doors by professional negotiators. African parliaments rarely scrutinised the deals and had only superficial understanding of the implications of the trade agreements and their impact on economic development. The process of negotiating the SADC EPA has been opaque with limited oversight by parliamentarians and civil society. Both lacked technical skills and capacity but there was also a lack of transparency in the negotiation process.

The negotiations were held at department level without or with very limited consultation with parliaments. The delegation found no evidence of specific parliamentary committee inquiries or debates on the EPA negotiations. Both South African and Namibia parliaments have large ruling party majorities, creating a culture of unquestioning support for the government by the majority party. Only opposition members try to hold the executive to account. However in the Namibian parliament there was some enthusiasm for improving parliament's oversight role. The Namibian National Assembly Committee on Economics and Public Administration with support from the Speaker's Office has been trying to create

a system with other African Parliaments for monitoring and evaluating trade agreements.

What follows are the findings of the Group followed by analysis and explanation.

1. There was little evidence of structured engagement or consultation between the legislatures, parliamentarians and civil society. However sporadic institutional or popular opposition had led to some minor and specific changes to the EPA.

South Africa's National Economic and Development Council, NEDLAC, aims to encourage dialogue between the Government, industry representatives and trade unions to discuss issues of mutual interest. However, NEDLAC's influence and effectiveness in bringing civil society into the dialogue appeared to be limited.

2. Under the EPA the EU has treated South Africa differently from other African countries within the SADC EPA. This has had negative consequences for regional supply chains and development in the smaller countries.

Unlike the other countries, South Africa has not been granted duty free access to the EU for its agricultural exports. South Africa had a free trade agreement with the EU before the EPA negotiations began. As the industrial giant of the region it makes it impossible for smaller SADC countries to create industries that add value to their products through manufacturing. Today, as in the past, these smaller states provided labour and raw materials for South African industry and a regional market for South African goods. The EU rules of origin further reduce the ability of the smaller states in the region to develop their own supply chains and develop value-adding industries that meet EU standards without forfeiting their preferential duty free access to the EU. It was felt that the way in which EPAs had been negotiated had fragmented existing economic communities in Africa, especially within SADC which has been split up over numerous EPAs.

3. There was concern that development policy space was shrinking because EPA liberalisation restricts the ability of African, Caribbean and Pacific states (ACP) countries to make their own development choices and industrialisation plans.

In order to maintain their duty free access to the EU, the terms of the EPAs require ACP countries to open up most of their markets to liberalisation within a fixed time period. Although these countries have negotiated some leeway for specific protected industries, some least developed countries are concerned that a set time scale for liberalisation was problematic. Small Southern African Customs Union (SACU) countries could neither protect developing industries from global competition nor reach a stage where their manufactured goods could compete as exports.

Other frustrations were expressed. Firstly under prior trading arrangements with the EU (Lomé and Cotonou) reciprocity in liberalisation was not demanded. Secondly, prior to EPAs, revenue came from tariffs and this gap in income has not yet been filled by increased investment as the EU suggested it would be.

4. The clear message to the delegation was that the Southern African countries needed reassurance that Brexit would not interrupt trade flows.

A positive trade relationship with the UK is seen as crucial for South Africa, Namibia and the other Southern African countries. All stakeholders stressed the importance of undisrupted trade flows before, during and after Brexit. Interlocutors expressed apprehension and optimism but all agreed that Brexit could provide an opportunity for the UK's trading relationship with Africa to be more supportive of Africa's development goals than the EPA model had been. Namibia and South Africa's enthusiasm for continued trade with the UK is reassuring. The delegation concluded that the UK has a responsibility to ensure that we do not let down our trading partners, especially from

less developed or emerging economies. Their economies will be most vulnerable to interrupted trade flows at Brexit point. The UK must ensure continuity. In the EU the UK has been a strong advocate for emerging economies. Brexit provides an opportunity for us to live up to that commitment.

Brexit has created an opportunity for the UK to play a vital role in Africa especially in helping African economies grow through investment and trade as well as providing resources to meet the needs of the 2 billion people that Africa will have by 2050. It has also created the space for African governments to renegotiate their trade relationship with the UK, ensuring that any new agreement does not derail their economic development plans or hinder their regional and global integration.

The delegation agreed that future trade agreements between the UK and Africa must not follow the same trajectory as the EPAs. The essay contributions to this report reinforce that message. The APPG recommends that:

- **The Select Committees for International Trade and International Development instigate inquiries into UK trade relations post-Brexit**
- **The UK government reduces uncertainty about trade relationships between Africa and the UK by introducing interim non-reciprocal duty free and quota free preference schemes**
- **Terms and conditions of future UK trade agreements support Africa's development priorities and regional integration. They should also be informed by consultations with key groups in Africa such as parliaments and civil society.**
- **UK and African governments introduce financial assistance mechanisms to support knowledge transfer and capacity building between parliamentarians to increase oversight of trade negotiations.**

PART 1

REGIONAL CASE STUDY: THE
IMPACT OF THE SADC-EPA
ON SOUTHERN AFRICA

TABLE 1: BACKGROUND CONTEXT: SOUTH AFRICA

TRADE AND INVESTMENT WITH THE UK AND THE EU

The UK is seen as the gateway to the EU for South Africa and vice versa. In 2015 the UK was the destination for 4% of South African exports while the EU accounted for 22%. Major imports from the UK in 2014 included machines, transportation, chemical products and mineral products (crude and refined petroleum) and from the EU included road vehicles, chemical products, manufactured goods and power generating machinery and equipment.

Over half (57%) of South African exports to the UK consist of precious metals. Other major exports include vegetable products, transport and mineral products (mostly iron ore and precious metal ore). The trade balance in 2015 amounted to £459 million in favour of the UK. Major exports to the EU include machinery and transport equipment, manufactured goods, road vehicles and non-ferrous metals.

With FDI stock of around £13.1bn the UK is one of the largest investors in South Africa (almost 43% of the stock of FDI in South Africa). South African investment into the United Kingdom is estimated to be worth around £47bn.

POLITICS

President Jacob Zuma is in his second and constitutionally last five-year term. The ruling party, the Africa National Congress (ANC) received 62.15% of the vote at the May 2014 elections, with the main opposition party, the Democratic Alliance gaining 22.2% of the vote. The ANC rules in a tripartite alliance with the Congress of South African Trade Unions (COSATU) and South African Communist Party.

President Zuma's leadership has come under increasing scrutiny since concerns have been growing over state capture by private families and companies, such as

the recent Gupta Family case. Zuma also controversially tried to dismiss the well-respected Fiscal & Finance Minister, Pravin Gordhan. This has resulted in a split in the cabinet. His term as President ends later this year.

DEVELOPMENT

Unemployment in the country remains high at 25.5%. Youth unemployment stands at 53%. This issue has seen the rise in popularity of Julius Malema, leader of the Economic Freedom Fighters party.

12 million South Africans (20.2%) still live in extreme poverty and South Africa is ranked as the most unequal country in the world by the Human Development Index. Patterns of economic ownership and opportunity remain largely unchanged from apartheid times (i.e. mostly white-dominated).

The UK currently funds 17% of the European Development Fund and Department for International Development (DFID) has other large programmes across Africa. However, since the end of 2015, there has been no bilateral aid programme with South Africa. The Foreign and Commonwealth Office (FCO) does, however, have a Propensity Fund designed to help tackle constraints on growth

TABLE 2: BACKGROUND CONTEXT: NAMIBIA

TRADE AND INVESTMENT WITH THE UK AND EU

Major imports from the UK in 2014 included machinery and transport equipment (77%), chemical products (5%) and manufactured goods (5%). Major imports from the EU include machinery and transport equipment (40%), mineral fuels, lubricants and related materials and petroleum and petroleum products.

The share of Namibian exports going to the UK has fallen significantly in the last two decades. In 1995, the UK was the destination for over 29% of Namibian exports compared with only 2% in 2015. The EU has also seen a substantial decline its share of Namibian exports, falling from 62% in 1995 to 24% in 2015.

Main exports to the UK and EU in 2014 were food (beef and grapes), live animals (70%- UK, 40% EU), crude materials such as cork, charcoal and wood (15%- UK, 10%- EU) and some manufactured goods (UK- 6%, EU- 41%).

Namibia's Veterinary Cordon Fence runs across the country. To the North are 1 million cattle, farmed largely by black subsistence farmers. South of the fence, cattle farming is largely commercial and the land white owned. The standard of goods for meat produce under the EPA only allows access to the EU market from farms south of the fence. Farmers north of the fence are unable to access EU markets. Northern cattle brought south are subject to quarantine for 30 days which is not realistic for many subsistence farmers. MeatCo, part owned by the Namibian Government, based in the south has a monopoly so Northern farmers' only option is to sell to MeatCo at MeatCo's price. MeatCo then takes the cattle south. Fear of foot and mouth disease in the UK has led to further restrictions on beef from north Namibia. Namibia typically has a trade surplus with both the EU and the UK (despite a small deficit with the UK in 2014 and 2015). It has a trade deficit with the world

as a whole (US\$3.95 billion in 2015) (UNCTAD statistical database)

POLITICS

South West Africa People's Organization (SWAPO) won the Presidential elections with 87% of the vote and the National Assembly elections with 80% of the vote. SWAPO has been the only ruling party since independence (March 1990). Namibia is a multi-party democratic country, but the opposition parties have been relatively weak. There are currently 16 registered political parties.

President Hage Geingob has been driving forward an anti-corruption and transparency initiative and has published his own expenses. He has asked other parliamentarians to do the same.

DEVELOPMENT

Namibia has a good record of governance and democracy. There is a measure of media freedom and respect for human rights.

The Namibian economy currently has a GDP of 12.8% and an annual growth rate of around 4.5%. Its biggest sector is mining and energy, followed by agriculture, infrastructure and tourism. It has consequently been affected by the slump in commodity prices.

A major challenge for Namibia is its small and dispersed population of 2.4 million people. Many have low levels of skills and education. There is consequently 40% youth unemployment and overall a 28% unemployment rate. (NB- Subsistence farmers are counted as employed).

35% of the population live below the poverty line and Namibia remains in the top ten most unequal countries under the GINI coefficient. There is no DFID presence or bilateral aid programme in Namibia due to its middle income status.

1.1 OBSERVATIONS ON KEY STUDY QUESTIONS

1.1.1 PARLIAMENTARY OVERSIGHT AND DEMOCRATIC ENGAGEMENT IN EU SADC EPA

The delegation met a variety of stakeholders in South Africa and Namibia. These included parliamentarians from both assemblies, civil society groups, department officials, commentators and trade unions. This enabled the delegation to build a fuller understanding of the varying degrees of oversight and input these groups had into the negotiation of the SADC-EPA. The overall impression was that the process of negotiating the EPA was opaque with limited oversight from both parliamentarians and civil society. The main barriers to effective oversight are discussed in detail below.

1.1.2 EARLIER PARLIAMENTARY PARTICIPATION AND TRANSPARENCY

Discussions with parliamentarians revealed that during the early stages of the EPA negotiations, the role of parliaments was side-lined. Most parliamentarians were not aware of the earlier negotiations as the Departments for Trade and Industry (DTI) in both countries took negotiations forward without consulting parliamentarians or other ministries. The South African DTI argued that the main reason for this was that the EU negotiators fixed the timetable for negotiations. Thus little time was left to involve parliamentarians. In some instances the EU Trade Commissioners encouraged African negotiators to implement pilot EPAs before parliamentarians were included. Parliamentarians expressed trust in the Trade Departments' abilities to negotiate the best agreements for their countries despite their constitutional duties to provide oversight.

The South Africa Trade and Industry Committee has the remit to provide oversight of the DTI and trade legislation. However members reported that they were unable to participate effectively in the EPA negotiation processes because they were not consulted

on the terms of the agreement. They also cited the lack of time to consider properly such agreements due to their wide remit and the amount of legislation they are expected to scrutinise. At the time of the delegation's meeting the Committee had 41 pieces of legislation to consider. This prompted parliamentarians to approve legislation quickly without proper scrutiny. The International Relations Committee said there had been no committee meetings on specific trade agreements at any time due to their intricate technicality and the amount of time it would take to study them. This workload combined with capacity constraints means that Committees often do not fully consider the implications of technical legislation before approving it.

1.1.3 THE NEED TO BUILD CAPACITY FOR TECHNICAL OVERSIGHT

According to Lawson Naidoo of CASAC (Council for the Advancement of South African Constitution), the lack of capacity, technological knowledge and self-confidence amongst parliamentarians to decipher trade agreements may in part be due to a lack of training. The training offered to South African and Namibian parliamentarians revolve around process and procedure. There is no training on scrutinising content of the law or proposed legislation. Technical skills are also lacking in the drafting stage of legislation and, in Namibia, the Institute for Public Policy Research (IPPR) have often found some legislation to be unconstitutional. Both the South African and Namibian parliaments have research and support staff but they are limited and generalist, lacking in subject expertise. Resources available to parliamentarians, to educate themselves on a specific area of legislation or policy, is limited. The Speaker of the Namibian Assembly, Hon. Peter Katjavivi MP, said that parliament was still "young". He said that committee members and staff needed

more training and exposure to establish parliamentary good practice.

Most parliamentarians in South Africa and Namibia are from the ruling parties and both have strong whipping systems. This has developed a culture in which ruling party MPs do not see their role as defending the Government, and as such do not hold it to account. This they see as the role of the opposition rather than parliaments' collective mandate. In Namibia this leaves the responsibility to question as the role of just five opposition MPs. This attitude, combined with limited knowledge and capacity, means that the quality of parliamentary scrutiny and debate on legislation is low. The IPPR could not recall any parliamentary debates on the implications of the EPA for Namibia's economy and key industries.

1.1.4 ENGAGEMENT WITH CIVIL SOCIETY AND INDUSTRY

MPs had little motivation to challenge the Government or a piece of legislation if it was not seen to be of interest to constituents or the electorate. In South Africa COSATU and Economic Justice Network (EJN) representatives told the delegation that when civil society and industry organised a specific campaign on the EPA, they had engaged parliamentarians and this had led to minor, specific changes over the decade it had taken to negotiate. There was however no evidence of a continued or structured engagement involving the legislatures, parliamentarians and civil society. The main route for the public and civil society to engage in parliamentary matters has been to attend committee meetings often during working hours to make formal representations to a committee. It seems that larger civil society concerns with the EPA model have not been addressed effectively by parliament. The EJN felt that key concerns they have raised for the past 10 years are still contentious and unresolved. Civil society, they said, was often engaged in the process too late. They

were only consulted on the agreements after they had been drafted. Only small concessions were made as a result.

NEDLAC, South Africa's National Economic and Development Council, aims to encourage dialogue between the Government, industry representatives and trade unions to discuss issues of mutual interest. However, NEDLAC's effectiveness in bringing civil society into the dialogue is limited. Lawson Naidoo explained that a fourth "community" block within NEDLAC was intended to include civil society, but Malcolm Damon of EJN said that there was no effective civil society block. NEDLAC, he said, was involved too late in the negotiations and had little influence. The South African constitution requires consultation with NEDLAC and the public for every international treaty signed but there is no clear definition of "consultation". It was also suggested that NEDLAC's influence had dwindled. For example, SAILA (South African Institute for International Affairs) commented on how NEDLAC's oversight role in the EPA negotiation was not as effective as it had been in the establishment of the former Trade and Development Cooperation Agreement (TDCA) between South Africa and the UK.

1.1.5 PARLIAMENTARY MONITORING OF THE IMPACTS

According to Committee members once the EPAs were ratified, their impact on the economic development of Namibia and South Africa had not been monitored by parliament. Peter Katjavivi, he Speaker of the Namibian Assembly, said this was due to lack of capacity. Now that the EPA was ratified, a priority for Namibia and some other African countries was to increase the oversight and role for parliamentarians to evaluate trade agreements. At the **31st Joint Parliamentary Assembly of the EU and ACP countries** in Windhoek in June 2016, Namibia, Kenya, Zambia, Ghana and Uganda collectively agreed to undertake a formal monitoring and evaluation of EPA agreements to share with their

respective ministries the impact on social and economic development. The Namibian Committee on Economics and Public Administration are attempting to establish such a monitoring group and are currently in discussions with the Department of Trade and Industry.

Overall, despite the challenges faced, parliamentarians in South Africa and Namibia were very enthusiastic about engaging in bilateral parliamentary

relations to promote mutual learning and capacity building to oversee trade agreements. They welcomed further engagement with the UK parliament and the Commonwealth Parliamentary Association UK (CPA-UK).

TABLE 3: HOW MUCH OVERSIGHT DID UK AND EU PARLIAMENTARIANS HAVE DURING EPA NEGOTIATIONS?

This report by UK parliamentarians, exploring the degree of oversight parliamentarians of other countries had of the EPA negotiations, would be incomplete without a brief look at the level of scrutiny of the agreements undertaken by both UK and EU parliamentarians. There is recorded evidence in Hansard that UK parliamentary scrutiny took place through parliamentary questions and debates although there were no select committee reports. Because the EPAs were negotiated by the EU Commission, on behalf of the UK, one of the key ways in which the UK could feed into this process was through its Members of the European Parliament, where a deeper level of scrutiny did take place.

The European Scrutiny Committee played an important role as did numerous resolutions of the European Parliament (EP) which must also give its consent to trade agreements. The EP followed the EPA negotiations over a number of years passing numerous resolutions, some of which were adopted by the Commission in the final text of the EPAs whilst others were not. The key concerns stressed by

the EP at the time focused on the positive development of ACP countries and the need that it be at the heart of EPAs. The EP emphasised that the priorities of EPA negotiations had to be the sustainable development of ACP countries, the eradication of poverty, increased economic growth and regional integration. The EP passed many resolutions, some were adopted but many were not, including one suggesting that EPAs include development benchmarks. Although not always successful, the European Parliament played a crucial oversight role during the negotiations in trying to get a fair deal for ACP countries. Not all the attempts were successful and UK parliamentarians had much less input. Increasing the ability of parliamentarians in both continents to oversee trade agreements could be a way forward.

1.2 THE IMPACT OF THE EU-SADC EPA ON REGIONAL SUPPLY CHAINS & INTEGRATION

1.2.1 UNDERMINING REGIONAL VALUE CHAINS

Both Namibia and South Africa are currently signatories of the EU's South African Development Community (SADC) EPA. Most other SADC countries are not party to this EPA. They are instead in other EPA agreements. The SADC EPA includes South Africa and the countries of the South African Customs Union (SACU)- Botswana, Lesotho, Namibia and Swaziland. It also includes Mozambique another SADC member (see map below). SACU is the oldest custom union in the world, set up by the British colonial administration in 1889 and intended to help South Africa support the smaller less developed states around it.

Angola has the option to join the EPA at a later date but has declined for the moment. The other six members of SADC are negotiating Economic Partnership Agreements with the EU as part of other regional groups – the Democratic Republic of the Congo as part of the Central African EPA and Madagascar, Malawi, Mauritius, Zambia and Zimbabwe as part of Eastern and Southern Africa EPA.

The trade relationship that South Africa and Namibia have with the EU is often referred to as the SADC (South African Development Community) EPA. This is actually an EPA with the SACU (the South African Customs Union) countries plus Mozambique- see map of SACU below. Therefore, it is often called the "SADC minus" EPA or the "SACU plus" EPA.



Fig.1 - SACU member states. Source: <http://www.rori.eu/organisations/sacu/>

South Africa has always been treated differently from other African countries within the SADC EPA because it had a pre-existing free trade agreement with the EU, the TDCA. South Africa is classified as more industrialised and developed than its neighbours in the agreement so the EU decided that South Africa should continue to be treated differently to its neighbours when the Southern Africa EPA was created.

Treating South Africa differently may seem fair and logical given its higher level of development but several

stakeholders are very concerned, including civil society and industry representatives. Giving South Africa special status has had unintended and negative consequences for the other countries in the EPA. Under the terms of the EPA, all ACP countries party to the agreements are entitled to tariff-free access to the EU for their agricultural exports. South Africa is not.

Both South Africa's DTI and SAIL asserted that the EPA had inadvertently undermined regional value chains because rules of origin, which the EU requires, differ from country to country. The Director for SADC for South Africa at DTI explained that for South Africa, agro-processing was largely excluded from the accumulation provisions of the rules of origin. This means that importing a primary product from another country, processing it

there and processing it further in South Africa is no longer possible without paying a higher EU tariff. This makes the product less competitive on the open market. DTI argued that this difference in treatment reduces the ability of smaller states within the agreement to harness South Africa's more advanced level of industrialisation. So those countries find it difficult to develop supply chains with South Africa and aid their own industrialisation without forfeiting their preferential duty free access to the EU. For example, Swaziland imports pears from South Africa and cans them before exporting them to the EU, but because South Africa doesn't have duty free access, Swaziland needs to get regular permission from the EU to continue to export duty free under the rules of origin. This lack of certainty for the pear canning industry means it is unable to get the investment it needs to grow. Looking beyond the SADC region, DTI representatives explained that South Africa and Nigeria were trying to work together to grow a regional value chain for their motor industry. The intention is to import some parts from the EU and the US while other components would be manufactured in South Africa and then assembled in Nigeria. The finished vehicles would then be exported to the US and other areas. However, the unclear and differing rules of origin create confusion and cast doubt on the viability of the project.

1.2.2 EPAS DO NOT ADDRESS NON-TARIFF BARRIERS TO TRADE

Compliance with EU standards of goods also presents a non-tariff barrier to trade. Small SACU countries such as Swaziland need to include South Africa in supply chains. Representatives of the Namibian Trade Forum and many other industry representatives said that EU Sanitary and Phytosanitary Measures (SPS) present a barrier to trade in some products and especially for the meat industry. For example, bans on 'bone in lamb'. The TRALAC (Trade Law Centre for Southern Africa) pointed out that Southern

African producers are also subjected to a second layer of private standards from supermarkets. Producers must cover the costs of meeting these standards, thus further reducing their competitiveness. Although there is some EU technical and financial assistance for meeting these standards, very little private investment is available.

1.2.3 DISTORTION OR SUPPORT OF REGIONAL GROUPINGS

EPAs were originally intended to help consolidate the regional groupings and increase cross border trade but, apart from the effect on regional supply chains, the EPAs impact on Africa's wider regional integration projects is questionable. According to SAIIA, DTI and the EJA the EPAs fragmented existing communities, SADC especially because it has been split up over numerous EPAs. Nicki Kruger and Elizabeth Van Renen of the South Africa DTI suggested that the EU had dictated when and with which countries it would negotiate with. However TRALAC did not agree with this view and insisted that the EPA configurations had not been forced on African countries.

Despite the apparent fragmentation of the wider SADC region, members of the South African Foreign Affairs Committee and the Department for Trade and Industry expressed a desire to preserve SADC as a regional block. They said they would not support numerous bilateral agreements between SADC economies and the UK following Brexit. The Foreign Affairs Committee members expressed a strong desire to build SADC's manufacturing base through investment in regional infrastructure projects. There was consensus that SADC as an economic area and the SADC industrialisation plan was still a project that both DTI and parliament wanted to strengthen. There was hope that Brexit would provide an opportunity to strengthen SADC. Dr Faisal Ishmail, a former trade negotiator for South Africa and SADC, confirmed that

SADC's economic integration agenda was still a Government priority. He pointed to continued priority investment in integration projects such as the Southern African Power Pool (a power grid shared across the region) and the Maputo Corridor (a road and rail network from Johannesburg to Maputo in Mozambique). TRALAC representatives however said that the South African Government had decided that SADC integration would stop. This was not inconsistent with the DTI position. It was clear that contradictions and a lack of clarity demonstrated that the economic integration of SADC was highly politicised.

DTI representatives also called for support for Africa's tripartite free trade agreement of 26 countries (from Egypt to South Africa including SADC, Common Market for Eastern and Southern Africa (COMESA), and the East African Community (EAC) countries) and eventually trade negotiations that would create an all Africa free trade area. DTI officials said that if South Africa is still treated differently, continent wide integration projects would be constrained.

DTI concluded that while the EPA brings a

net benefit to South Africa, there would have been more positive outcomes for the region's development if South Africa had been able to negotiate as part of the SACU block and treated equally as an ACP country. As SAIIA and EJA highlighted, there are no equivalent rules within the EU regarding rules of origin despite the inequality in development between different EU states. In a post-Brexit agreement, the DTI and the Namibia Trade Forum believed that what SACU countries would want most of all would be for South Africa to have the same trading terms as the other countries in the agreement. This would facilitate not undermine regional integration and promote industrial supply chains.

1.3 LIBERALISATION AND THE IMPACT OF THE EPA ON DEVELOPMENT POLICY SPACE

1.3.1 SHRINKING POLICY SPACE

The arguments over EPAs and whether they are good for development or not seemed to be closely linked to a wider political debate over whether some form of Import Substitution Industrialisation (ISI) would be an effective development policy tool (e.g. cement and dairy ISI in Namibia). Economists have argued about this for decades and the same empirical evidence demonstrates that it can be both good and bad for development. Different political beliefs and preferences dictate the “right” way to develop an economy.

Many stakeholders argued that EPAs prohibited African countries from protecting and developing infant industries. Proponents of economic liberalisation insist that free trade is ultimately the best path for economic development. Some commentators have compared EPAs to the highly criticised International Monetary Fund (IMF) structural adjustment policies implemented in the 1980s. On the other hand African governments have a right to choose their own development path.

Under the terms of the EPAs, ACP countries are required to liberalise the majority of their markets within a fixed period. Some countries have been able to negotiate leeway for specified infant industries under the EPA. For countries that have not yet developed infant industries, liberalisation in a set time scale could prove problematic. This issue was highlighted by DTI, SAIL and the South Africa Foreign Affairs Committee as a problem for small SACU countries. Once an industry has been “opened” to the market it is very difficult to then “close” it. Despite written provisions in the EPA, in practice it would be extremely difficult to protect infant industries in the future, because at least until now, the space in which to do this has been constantly shrinking as trade liberalisation has increased.

Most stakeholders we met also agreed that free trade was generally good for development. But they all believed that a certain degree of protectionism coupled with the necessary investment in infrastructure followed by the gradual opening of markets was a legitimate development path. They cited Latin American and East Asian economies as well as Western economies which have followed a similar development path: operate some protectionism in industries they identified as having comparative advantage, build them and then gradually open up their internal market. Malcolm Damon of EJA argued that developing African countries should be given more trade flexibility arguing that one size does not fit all. He said that the complexities of emerging and developing economies should be catered for if the Western world truly wants to see a reduction in global poverty.

Within the SACU states, 98% of trade with the region goes via South Africa. Under the terms of SACU, South Africa gathers the tariff revenues and then distributes these among the other smaller SACU countries (Namibia, Botswana, Lesotho and Swaziland). However, under the EPA, most tariffs are prohibited and so the revenue pool from tariffs has been shrinking. Lesotho and Swaziland are particularly hurt. Loss of revenue further diminishes governments’ ability to invest in building industry and infrastructure. The opposing argument from TRALAC is that whilst there is an initial reduction in revenues, the SADC minus EPA had facilitated inward investment needed for infrastructure for industry.

TRALAC also urged that future trade agreements cover investment and services. This would increase legal certainty and protection for inward investment. According to SAIIA however these “new generation” (i.e. Government procurement and investment) issues have generally been disliked by ACP countries, including South Africa and Namibia, due to concerns about the negative impact they could have on Africa’s growing services industry.

1.3.2 WTO RULES & LIBERALISATION

Whilst most stakeholders agreed the EPA was important in providing legal certainty to access EU markets for their exports, many expressed their frustration that ACP countries had a better trading arrangement prior to the EPAs, under the Lomé and Cotonou conventions. Prior to EPAs, reciprocity and market liberalisation were not elements of the arrangement. Tariff free EU market access was granted to ACP countries in the name of development under Everything but Arms and Generalised Scheme of Preferences for LDCs. When these agreements expired, the EU decided that unless free trade agreements were negotiated between the EU and ACP countries, market access could no longer be guaranteed as it was not compliant with WTO rules. This ultimately resulted in a situation where ACP countries were threatened with withdrawal of the tariff free access to the EU they had previously enjoyed, unless free trade agreements were signed. According to Dr. Faisal Ishmail and the Namibian Farmers Union this caused animosity towards the EU. Many African governments, he said, felt they did not have the power to negotiate on a level playing field.

The South African DTI, Dr Faisal Ishmail, EJN, SAIIA and the Namibia Trade Forum all suggested that the EU had used WTO rules as a political tool to pursue their own interests by interpreting Article 24 of the WTO rules on “comprehensive trade” to mean that only 20% of the volume of trade could be protected. It was argued that

this WTO rule was open to interpretation. Dr Faisal Ishmail believed it was not necessary for the EU to negotiate free trade agreements with African countries because other WTO rules and exceptions cover trade between more developed and less developed countries. It was repeatedly suggested to the delegation that the WTO rule on “comprehensive trade” and the degree of liberalisation needed to comply with it should be linked to development indicators in future agreements rather than arbitrary time schedules. It was argued that this would still be in compliance with WTO rules but also more suitable for development.

Beyond the question of WTO compliance, Malcolm Damon of the EJN said that the reciprocity and liberalisation terms in the EPAs were not suitable for agreements between unequal parties. Although there are some “token” clauses in EPAs that take account of these differences, EJN believes they are not effective and do not protect smaller economies where companies and industry are unable to compete with more established European companies. McHenry Venaani, Leader of the Namibian opposition party- Democratic Turnhalle Alliance (DTA), suggested that trading rules under the EPA were unfair and allowed double standards. For example, the EU continues to subsidise agricultural exports while the EPA does not allow subsidies for agriculture in ACP countries unless pre-agreed. This further reduces the ability of African primary producers to compete.

1.3.3 MAINTAINING ACCESS TO EU MARKETS IS A PRIORITY

Despite numerous issues regarding EPAs, the South African DTI and Namibian industry representatives all expressed a clear desire for the continuity of trade regulated by the EPA over the Brexit period. A break in trade could have very negative impacts on some Namibian key export sectors. For example 80% of Namibian beef is exported, 40% of which goes to the UK.

Similarly 80% of grape exports go to the EU, 30% of which are to the UK. All stakeholders the delegation met were concerned that Brexit would result in a

break in trade. They called for transitional arrangements to allow continued duty free access to UK markets.

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PART 2

ESSAY SERIES- REFLECTIONS
ON AFRICAN EXPERIENCES OF
EPAS AND LESSONS FOR
UK-AFRICA TRADE
RELATIONSHIPS POST BREXIT

2.1 ABOUT THE AUTHORS

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Dr. Mukhisa Kituyi, is a Kenyan politician who is currently serving as Secretary General for the United Nations Conference on Trade and Development. Dr Kituyi has extensive experience in trade negotiations, and is an expert in African and broader international economics and diplomacy. After receiving his Doctorate from University of Bergen, Norway, Dr Kituyi went on to work as researcher at Norway's Christian Michelsen Institute (1989), before becoming Programme Director of the

African Centre for Technology Studies in Nairobi (1991). In 1992, he was elected to Kenya's parliament, and eventually appointed as Minister of Trade in 2002. While holding this position, he chaired the Council of Ministers of the Common Market for Eastern and Southern Africa (COMESA) and the African Trade Ministers' Council. After which he became chairman of the Caribbean and Pacific (ACP) Group of States, a position which saw him lead negotiations on behalf of Eastern and Southern African ministers during the European Union–ACP Economic Partnership Agreement negotiations. Since leaving the ministry, Dr Kituyi has advised presidents of the nations of the East African Community on ways to establish effective regional economic links. He has also consulted for the African Union Commission, where he helped develop the structure for a pan-African free trade area.

Dr. Akinwumi Ayodeji Adesina is the current President of the African Development Bank Group and is a globally respected development economist and agricultural development expert with 25 years of international experience. Dr Adesina has held positions which have allowed him develop agricultural systems and markets in West, East and Southern Africa and has worked as an economist for Africa Rice Development Association, the International Institute for Tropical Agriculture and the International Crops Research Institute for the Semi-arid Tropics. He has also served as Nigeria's Minister of Agriculture, where he was instrumental in attracting \$5.6 billion in private sector investment commitments, expanding Nigeria's food production by 21 million metric tonnes, and introducing an innovative wallet system which revolutionised the fertiliser industry and changed the lives of 14.5 million farmers. Similarly as Vice President of the Alliance for a Green Revolution in Africa (AGRA) he leveraged over \$4 billion in bank finance commitments towards Africa's agriculture sector. Dr Adesina's bold policy and innovative finance initiatives have earned him numerous awards and earned him spots on many influential boards.

Dr Mohammad Razzaque is Head of International Trade Policy at the Commonwealth Secretariat. His primary area of work includes empirical trade policy analysis and assessing trade negotiations. He has led numerous research and advocacy projects on the WTO's Doha Round, Aid for Trade, regional trade deals and integration, and trade challenges of developing countries. He holds a PhD in Economics from the University of Sussex, has previously taught at Dhaka University, and has been widely consulted on topical trade issues. He is the editor of Commonwealth Trade Hot Topics and was the lead author of Commonwealth Trade Review 2015: The Commonwealth in the Unfolding Global Trade Landscape: Prospects, Priorities and Perspectives.

Rev. Malcolm Damon, is the Executive Director of the Economic Justice Network (EJN) which operates in 12 Southern African countries and acts as the Secretariat for the South African Network on Inequality (SANI). Malcolm studied at the University of the Western Cape (UWC) where he obtained a Master of Theology and later at Princeton Theological Seminary in the USA where he obtained his second Masters. Over the last 20 years, he has worked extensively in the area of development issues engaging on Trade Issues (World Trade Organisation), Food Security, Development Effectiveness and Inequality. One of such was his role as first Co-ordinator of the Parliamentary Office of the South African Council of Churches (SACC), liaising with the South African Parliament on public policy issues and making submissions on behalf of the Churches to the Portfolio Committees on various policy papers and legislation. He has also acted as Co-Chair of Civil Society in the Working Group on Good Governance. Finally, Malcolm is the Chairperson of the Board of Ibon International in the Philippines, a Board Member of Tax Justice Network (Kenya, Africa) and former Chairperson of Reality of Aid Africa (Kenya) and Global.

Dr Edward George is head of the UK representative office of pan-African bank, Ecobank, as well as head of group research. Edward oversees the operations of the four teams that make up the UK representative office, as well as a team of nine analysts spread across the bank's footprint. Edward has a number of specialities, including soft commodities and agribusiness, trade and trade finance, and disruptive technology. He is also the bank's specialist on Francophone West Africa and Lusophone Africa. Prior to joining Ecobank in March 2011, Edward worked for The Economist Intelligence Unit (EIU) for seven years as a Senior Editor in both the Commodities and Africa Departments.

Ruth Bergan is the Coordinator of the Trade Justice Movement (TJM), a network of seventy civil society organisations working to ensure trade policy supports social and environmental goals. Ruth works with TJM's member organisations to develop analysis of ongoing trade policy and facilitate joint advocacy. Ruth has previously worked on a range of issues including migration, labour rights in international supply chains and gender equality. The Trade Justice Movement is a coalition of UK-based organisations concerned with trade justice, including trade unions, aid agencies, environment and human rights campaigns, Fair Trade organisations, faith and consumer groups. The movement was founded in 2000 and is supported by more than 70 member organisations with millions of individual members. TJM has strong links to organisations campaigning for trade justice in Africa and in other regions.

Matt Grady works as Traidcraft's Policy and Advocacy Adviser specialising in issues relating to investment, international trade policy and trade agreements. Matt has worked in a range of international development roles including campaigning on climate change and tax transparency for Christian Aid Scotland. He previously worked for Christian Aid in Sierra Leone supporting national level advocacy programmes across a range of issues including the extractive industries and local governance reform. He was also Policy Advisor at STOPAIDS integrating the global response to HIV and AIDS within the Sustainable Development Goals.

Jamie MacLeod is a Trade Policy Fellow of the Africa Trade Policy Centre at the UN Economic Commission for Africa in Addis Ababa, Ethiopia. He has consulted with the World Bank Group, the European Commission and the Danish International Development Agency on trade policy issues, and was a Trade Economist at the Ghanaian Ministry of Trade and Industry for two years.

ESSAYS

SECTION A

THE CURRENT STATE OF PLAY

2.2.1 ESSAY 1. UK-Africa Trade Within and Outside of the European Union: From Lomé to Brexit

Dr. Stephen R. Hurt (Oxford Brookes University)

ABSTRACT

As a member state of the European Union (EU), UK trade policy has been delegated to the European level as part of the common commercial policy. This essay will consider the historical development of EU trade policy with the African, Caribbean and Pacific (ACP) group of states and potential scenarios for the future direction of the UK's trade policy to Africa after the recent Brexit vote. The ideational and material dynamics of the history of EU trade policy to Africa will be analysed and then employed to inform the discussion of future scenarios. The most fundamental historical shift has been the move from the idea of unilateral trade preferences for Africa, which was central to the 1975 Lomé Convention, to the emphasis on reciprocal trade liberalisation in the Cotonou Agreement, signed in 2000. At the same time both the EU's 'Everything but Arms' arrangement with least-developed countries, and the negotiation of Economic Partnership Agreements with African sub-regions, have been couched in explicitly developmental rhetoric. This claim will be interrogated in order to inform the analysis of how the UK might develop an independent trade policy to Africa outside of the EU.

INTRODUCTION

Over time the responsibility for European trade policy has gradually been extended to the level of the European Union (EU) as part of the common commercial policy¹. As a result, ever since the UK joined the EU in 1973, its trade relations with Africa has to be understood within this broader European framework. This essay provides an account of the historical context of contemporary EU-Africa trade policy. It traces the ideational and material contours of the relationship and how these have been shaped by broader global dynamics. In particular, it highlights how the negotiation of Economic Partnership Agreements (EPAs) between the EU and Africa, represent a fundamental shift away from the idea of unilateral trade preferences for Africa, which was at the heart of the first Lomé Convention, agreed in 1975. It concludes by suggesting the lessons that we should draw from this historical analysis for the UK's post-Brexit trade policy to Africa.

EPAS: HOW DID WE GET HERE?

A formal relationship between the EU and Africa can be traced right back to when the Treaty of Rome was signed in 1957. It included provisions for the 'association' of African colonies, which meant that in effect the founding EU member states were able to enjoy a free trade agreement with their colonies². As the process of decolonisation spread across the continent this relationship was renegotiated, resulting in the two Yaoundé Conventions of 1963 and 1969, which effectively ensured a continuation of these preferential trade arrangements.

Soon after the UK joined the EU, the trade relationship with what were by now the African, Caribbean and Pacific (ACP) group of states changed significantly. In 1975 the first Lomé Convention was agreed between the EU and 46 associates. Lomé I was reflective of both the broader ideational debates of the period and the unity and relative negotiating strength of the ACP

¹ For simplicity I use the term EU in this essay to represent both the European Union and the

² Mirjam van Reisen, 'The Enlarged European Union and the Developing World: What Future?' in Andrew Mold (ed), *EU Development Policy in a Changing World: Challenges for the 21st Century*, Amsterdam: Amsterdam University Press, 2007, p. 33.

group³. ACP states were able to successfully argue that they required protection from unilateral trade liberalisation to support their internal processes of development. In particular, some of the ideas that formed part of the demands from the Global South for a New International Economic Order were evident⁴. Lomé I, therefore, ensured that ACP states had non-reciprocal trade preferences meaning that they would not be required to liberalise their imports from Europe. However, the developmental potential of these trade preferences was compromised by the fact that any agricultural products covered by the EU's Common Agricultural Policy were not included.

During the 1980s, however, neoliberalism became the dominant global orthodoxy in development theory and practice. The EU's relationship with Africa was reflective of this and by the early 1990s the idea of preferential trade access for ACP states was called into question, most notably in a Green Paper published by the European Commission in 1996⁵. Two key arguments were made as to why the trade arrangement that had existed under Lomé needed to change. First, the existing non-reciprocal arrangement was not in accordance with World Trade Organisation (WTO) rules on Preferential Trade Agreements (PTAs). Second, the Commission argued that trade preferences for ACP states had not had their intended impact, given that the ACP's share of total exports to the EU had declined during the Lomé period. Both of these arguments were based on an analysis of the EU-ACP trade regime that ignored the broader dynamics at play. First, WTO rules were 'portrayed as fixed and immutable

and not the political construct which they really are'⁶. Second, there was no acknowledgement that the relative value of trade preferences had been significantly eroded since the 1970s, due to the impact of multilateral trade liberalisation and a number of bilateral trade agreements with other EU trade partners⁷.

This began the process of negotiations that culminated in the adoption of the Cotonou Agreement between the EU and ACP states in 2000, of which EPAs are a key pillar. They should be understood as part of a much broader trend over recent years, whereby we have seen the proliferation of PTAs. Such a shift in focus from the multilateral to the bilateral was made clear in the EU's 'Global Europe' strategy paper of 2006⁸. So when placed in historical context, it is important to note that as a result of the dominance of neoliberal ideas, combined with inequities in relative negotiating strength, the EU has come full circle in its push for reciprocal trade liberalisation with ACP sub-regions.

The extent to which the EU-ACP relationship can be understood as a genuine partnership of equals has long been questioned⁹. The contemporary debate on the negotiation of EPAs is no different in this regard. In part, this is because African states have long been recipients of European aid, which results in an inescapable power asymmetry underlying the trade relationship¹⁰. It is also a reflection of the relative significance

³ Martin Holland, *The European Union and the Third World*, Basingstoke: Palgrave, 2002, p. 33.

⁴ One example was the inclusion of EU funding to protect ACP states from the fluctuations in revenues they received for agricultural exports, known as the System for the Stabilisation of Export Earnings (Stabex).

⁵ See European Commission, *Green Paper on Relations between the European Union and the ACP Countries on the Eve of the 21st Century: Challenges and Options for a New Partnership*, COM (96) 570 final, 20 November 1996.

⁶ Stephen R. Hurt, 'Co-operation and coercion? The Cotonou Agreement between the European Union and ACP states and the end of the Lomé Convention', *Third World Quarterly*, 24 (1), 2003, p. 174.

⁷ Stephen R. Hurt, 'The EU-SADC Economic Partnership Negotiations: 'locking in' the neoliberal development model in southern Africa?', *Third World Quarterly*, 33 (3), 2012, p. 498.

⁸ See European Commission, *Global Europe - Competing in the World - A Contribution to the EU's Growth and Jobs Strategy*, COM (2006) 567, 4 October 2006.

⁹ See for example Johan Galtung, 'The Lomé Convention and Neo-Capitalism', *The African Review*, 6 (1), 1976, pp. 33-42.

¹⁰ Stephen R. Hurt, 'The EU-SADC Economic Partnership Negotiations', p. 504.

of trade between the two. In 2015 the EU was the destination of 28% of all goods exports from the ACP group of states, whereas for the EU, the ACP was much less significant as a trade partner, receiving only 4.8% of the EU's total goods exports for the same year¹¹. In the next section I discuss the EPA negotiations with African regions in more detail.

EPAS: PROMOTING DEVELOPMENTAL REGIONALISM IN AFRICA?

EPA negotiations began back in 2002 and were eventually conducted with seven sub-regions within the broader ACP grouping¹². The negotiations were supposed to be completed by 31 December 2007, when a WTO waiver to maintain the EU's preferential trade relations with ACP countries expired. However, apart from the Caribbean region, all that was achieved by this date was a series of interim-EPAs, which only covered the trade in goods. During 2016, some African states have signed EPAs, but they are not as comprehensive as the agreement made with the Caribbean, and there continues to be resistance in some cases¹³.

Right from the outset of the Cotonou Agreement negotiations, ACP states made it clear that they wanted '... the EU to maintain non-reciprocal trade preferences and market access'¹⁴. However, during the EPA negotiations the EU has pursued a reciprocal approach based on 'deep integration', which goes beyond the requirements needed to satisfy WTO rules. This has meant their negotiating mandate has not just focused on trade in goods,

but has also included the liberalisation of services and the 'Singapore Issues' (competition policy, transparency in government procurement, equal treatment for foreign investors, and trade facilitation measures), which developing countries had resisted within the WTO, most notably at the Cancún Ministerial in September 2003¹⁵.

Nevertheless, much of the EU's discourse has aimed to reinforce its self-image as a 'normative power' in its external relations¹⁶. At the core of the EU's stance, however, is the neoliberal assumption that trade liberalisation is the only route to development. Moreover, a focus on 'behind-the-border' issues is justified on the basis that it will improve regulatory systems in ACP states, which in turn will attract foreign investors. However, across Africa, many business groups, civil society organisations, and trade unions have challenged this stance. In particular, they have argued that the introduction of the 'Singapore Issues' (with the exception of trade facilitation) would pose limits to the 'policy space' available to African governments¹⁷. Regulatory policy, previously the preserve of national politics, would become part of the EPAs, and this would constrain their ability to provide state support to encourage the development of a domestic industrial sector.

The EU's approach to EPAs has also been built on the assumption that regional integration can act as an additional driver of development within Africa. However, the reality has been that pre-existing regional groupings have become divided across

¹¹ Data comes from European Commission (DG Trade) at <http://trade.ec.europa.eu/doclib/html/113340.htm>.

¹² Five of these seven regions are in Africa. They are Central Africa, Eastern and Southern Africa, East African Community, Southern African Development Community, and West Africa

¹³ The European Commission produces a useful guide to the current state-of-play in the various EPA negotiations at <http://trade.ec.europa.eu/doclib/html/144912.htm>.

¹⁴ ACP Heads of State and Government, The Libreville Declaration, <http://www.acp.int/content/libreville-declaration>, 7 November 1997.

¹⁵ See Amrita Narlikar & Rorden Wilkinson, 'Collapse at the WTO: a Cancun post-mortem', *Third World Quarterly*, 25 (3), 2004, pp. 447-460. See for example Ian Manners, 'Normative power Europe: a contradiction in terms?', *Journal of Common Market Studies*, 40 (2), 2002, pp.235-258.

¹⁶ See for example Ian Manners, 'Normative power Europe: a contradiction in terms?', *Journal of Common Market Studies*, 40 (2), 2002, pp. 235-258.

¹⁷ The question of 'policy space' for development is discussed at some length in UNCTAD, *Trade and Development Report 2014: Global governance and policy space for development*, New York: UN, 2014.

different EPA negotiating groups¹⁸. This patchwork effect of the new trade regime between Europe and Africa is exacerbated by the EU's 'Everything but Arms' (EBA) scheme launched in 2001. This extended duty-free and quota-free access to the European market for all exports from least developed countries (LDCs) except arms and armaments without the need for reciprocity. The EU does, however, reserve the right to employ safeguard measures if exports from LDCs suddenly flood the European market¹⁹. Moreover, African LDCs tend to have limited ability to exploit the terms of the EBA initiative due to their lack of comparative advantage. In terms of the EPA negotiations, the existence of the EBA scheme has meant that regional groups in Africa were divided between LDCs and non-LDCs, with the former having little incentive to sign an EPA given their already existing privileged access to the European market.

In sum, 'the EU 'talks development but does trade' and ... seems unwilling to dis-embed development models from trade liberalization'²⁰. As a result, African states have been able to exploit the developmental rhetoric employed by the EU, as a way of both delaying the negotiation of EPAs, and limiting their scope for the time being²¹.

CONCLUSIONS: BREXIT AND AN INDEPENDENT UK TRADE POLICY FOR AFRICA?

So what does all this mean for the UK government, as it considers what a future

trade policy to Africa might look like?

The first important question is whether, as part of the Brexit negotiations, the UK ends up leaving the customs union or not. If the UK doesn't leave the customs union then the requirement of maintaining a common external tariff would mean that the UK would be unable to negotiate its own trade deals. The more likely scenario is that the UK does leave the customs union. If this is the case it is unlikely that Africa will be a priority for the recently formed Department for International Trade. At the same time, African governments will be keen to make sure that Brexit does not result in a rise in trade barriers for their exports to the UK. Therefore, it is very possible that the UK may seek to replicate the trade regime that has evolved between the EU and Africa²².

One of the lessons to draw from the protracted EPA negotiations with African regions is that the neoliberal model, advocated by the EU, is no longer the only option. An independent UK trade policy to Africa would have to consider not only that there are competing trade powers with an interest in the continent, but also that alternative development strategies are now being entertained by many African governments. During the EPA negotiations, African states have exerted significant 'agency' within the negotiations despite the underlying power asymmetries. They have made it clear that rather than deep and comprehensive trade liberalisation, what they want is a gradual process of engagement with global markets, which if it is to be developmental, needs to be facilitated by state support. Africa has exerted its voice during the EPA negotiations and in considering an independent trade policy, the UK should listen to what it has to say.

In the formulation of an independent trade policy to Africa, the UK government should therefore consider the potential impacts on the continent's development.

¹⁸ For example, only seven of the fifteen member states of the Southern African Development Community (SADC) were involved in the SADC EPA negotiations. Other SADC member states were involved in three different EPA negotiating groups.

¹⁹ Adrian Flint, *Trade, Poverty and the Environment: The EU, Cotonou and the African-Caribbean-Pacific Bloc*, Basingstoke: Palgrave, 2008, p. 77.

²⁰ Karin Ulmer, 'Trade Embedded Development Models', *International Journal of Comparative Labour Law and Industrial Relations*, 31 (3), 2015, p. 305.

²¹ Stephen R. Hurt, Donna Lee & Ulrike Lorenz-Carl, *The Argumentative Dimension to the EU-Africa EPAs*, *International Negotiation*, 18 (1), 2013, pp. 67-87.

²² Peg Murray-Evans, 'Myths of Commonwealth Betrayal: UK-Africa Trade Before and After Brexit', *The Round Table*, 105 (5), 2016, pp. 494-495.

This should be done in a way that does not simply replicate the neoliberal assumptions about the benefits of reciprocal trade liberalisation²³, which have become central to EU policy in recent years. Within the EU, however, the UK has historically been amongst the member states that have been the strongest supporters of trade liberalisation. Even when New Labour was in power, the UK government supported the EU's EPA agenda²⁴. Moreover, a recent speech by Liam Fox MP, the newly appointed International Trade Secretary, would seem to reinforce such a position. His main message was that '... free trade has, and will continue to, transform the world for the better, and the UK has a golden opportunity to forge a new role for ourselves in the world, one which puts the British people first'²⁵.

If we consider the lessons from the EPA negotiations that I have outlined in this essay, then such an approach is likely to meet strong resistance from African governments and non-state actors.

²³ Stephen Woolcock, 'Trade Policy: Policy-Making after the Treaty of Lisbon' in Helen Wallace, Mark A. Pollack and Alasdair R. Young (eds), *Policy-Making in the European Union*, Oxford: Oxford University Press, 2015, p. 397.

²⁴ Mark Langan, 'Brexit and Trade Ties between Europe and Commonwealth States in Sub-Saharan Africa: Opportunities for Pro-poor Growth or a Further Entrenchment of North-South Inequalities?', *The Round Table*, 105 (5), 2016, p. 484.

²⁵ Liam Fox, 'Speech delivered by International Trade Secretary Liam Fox at the Manchester Town Hall', <https://www.gov.uk/government/speeches/liam-foxs-free-trade-speech>, 29 September 2016.

2.2.2 Essay 2: Taking Stock: What's Next for the African Economic Partnership Agreements?

Dr. David Luke, Heini Suominen & Guillaume G  rout (Africa Trade Policy Centre at the UN Economic Commission for Africa)

ABSTRACT

After over a decade of arduous and controversial negotiations, Economic Partnership Agreements (EPAs) between the EU and African countries are emerging across African regions. This coincides with increased momentum on the African regional integration agenda, and a time of rationalization and harmonization of the continent's trading relationships, particularly in the context of the Continental Free Trade Area (CFTA). Going forward, African countries will need to adopt a strategic approach towards the EPA process to not put their developmental objectives at risk.

INTRODUCTION

Since the first initializations in 2008 to signal commitment to construct a new trade and development relationship, the Economic Partnership Agreements (EPAs) between the EU and African ACP countries have been negotiated in all African regions. The agreements introduce free trade areas between the EU and West Africa (comprising of the ECOWAS and Mauritania), Central Africa (comprising the ECCAS Member States minus Angola, Burundi and Rwanda), the SADC region (comprising SACU plus Mozambique), the EAC region (comprising EAC Member States) and the Eastern and Southern African region (comprising COMESA Member States minus the Egypt, Libya, DRC, the EAC COMESA Member States and Swaziland).

The EPAs have coincided with efforts to rationalize and harmonize the African regional integration agenda. While the EPAs purportedly intend to respect regional integration programmes, they are adding to the complexity of the task. Additional burdens are created through provisions that complicate or contradict the agreements African states have with each other or are about to make. The EPAs cannot therefore be seen in isolation from the wider regional integration context on the continent. Indeed, African stakeholders' advocacy on the EPAs has emphasized caution a) to ensure that the EPAs act as effective developmental tools for Africa and create

win-win outcomes for both Europe and Africa; and b) to guarantee that they do not hamper the African integration process.

THE EPA RATIONALE AND STATE OF PLAY

The EPAs were justified as a new, mutually beneficial, WTO compliant instruments for Europe's post-Lom   Convention priorities and relationships:

- for the EU, to ensure legally-binding access to African resources in line with the Raw Materials Initiative²⁶; and,
- for the non-LDC African countries, to not lose the benefits of the Market Access Regulation (MAR) that provided them with preferential treatment for their exports to the EU²⁷.

More broadly, the EPAs are meant to support the development of the ACP countries. Despite the developmental

²⁶ In 2014, the European Commission noted that among a wide range of commodities supplied by African countries, the EU was heavily dependent in particular on three critical raw materials which are supplied by two African countries: cobalt from DRC which represents 56 per cent of global supply and chromium and platinum group metals from South Africa which respectively represent 43 per cent (up to 80 per cent of supply to EU) and 61 per cent of the global supply. See European Commission (2014), Communication on the Review of the List of Critical Raw Materials for the EU and the Implementation of the Raw Materials Initiative, available online: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0297&from=EN>

²⁷ See Regulation no. 1076/2016, available online: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1476869419653&uri=CELEX:32016R1076>

rhetoric, the EPAs have faced fierce resistance in Africa. A major concern has been the creation of serious imbalances through the opening of markets, exposing fledgling industries to competition from European producers in the coming years²⁸. In addition, the elimination of tariffs on imports from a top trading partner would deprive governments of an important – even sometimes a main – source of revenue, as well as further erode indirect revenues due to trade diversion. Tariff elimination revenue effects have been estimated to range between 8 per cent (for Rwanda and Tanzania) and 50 per cent (for Madagascar)²⁹. Most African countries are also LDCs and already have good access to the European markets through Everything But Arms.

Another concern is that the EPAs could set a precedent in the international trade landscape with increasing demands for reciprocity in market access.

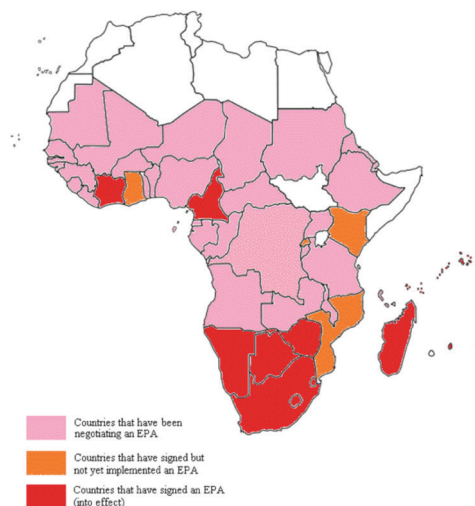


Fig2 - Status of African EPAs

²⁸ Vollmer (S.) (2008), EU-ACP Economic Partnership Agreements, Empirical Evidence for Sub-Saharan Africa, University of Göttingen. Available online: <http://siteresources.worldbank.org/INTWDR2009/Resources/4231006-1204741572978/vollmer2.pdf>

²⁹ Hallaert (J.-J.) (2010), "Economic Partnership Agreements – How severe (and how urgent) the fiscal challenge", Trade Negotiations Insights, ICTSD. Available online: <http://www.ictsd.org/bridges-news/trade-negotiations-insights/news/economic-partnership-agreements-how-severe-and-how>

Although the EPA negotiations lacked momentum for a number of years, key developments took place between 2014 and 2016. There have been two main drivers behind this:

- 1) the threat of removal of the MAR benefits for the countries that had not taken the necessary steps to ratify an EPA by 1 October 2016 (targeting in particular Ghana, Côte d'Ivoire, Kenya, Botswana, Namibia and Swaziland); and 2) the political earthquake that resulted from the 23 June 2016 UK referendum over Brexit.

As of 17 November 2016, 14 African countries had signed an EPA, of which 11 were being provisionally applied or were in force³⁰. It is to be noted that for almost all of these countries, the EPAs have been driven by the efforts of non-LDCs to preserve their preferential access to the EU market. For Côte d'Ivoire, the EU accounts for 42 per cent of all Ivorian exports; for Cameroon, 47 per cent; for Mauritius, 43 per cent; for Seychelles, 57 per cent; and for Botswana, 22 per cent. The EU is the first extra-SACU export destination for Namibia accounting for 13 per cent of exports³¹.

South Africa, Lesotho and Madagascar are special cases. South Africa already has a trade agreement with the EU, the Trade, Development and Cooperation Agreement (TDCA). However, the SADC EPA provides more favourable terms than the TDCA. Since Lesotho is in a customs union with South Africa and other SACU Member States, the tariff preferences given by SACU to the EU will also be implemented by Lesotho. Madagascar is an LDC but was under EU sanctions at the date of the signature of the EPA.

³⁰ To date, Cameroon is the only – stepping stone – EPA that has entered into force. The interim ESA EPA (Madagascar, Mauritius, Seychelles and Zimbabwe), the Côte d'Ivoire stepping stone EPA and the full SADC EPA (SACU Member States) are being provisionally applied. Ghana, Kenya, Rwanda and Mozambique have also signed an EPA, with provisional application pending.

³¹ WTO Statistics Database, Trade Profiles. Accessed 17 November 2016.

Africa's trade with Europe is significant. One can therefore understand the pressure that pushed the non-LDCs to preserve their market access arrangements. The concerns over losing market access compete with the concerns over the impact of the agreements on industrial development aspirations and emerging regional integration commitments and the possible changes in the Africa-EU dynamics that will be driven by Brexit. Tensions have emerged within the EAC, where Kenya and Rwanda have already signed the EAC EPA whilst Tanzania and Uganda have procrastinated. A similar situation has developed in the ECOWAS region where some countries like Senegal or Ghana have strongly advocated the signature of the EWOCAS EPA, against countries like Nigeria and The Gambia which have expressed strong opposition over concerns on the possible impacts on local industry among other reasons.

The current state of play is also challenging for the African integration agenda. The regional economic communities are moving towards more integrated markets. However, the EPAs, more especially the stepping stone and interim EPAs, encompass the existing or soon to-be created common external tariff (CETs) zones. For instance, in the stepping stone agreement that Côte d'Ivoire is provisionally implementing since September 2016 and the interim EPA that Cameroon has entered into force in August 2016 are threatening the coherence of the ECOWAS and the CEMAC CETs. Similarly, the COMESA CET, though not yet into effect, has been used as a base rate for the four COMESA countries to implement their individual schedules of commitments under the ESA EPA.

OVERCOMING CHALLENGES IN EPAS - A WAY FORWARD

Going forward, African blocs will need to find a way to resolve these anomalies. This is particularly urgent in relation to the ongoing negotiations for the Continental Free Trade Area, which is also expected to evolve in due course into a continental

customs union. This will require coherence and harmonization in Africa's overall trade policy with the rest of the world. Research by the ECA and AUC suggest that the following critical issues need to be resolved³²:

1. Revenue loss. One of the primary concerns of African countries is the revenue loss incurred by tariff dismantlement. To this effect, all EPAs, except for the interim ESA EPA, provide for fiscal adjustment mechanisms such as transitional contribution measures to mitigate revenue

losses; and, in the EAC EPA, provisions on tax governance cooperation.

2. Protection of industries and the agricultural sector. Although the EPAs prohibit the use of certain trade policy provisions that support local value addition such as export duties, certain disciplines have been maintained to protect sensitive or fragile economic sectors. These include longer tariff phase-down periods and exclusions from liberalisation commitments; agricultural- and industry-specific safeguards.

3. Capacity-building. All EPAs make provisions for technical and financial assistance. In addition, the EAC, West African, Central African and ESA EPAs aim at establishing funds to finance capacity-building needs. However, at this juncture, only the WA EPA Fund has received financial commitments from the EU.

An effective use of these provisions in the implementation of the EPAs will be crucial to ensure that the agreements do not jeopardize Africa's industrialisation and regional integration processes.

ECA research has also shown that the implementation of the CFTA ahead of the full implementation of the EPAs could help avoid some of the possible negative impacts on intra-African trade and trade in

³² ECA and AUC (forthcoming), Comparison of the Provisions of the Economic Partnership Agreements.

manufactured goods in particular³³. The EPAs provides policy space for African countries to conclude a free trade agreement among themselves, without the need to trigger the MFN clause. However, the commitments to be made by African countries under the CFTA would likely anticipate the further evolution of continental integration into a customs union. The different provisions of the various EPAs, with different liberalization commitments, would make it difficult to align commitments to ensure an operational Africa-wide customs union. In addition, some technical provisions such as the cumulation provisions under EPA rules of origin may be difficult to implement due to compatibility issues between the EPA blocs and possibly also under the CFTA. At the same time Brexit has added to the complications.

The possible withdrawal of the UK from the EU - one of the top EU destination country markets for African exports- will significantly change the perceived benefits of the EPAs for some African countries.

In this context, the EPAs need to be strategically reviewed and eventually renegotiated to take into account the changed circumstances relating to Africa's integration and Brexit. A reconsideration of the EPAs will be mutually beneficial for both the EU and African countries. Given the challenges noted above, it is now more than likely that some African countries will not sign the agreements. For those who do, the implementation of the current agreements may become hard to reconcile with emerging continental trade policy frameworks. Reopening the EPAs to renegotiate a deal that is mutually and more widely acceptable is a wiser option.

CONCLUSION

The EU remains an important trade and development partner for Africa. The continuous efforts from both sides to conclude the EPA negotiations underscores this fact. At the same time, Africa is taking bold steps towards continental trade liberalisation and structural economic change which cannot be ignored. To this extent, Africa's trading partners must take note that continent-wide arrangements are required to ensure that trade agreements support and do not hinder the African regional integration process.

³³ Mevel, S., Valensisi, G., & Karingi, S. (2015). Implication of EPAs for Africa's Continental Integration. Addis Ababa. Preliminary draft available online: <https://www.gtap.agecon.purdue.edu/resources/download/7649.pdf>

ESSAYS

SECTION B

**POLITICAL ECONOMIC
ANALYSIS OF ECONOMIC
PARTNERSHIP AGREEMENTS
& THEIR IMPACT ON AFRICAN
COUNTRIES**

2.3.1 Essay 3: The Development Objectives of EPAs and Emerging Lessons for UK- Africa Trade and Development Relations.

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ABSTRACT

The EPAs are an important if contentious element of an enduring trade and development relationship between Europe and Africa. Yet important lessons emerge from this engagement for other geopolitical entities, including the UK, for institutionalizing trade arrangements with Africa. This paper considers basis of the EPA upon developmental outcomes such as economic integration and economic diversification. It also engages critically with the notion of reciprocity, another foundational element of the EPAs, and its potential impact on the aforementioned developmental objectives of the EPAs in Africa. Against this background the paper presents key considerations to inform UK-Africa trade arrangements in the aftermath of the UK's exit from the European Union.

Economic Partnership Agreements (EPA) are an important if contentious element of an enduring trade and development relationship between Europe and Africa. They are part of the 2000 Cotonou Agreement intended to establish a free trade area, in goods, between Europe and African, Caribbean and Pacific countries (ACP). They were expected to be functional from 2008, but have been delayed operationally due to negotiations. In spite of ongoing challenges, important lessons emerge from this process for other geopolitical entities, including the UK, for institutionalising trade arrangements with Africa. This essay examines how definitive factors of EPAs, notably reciprocal preferential trade access, may impact on intended developmental outcomes such as regional economic integration and economic diversification. Against this background the paper presents key considerations to inform UK-Africa trade arrangements in the aftermath of the UK's exit from the European Union.

The EPAs are rooted in a long history of trade and development relations between Europe, African and the Caribbean Islands that date back to the beginning of the independence period in 1957. The first European Development Fund was established with the intention of retaining developmental support to colonies on the cusp of political independence from Europe. This development

engagement was reinforced with initial trade agreements that offered duty-free access to the European Economic Community, the first and second Yaounde Conventions (1963-1974) with the largely Francophone Association of African states and Madagascar. This engagement was expanded to include the wider African, Caribbean and Pacific member states with the 1975 Lome Convention. This first Lome Convention saw the ACP negotiate preferential access for exports to European markets on non-reciprocal terms in line with the developmental objective of the initiative. This logic of non-reciprocity has until recently been at the core of ACP-EU trade engagement as subsequent Lome Conventions II, III and IV, covering 1975-2000, retained this central principle.

In spite of these realities the character of exchange between the ACPs and Europe is defined by classic core-periphery dynamics where the former continue to provide raw material commodity exports to the latter in exchange for higher value manufactured imports. In 2015, the primary sector, agricultural goods and mineral resources at 73% of total trade, dominated EU imports from the ACP, while manufactures, at 72% of the total, dominated EU exports to the ACP³⁴. In addition, 20 years after the first

³⁴ European Union, Trade in goods with ACP Total (African Caribbean and Pacific Countries) European Commission Directorate-General for Trade http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113340.pdf

Lome Convention, ACP exports to the EU grew at a far lower rate than global trade growth in spite of preferential access³⁵. This outcome has been linked directly to the continued dominance of African exports by primary products and the volatility of commodity prices³⁶. Reasons for this abound including the stringent conditions for this preferential access, including restrictions on product eligibility and rules of origin requirements, poor incentives for production diversification and supply-side constraints including high production costs in Africa³⁷.

Following the expiration of the fourth Lome Convention, it was replaced with the Cotonou Agreement in 2000 to last until 2020. The most elaborate change in this transition was on ACP-EU trade through the introduction of reciprocity in preferential trade access with EPAs. The debates that have attended the establishment of the EPAs have highlighted key factors to be considered more broadly with regard to the developmental impact of trade agreements with Africa. These include the impact of reciprocity on structural change, fiscal revenue from trade taxes, regionalism and the significance of extra-EU trade relations.

Reciprocal preferential trade access has been a central and contentious element of the EPAs. This is because in principle they expose prematurely ACP markets to European goods that may be produced more competitively owing to Europe's skilled labour, capital and technology advantage. This can be especially challenging for domestic production for

local and regional markets especially in infant industry endeavours³⁸. Some have estimated substantial adverse impacts of EPAs on trade deficits and GDP growth in Africa³⁹. This challenge is pronounced when contemplated against the ongoing industrial policy drive and structural transformation in Africa⁴⁰. This drive has been energised recently, following rising economic volatility especially for commodity exporters, as a result of commodity price collapses.

On the one hand, the developmental risk associated with reciprocity is that it can lock African economies into their static comparative advantage of primary exports (mineral resources and agricultural goods) and undermine opportunities for upgrading, thus undermining the current commitments and efforts towards structural transformation. On other hand, non-reciprocal preferential trade access can drive structural transformation. Mauritius stands out as a clear example of success in this regard. Touted as a key example of developmental statehood in Africa, the transformation of the Mauritian economy from agricultural base to low technology manufacturing relied heavily on access to preferential access to European markets as a basis for generating savings for investment in social and physical infrastructure as well as increasing foreign direct investment (FDI)

35 Laaksonen, K., Mäki-Fränki, P. and Virolainen, M., 2007. Lome Convention, Agriculture and Trade Relations between the EU and the ACP Countries in 1975-2000 (No. 18853).

36 Sindzingre, A.N., 2016. From an Eroding Model to Questioned Trade Relationships: The European Union and Sub-Saharan Africa. *Insight on Africa*, 8: 81-95

37 Morrissey, O. and Zgovu, E., 2007. The impact of Economic Partnership Agreements on ACP agriculture imports and welfare. University of Nottingham, School of Economics: CREDIT Research Paper, 7(09); Perez, R. and Karingi, S.N., 2007. How to Balance the Outcomes of the Economic Partnership Agreements for Sub-Saharan African Economies? *The World Economy*, 30(12), pp.1877-1899.

38 Although there are current provisions intended to manage these dynamics these are not well defined and undermine fundamentally domestic control over trade policy as an essential component of industrial policy.

39 Perez, R. and Karingi, S.N., 2007. How to Balance the Outcomes of the Economic Partnership Agreements for Sub-Saharan African Economies? *The World Economy*, 30(12), pp.1877-1899.

40 See United Nations Economic Commission for Africa (UNECA) 2014 Dynamic Industrial Policy in Africa, Economic Report on Africa. Addis Ababa: UNECA; United Nations Economic Commission for Africa (UNECA) 2016. Greening Africa's industrialisation, Economic Report on Africa. Addis Ababa: UNECA; World Bank .2012. Light Manufacturing in Africa. Targeted Policies to Enhance Private Investment and Create Jobs, Washington, DC: World Bank.

to energise domestic manufacturing⁴¹. Trade arrangements that can support structural transformation require that there is a high degree of domestic control in trade policy to allow for dynamism as well as stability and predictability that are required for the complexities that attend structural transformation⁴². As such discussion and debate on emerging trade arrangements will need to be cognisant of this reality.

Regionalism has been a foundational element of ACP-EU relations on both the African and European sides. It is a critical developmental aspect of this interaction because it has the potential to utilise shared contexts and histories to bolster the economic viability of the region and also to strengthen it for engagement with the broader global economy by: enabling the development of frameworks for transnational public goods; securing larger destination markets for FDI; providing a larger base for competitive exports; and moving factors of production and production processes to cost-effective sites within regions. EPAs have been negotiated on a regional basis with agreements for Southern Africa signed in 2016 (Botswana, Lesotho, Mozambique, Namibia, South Africa and Swaziland); West Africa (Economic Community of West African States and West Africa Monetary Union) initialled an EPA in 2014; East African Community (Burundi, Kenya, Rwanda, Tanzania and Uganda) finalised negotiations in 2014 although these were reopened in 2016; and Eastern and Central Africa (Comoros, Djibouti, Eritrea, Ethiopia, Madagascar, Malawi, Mauritius, Seychelles, Sudan, Zambia, Zimbabwe) currently negotiating an EPA although Zimbabwe, Madagascar, Mauritius and Seychelles signed an interim agreement in 2009.

⁴¹ Meisenhelder, T., 1997. The developmental state in Mauritius. *The Journal of Modern African Studies*, 35(02), pp.279-297; Laaksonen, K., Mäki-Fränki, P. and Virolainen, M., 2007. Lome Convention, Agriculture and Trade Relations between the EU and the ACP Countries in 1975-2000 (No. 18853).

⁴² This challenges the static and binding 20-year proviso on the negotiated EPAs.

Although this regionalised approach has been undermined by instances of retreat to state-based agreements (examples include Ivory Coast and Ghana) it has fundamentally shown the political strength of regionalism for bolstering Africa's voice vis-à-vis established and industrial powers such as Europe especially in the negotiation process. Regionalisation of this arrangement has enabled a concerted focus on intraregional economic integration. For instance the West Africa EPA builds on the logic of regional market access thus aligning itself with the ECOWAS Common External Tariff⁴³. However there is also need for caution given the tendency of polar states to dominate regional arrangements. Both Southern Africa and West Africa have trade patterns with Europe that are dominated by key economies such as Nigeria, Ivory Coast and South Africa. In addition EPAs may threaten intraregional trade where regional suppliers risk displacement by European goods for reasons already noted. As such within these trade arrangements there is a need for measures that will manage the dynamics of potential flows of factors of production and FDI to polar states at the expense of smaller economies and protect key products in the regional market that are at risk from displacement by European goods⁴⁴.

Trade taxes have been a consistent and significant source of fiscal revenue in many African economies as result of the historical reliance on this mechanism for the generation of government revenue. This is a pattern that dates back to the colonial era with the widespread use of marketing boards. The EPAs necessitate the abolishment of this significant fiscal revenue source. This is potentially a challenge given the poor performance

⁴³ European Union, Economic Partnership Agreement with West Africa- Facts and Figures European Commission Directorate-General for Trade http://trade.ec.europa.eu/doclib/docs/2014/july/tradoc_152694.pdf

⁴⁴ Milner, C., Morrissey, O. and Zgova, E., 2011. Designing Economic Partnership Agreements To Promote Intra-Regional Trade In ACP Countries. *South African Journal of Economics*, 79(4), pp.376-391.

of other forms of taxation, notably on income. Extensive study of the potential tax revenue losses of the EPAs has shown impacts on West African economies at almost 25% losses in government revenue⁴⁵. In addition, some regional organisations such as ECOWAS are financed directly from proceeds from trade taxes. This implies that regionalisation and the structures that support it are at direct risk from losses in trade taxes. It is necessary for wider considerations on trade agreements with Africa to examine the historical and contemporary significance of this source of government revenues and implications that losses can have directly and indirectly on development processes and outcomes, including service provision as well as physical and social infrastructural investment.

Africa's trade patterns have changed over the last decade. Key to this transition has been the growth of trade with other economies from the Global South, notably emerging economies. While the EU and the United States of America remain key trade partners the gap is closing rapidly with emerging economies including China, Brazil and India, for instance, China was the continent's largest export destination in 2013. As part of this transition, there is some competition between European and Chinese consumer and capital goods on account of price competitiveness of the latter⁴⁶. Within this context, the EPAs could effectively bind African economies to less efficient outcomes, as they would be obliged to pay higher prices due to a trade diversion phenomenon.

Nonetheless there is scope for problematising the developmental impact of emergent trade patterns. For one, primary products dominate African exports

⁴⁵ Karingi, S., Lang, R., Oulmane, N., Perez, R., Jallab, M.S. and Hammouda, H.B., 2005. Economic and welfare impacts of the EU-Africa Economic Partnership Agreements. Africa Trade Policy Centre, Economic Commission for Africa.

⁴⁶ Pigato, M. and Tang, W., 2015. China and Africa: Expanding economic ties in an evolving global context. World Bank.

to China, while Chinese imports to Africa continue to pressure African producers of low technology manufactures in particular⁴⁷. In addition Africa's fortunes have floundered in the wake of economic slowdown in China thus raising questions around overreliance on this relationship. However, Europe is the largest destination market for African manufactures⁴⁸. As such there is potential scope for wider trade agreements with European counterparts such as the UK, to have a privileged position as they build on this foundation to encourage low technology manufacturing in a regional economic structure towards longer-term commitments that can underscore developmental outcomes.

The EPAs have influenced the landscape of the discourse on trade agreements with Africa given their strong historical antecedence and their engagement at various strata of policy engagements: national, regional and continental. As has been highlighted they raise major challenges, particularly around their developmental impact as regards economic diversification, economic integration and revenue generation. The challenging process that has surrounded attendant negotiations has attested to this. Paradoxically, because the EPAs are based on regional mechanisms, they speak to a core principle of the African narrative on development. EPAs have inadvertently showcased the importance of regionalisation for a strengthened African voice vis-à-vis the established industrial former colonial power within the global political economy.

There is ample material here to guide UK considerations for trade engagement with Africa in a post-Brexit context. Fundamentally, there is a contestation between commercial interests of the

⁴⁷ Pigato, M. and Tang, W., 2015. China and Africa: Expanding economic ties in an evolving global context. World Bank.

⁴⁸ Giovannetti, G. and Sanfilippo, M., 2009. Do Chinese exports crowd-out African goods? An econometric analysis by country and sector. The European Journal of Development Research, 21(4), pp.506-530.

established industrial entity, be it Europe or the UK, and a more developmental focus in favour of the relevant processes and outcomes in Africa. Potential opportunities arise for mutual benefit where, for instance, capital good imports from the Global North to parts of Africa would serve a developmental purpose in servicing industrialisation ambitions as well as fulfil export ambitions. Nonetheless, the ability of African economies to control the vital

trade policy space, as past developers have done, cannot be overstated. The fundamental question remains in the extent to which commercial trade interests can and will be subordinated to developmental interests when the need arises to allow for this to happen.

2.3.2 Essay 4: How UK-Africa Trade Relations Can Advance Regional Integration in Africa Post-Brexit: An African Development Bank Perspective

Dr Akinwumi A. Adesina, President of the African Development Bank Group

ABSTRACT

In the wake of the vote in the UK to leave the EU, it is highly anticipated that the UK will have to revisit its political and economic relations with the world, the bulk of which have been largely defined through its membership of the EU. Africa's relations will be impacted by this process and it is important to map out the various potential scenarios, especially from a trade and economic relations perspective, as we seek to build a stronger, economically resilient and better integrated Africa. Drawing from lessons from the Economic Partnership Agreement negotiation and signing process between the EU and Africa, this paper seeks to image a new UK-Africa trading relationship post-'Brexit', in an effort to craft a more development and regional integration friendly economic relationship

INTRODUCTION

On the 23rd of June 2016, the UK held a referendum to decide on whether the UK should remain a member of the EU or not and the 'leave' vote was victorious. While the withdrawal process is still unfolding, the UK is still technically an EU member. Nevertheless, Africa has anticipated the exit and participate in setting the revised agenda for post-EU trade and economic relations with the UK. The 'Brexit' process takes place within the context of an Africa that is accelerating its regional economic integration agenda. In pursuit of the African Economic Community as envisaged in the Abuja Treaty, the East African Community (EAC), and Common Market for Southern and Eastern Africa (COMESA) as well as the Southern African Development Community (SADC) signed the Tripartite Free Trade Agreement (TFTA) in June 2015, while the negotiations towards a Continental Free Trade Area kicked off in February 2016. Any economic engagement with Africa post-Brexit would therefore have to factor in the above developments and more.

While the UK enjoys strong historical ties with a number of countries in Africa, cemented through language, culture and economic linkages, its trade with the continent has been framed under the African, Caribbean and Pacific countries (ACP) – EU relations that define all

EU members' political, economic and development relations with Africa. As such, the UK is party to the Economic Partnership Agreements (EPAs) that the EU has been negotiating with the ACP countries. Pending a withdrawal agreement with the EU, it is largely unclear how the UK is going to frame its trade with Africa going forward.

BRIEF BACKGROUND ON EPAS

The EPAs are underpinned by the 2000 Cotonou Agreement, which is built on three pillars: political; development and trade. The EPAs address the trade pillar. Despite the fact that EPAs are supposed to be based on the principles of being development oriented; strengthening regional integration in Africa; strengthening relations with Africa; and, promoting asymmetric trade liberalization, they are primarily trade agreements aimed at granting reciprocal market access between the EU and ACP countries. EPA negotiations have taken more than a decade to conclude, pointing to the complex and challenging nature of the negotiations.

Nonetheless, Africa's long and arduous negotiating experience with the EU has borne certain positive outcomes, including building the negotiating capacity of African countries, making them better prepared for similar negotiations in the future.

CHALLENGES WITH THE EPA PROCESS

The Brexit presents opportunities for African countries to renegotiate with the UK some of the more controversial issues that characterized the EPAs. As a major development partner of Africa, the UK would likely be interested in guaranteeing the continuity of mutually beneficial trade relations as well as market access. Our view is that the UK might be more sympathetic to the following issues:

- ‘Export taxes’ – African countries see this as a means to industrialize and move up the value chain while the EU is fundamentally opposed to export taxes. The contention was on policy space and the ability of African countries to determine policy that enables industrialization and value addition to export products. WTO policy allows such space to developing countries and African countries could not agree to negotiate this away.
- The issue of export taxes must also be seen from the context of the EU’s Common Agricultural Policy (CAP) where the EU provides support to its farmers and insists that any reduction to import taxes and export subsidies in agriculture must be negotiated at the WTO. However, where previously African countries had to deal with the entire EU on the CAP subsidies that EU farmers enjoy, Brexit gives scope and opportunity for this matter to be re-negotiated. One of the Bank’s core priorities is to support industrialization through governance improvement, technology upgrading and value chain development through special economic zones. We would therefore appeal to the UK to support a deal that encourages industrialization of African countries through trade.
- The ‘MFN clause’ – this was seen as a move by the EU to prevent African countries from entering into free trade agreements with other large economy trading partners such as the emerging economies of Brazil, India and China. The MFN clause effectively circumscribes the margin of preference that African countries can grant to third parties - rendering any such trade deals

redundant and therefore limiting Africa’s integration into the global markets. In our view, restraining Africa’s future trade deals is inimical to the continent’s development. We would therefore appeal to the UK to respect the MFN exception granted to free trade arrangements under the multilateral system so Africa can continue to reap the benefits accruing from such arrangements.

- ‘Non-execution clause’ – The non-execution clause essentially gives the EU authority to take action under the Cotonou Agreement and suspend its trade commitments where countries have failed to respect human rights, democratic principles and the rule of law, even if such actions would not have contravened the EPA provisions.. Trade deals should not be conflated with non-trade issues and, in any case, political and development issues between the UK and African countries are well defined under different arrangements.
- Development finance – Although the EPA comes with a development component, both African countries and the EU had different interpretations and expectations on what this means. To overcome the chronic supply-side constraints and to ensure product diversification, African countries wanted trade liberalization to be matched with an increase in development aid. The EU, however, argued for a separation of EPA negotiations and talks on development aid on the basis that funding is available under the European Development Fund for implementation of the EPAs. The UK’s development work on the continent already eliminates the need to combine the two in negotiations. However, it would be beneficial if the UK could extend capacity and technical support to African countries to enable them to implement trade agreements like the WTO Trade Facilitation Agreement as well as customs reforms and modernization efforts aimed at eliminating non-tariff barriers.

EPAS AND REGIONAL INTEGRATION IN AFRICA

This has been one of the most contentious issues to date, particularly due to the lock-in effect of the EPA agreements. The EPA groups do not have a formal legal status like their constituent RECs. Nevertheless, all countries in the negotiating groups are constituents of RECs that intend on becoming a customs union but, due to the overlapping memberships, might not necessarily want to be in a customs union with the countries they negotiated an EPA with. The tariffs negotiated with the EU are already locked however, and are different across the different negotiating groups, creating a challenge when countries from different negotiating groups come together to form a customs union.

LESSONS FROM THE EPA PROCESS

The major lessons from the above are that firstly, whatever the trading arrangement that the UK seeks with Africa post-Brexit, it should respect and promote regional integration in Africa, paying special attention to the regional and continental to that end. Secondly, the trade agreement/s should not seek to limit African countries' gains from entering into trading arrangements with third parties, and particularly big economies. This is especially bearing in mind the likely possibility that African countries will soon start negotiating reciprocal free trade agreements with the US post-AGOA. How the UK approaches these negotiations could, to a certain extent, also influence the approach of the US. Thirdly, such trade agreement should create and allow the maximum space available to African countries to develop and industrialize, allowing for product diversification and a movement up the global value chain, particularly where such policy space is within their right as developing countries. Lastly, conflating trade negotiations with development aid negotiations has proved very difficult in the EPA negotiations. A better approach is to interrogate how best

the UK can support trade, as has been done with the inquiry into the UK's Africa Free Trade Initiative which has yielded many useful recommendations⁴⁹. The report confirms the vast contribution that the UK has made in 'aid for trade' in Africa and the numerous impressive initiatives it has put in place to support regional integration. Generally, an approach strengthens existing initiatives in aid for trade, outside of the trade negotiations, could work better.

BREXIT – CHALLENGES AND OPPORTUNITIES FOR AFRICA

Assessing the impact of Brexit on Africa is still a speculative discussion until the withdrawal agreement with the EU has been negotiated and finalized. Much of the impact will depend on the nature and form that the Brexit assumes.

Three possible exit scenarios have been mapped out⁵⁰:

- 'a clean break, which basically means the repeal of all EU law and international treaties signed as part of the EU;
- Remaining in the EU's single market and customs union, which essentially means joining the European Economic Area (EEA), while disengaging politically from the EU; or,
- Negotiating with the EU and the rest of the world, where the UK negotiates trade deals from scratch, trying to get the best possible trade agreements.

If the UK embarks on a clean break, however impractical it may be, it means a renegotiation of all its trade deals. This raises several questions: what regime would govern trade between the UK and Africa in the meantime; how long would it take to initiate trade negotiations; would the UK factor in the African regional integration objectives in its negotiations; and, lastly, what is the possibility of African countries

⁴⁹ For further information and the report, please visit: <http://tradeoutofpoverty.org/about-inquiry/>

⁵⁰ M Emmerson, 'The Final Brexit Question. The known Plan A to remain or the unknown Plan B to leave' CEPS Working Document, No. 418 / February 2016, Centre for European Policy Studies.

getting better trade deals out of the UK than they did in the EPAs?

On trade relations, a significant number of African countries are Least Developed Countries and therefore subject to GSP preferences under the WTO, but, for the remaining countries, as well as for the UK, a resort to the MFN regime is undesirable. At the same time, and mindful of African regional integration ambitions, it would be advisable for the UK to consider negotiating with African countries post the conclusion of the TFTA and, possibly, the CFTA. However, the time it normally takes to conclude such negotiations makes it untenable, especially in the absence of a 'holding' arrangement. There is a risk, however, of Africa taking being put on the back-burner as the UK tries to deal with all the political and economic ramifications of Brexit domestically and with other, larger, trading partners.

The second scenario would result in a relationship such as the one that the EU has with Switzerland, governed by a series of bilateral economic agreements. Trade with Africa would then be governed by any trade deals that the European Free Trade Area may have entered into with them. However, such approach goes against the spirit of Brexit as the UK, as a separate party outside the EU, would have to adopt EU policy in several areas without the ability to negotiate or influence the substance.

The third scenario also entails fresh negotiations with African countries and the same considerations under the 'clean break' scenario would apply. Business as usual will likely not exist once Brexit has been implemented. Impact on trade would mostly depend on each country's trading profile with the UK. African countries that trade more with the UK would be much more heavily impacted. However, this should not be motivation for such countries to negotiate as entities outside of RECs but, they could negotiate with the UK based on particular export products. This would help regions leverage on specificities in value chains. Such negotiations can be

supported by the Bank's work on product and market development, the objective of which is to help countries move up the value chain. This would be in contrast to the EPA negotiations whose point of departure was a standard template for all regions being negotiated with. In imaging a future economic trajectory between the UK and Africa, there is need to evaluate the interaction between Brexit and the African integration initiatives to determine the impact.

The size of African markets makes regional integration an imperative, however, Brexit is an opportunity to rethink the approach to regional economic integration. Already, the emphasis in the TFTA on trade facilitation, infrastructure development, and industrialization is testament to new thinking. Brexit reinforces an approach focused on addressing chronic supply side constraints to facilitate regional economic integration. It is also an opportunity for Africa to learn from Europe's mistakes, from the Eurozone crisis to the Brexit, in order to strengthen the African regional economic integration project.

RECOMMENDATIONS

Instead of carving up Africa into trade configurations, the potential UK trade deal should be conducted within the existing RECs system and be supportive of continental initiatives such as Agenda 2063, PIDA, CAADP, AIDA etc. The Bank is already working in concerted manner with the AU and NEPAD to operationalize these initiatives. Brexit is considered a fait accompli, and the Bank is in a position to provide capacity assistance to RMCs to help them appreciate the changing landscape on trade as well as create opportunities to better negotiate new trade deals.

With regard to market access, an effort should be made to maintain existing trade arrangements until such a time that a new arrangement has been negotiated and is

in place. If this needs a special WTO waiver or special mechanism with the EU, then this should be considered and negotiated. The disruption of normal trade relations is not ideal for both the UK and Africa, and effort should be made to maintain the status quo until any new regime is in place.

To avoid the controversy that accompanied direct trade negotiation support and capacity building from the EU to African countries in the EPA negotiations, the UK could consider supporting some of the Bank's funding facilities that are focused specifically on mitigating aid for trade needs. This would enable the Bank to support RMCs and RECs to negotiate on an equal footing with the UK, especially from a capacity and expertise perspective. The UK should ramp up its development aid effort to maximize the opportunities for development, industrialization and enhanced regional integration for Africa. For its part, the Bank, will support the UK in sealing trade deals that are developmental and support Africa's economic advancement through deepening of the High 5s.

CONCLUSION

The Brexit has been set in motion and seems highly likely to be followed through in the next few years, pending the conclusion of withdrawal negotiations between the EU and the UK. It is important that Africa be pro-active in the process leading up to a likely changed trade regime with the UK and also anticipate the challenges and opportunities. The EPA negotiation process provides valuable lessons in this regard. Working with the Bank, the UK and Africa can craft a mutually beneficial trade arrangement that would support regional integration as well as development and industrialization on the continent.

2.3.3 Essay 5: Power Dynamics and Capacity in the Negotiation of Economic Partnership Agreements between the UK and African Countries

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ABSTRACT:

This essay looks at some of the implications of the Brexit on the United Kingdom's (UK) trade relations with Africa, and calls for a renewed partnership through trade and development. By leaving the European Union (EU), the UK will also exit EU's free trade agreements. As a consequence, the UK will have to renegotiate its trade relations with all its economic partners, including 54 African countries. This essay suggests that rather than establishing bilateral agreements with each African country, which would prove long and complex, it could be more beneficial to work towards the adoption of free trade agreements (FTAs) with regional economic communities, such as Comesa, SACU, or ECOWAS. More limited in scope than the EU's Economic Partnership Agreements (EPAs), such regional agreements would present the advantage of being faster and easier to agree on. Entering these discussions as a group would also give participating African countries more weight in the negotiations, moving them up the list of trade partners. Finally, the UK could reiterate its commitment to trade by giving it a more prominent part in its development policy. Some of the UK's Official Development Assistance (ODA) could for instance support new Aid for Trade initiatives and help strengthen African regionalism.

By opting for Brexit, British voters have voiced frustration with globalization. This is not surprising as working people in the United Kingdom and other advanced economies have been largely left behind by globalization. Over the past 25 years of expanding cross-border trade, it was the middle classes in the advanced economies together with the world's very poorest people – many in Africa – who saw their living standards stagnate the most, unable to reap the benefits of an increasingly open global economy. To redress the grievances of all those who have been left behind by globalization, smart policy choices must ensure that following Brexit we all work towards more inclusive trade for the benefit of all, including the world's poorest in Africa. This is an extremely challenging proposition.

With the global economy already on track for the slowest decade of trade growth in 70 years, the Brexit vote has increased uncertainty for the global economy, and has dampened economic prospects for developing countries over the short-term. Recent UNCTAD simulations show that even if market reactions turn out less severe than the shock scenario many expect, Brexit could lead to a -0.8% loss in annual GDP

growth and some half a million job losses in major emerging economies over the next five years. These effects would also weigh heavily on global demand for African exports.

By rejecting the European Union – the most ambitious regional economic integration project yet undertaken – British voters have also sparked worries among proponents of regional economic integration efforts elsewhere, including in Africa. The recent withdrawal of Tanzania from the negotiations of an Economic Partnership Agreement between the EU and the East African Community is just one sign of the rethinking, which Brexit has prompted among many Governments.

But beyond the shock and uncertainty, if the unanswered questions around Brexit are resolved quickly, Brexit could paradoxically offer a genuine opportunity for renewed partnership between the UK and Africa. A key prerequisite will be the United Kingdom reiterating its strong commitment to trade and development issues, particularly with respect to its relationship with Africa. This can be achieved in several ways.

First, the UK should clear up some of the uncertainty for African partners, particularly with respect to its plans for the future Africa-UK trading relationship.

When the UK became part of the European Economic Community over four decades ago, it transferred all authority for its trade agreements to the Community. Today, more than one trillion dollars annually in UK trade is channeled through the European Union's legal, regulatory and institutional frameworks. In total, the EU has free trade agreements with 131 countries – with twenty more still under negotiation. When the UK leaves the EU, it will have to make its own arrangements with all these countries, 54 of which are in Africa.

The UK is currently party to the EU's formal trade relationships with Africa as well as the Caribbean and Pacific countries through Economic Partnership Agreements (EPAs). These include agreements between the EU and regional country groupings, including West Africa, Central Africa, the East African Community, Eastern and Southern Africa, and the South African Development Community.

As the UK goes forward with Brexit, it is very likely that some sort of transitional trade arrangements will be required. The UK will have many negotiating priorities during Brexit and such transitional arrangements must bridge the gap to a more comprehensive and progressive trade agreement, which is likely to take more time.

The UK should be very clear to all its partners about its capacity to conduct multiple negotiations with different countries and in different areas at the same time. Preparing strategic positions and conducting trade negotiations can be complex and daunting. And the fact remains that the UK has to decide carefully on its priorities in relation to its trade policy towards third countries. This process takes time and requires balancing different interests both from within and externally. It is possible that the UK could negotiate

under Article 50 some sort of transitional period to stay party to some EPAs, and there is precedent for this as some countries acceding to the EU were allowed to become party to some EU trade agreements with third countries before completing accession. Given the likely timeframes involved, however, it's unlikely that trade deals with Africa will be concluded any time soon. In addition, given the pressure to renegotiate bilateral trade agreements with bigger economies, Africa is likely not going to figure high on the list of priorities for the new UK Department of International Trade.

One possibility raised several times during the Brexit campaign is the prospect that the Commonwealth could become a greater avenue for British economic diplomacy. This would have important ramifications for Africa, particularly for African Commonwealth members. But it should be recalled that for the time being the Commonwealth remains more of a political rather than economic entity. Currently, only 5 African Commonwealth Members export more than 20% to the UK. These are Seychelles (33%), Gambia (29%), Mauritius (28%), South Africa (27%) and Kenya (27%). On the average, the UK only accounts for 11.5% of exports from Africa's Commonwealth countries. And for African LDCs as a group the share of their exports going to the UK is only 4.4%. Importantly these numbers also indicate that for the vast majority of African countries, the expected effects of signing an EPA with the EU will not change much post-Brexit.

The UK should also learn from the EU experience with economic partnership agreements and instead work towards free trade agreements with key existing regional economic communities.

Some critics have observed that the EU's pursuit of EPAs sometimes ran counter to the interests of regionalism, especially in Africa, occasionally following a "divide and rule" pattern which effectively increased obstacles towards Africa's integration. After long negotiations, today there are different

EPAs at different stages. These also includes EPAs with Caribbean and Pacific nations, many of whom have even closer relations with the UK. Africa will therefore be closely watching how the UK renegotiates its relationship with CARICOM, the Caribbean Community, for example, as most of these economies are already deeply integrated with the British economy, including through sizable diasporas and close trade and financial links.

Part of the reason why the EPAs have taken so long to negotiate is that they aim at comprehensive relationships encompassing not only trade but also economic development. It is important to note that the UK has been a very active and committed member of the EU in the area of trade and development, in particular in negotiations with African countries. Many of the development dimensions of the EPAs negotiations, such as the links between poverty, trade and governance, were raised and pushed by the UK.

However, the UK should be aware that speaking the language of EPAs may place them on a slippery slope post-Brexit. Given the baggage that have accompanied some of the EPAs negotiations, the UK would be well advised instead to pursue pure free trade agreements (FTAs) with African partners, rather than more comprehensive economic partnership agreements initially. These new FTAs could be negotiated with a few key regional economic communities (REC) to start. To best avoid deepening intra-regional divisions and to constructively pave the way to an eventual pan-African CFTA, the UK may find it prudent to focus its efforts on the fewest RECs possible that can include the widest group of countries. A good place to start could be FTAs with Comesa, SACU, and ECOWAS, for example. This would cover a wide group of countries and would leave the least chance for divisiveness.

Negotiating with Africa using existing RECs could also be a win-win prospect, as it would make it easier for the UK, given the immediate challenge of capacity

and expertise to renegotiate trading relationships with 54 African countries. Negotiating with only a few RECs to start also would give Africa greater importance as a trading partner – effectively moving African countries up the UK's list of priorities for bilateral trade negotiations.

Finally, at the same time, the UK should reiterate the trade dimension of their development policy with an eye to supporting African regionalism. While UK can pursue trade relationships with Africa through FTAs post-Brexit, it can also complement this approach by repurposing its development policy with a greater trade orientation. More than 15%, or one billion dollars annually, of UK official development assistance to developing countries is currently delivered through the European Union institutions. A large portion of these funds support development cooperation in African countries. Following Brexit it is unlikely that these flows will be easily re-routed through the UK's bilateral programs.

This should be an opportunity for the UK to demonstrate the trade dimension of their development policy. One way the UK could re-rout some of its official development assistance formerly channeled through the EU would be by supporting new aid for trade initiatives in collaboration with the new Department for International Trade. These could, for example, bolster trade negotiating capacity for African regional negotiations, but also support trade and development initiatives that increase African government capacity to mobilize revenues from trade, to support entrepreneurship, investment and innovation that can help African traders move up the value chain. Re-channeled ODA could catalyse important regional priorities, including more intra-African trade, increased value added and technological upgrading, and stronger regional value chains.

Taken together with FTAs compatible with an eventual African-wide CFTA, the UK's constructive engagement through aid for intra-regional trade would be a strong endorsement of pan-African regional integration efforts.

Africans today increasingly realize that the main purpose of regional integration is to serve their own interests and that Africa's regional agreements should primarily serve Africa – not bilateral relationships

with third parties. Whether or not the UK remains in the European Union, it must remain clear that the UK remains a valued partner of Africa and therefore should embrace African regional integration. A forward looking, inclusive policy for trade and development with the continent is an important step in the right direction.

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ESSAYS

SECTION C

AFRICA TRADE
ARRANGEMENTS POST
BREXIT- OPPORTUNITIES
AND SCENARIOS

2.4.1 Essay 6: Post-Brexit UK-Africa Trading Relationship: Can it be more Development-friendly than EPAs?

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ABSTRACT

UK-Africa trading relations are at a crossroads. While EPAs provide a framework for reciprocity-based market access between the EU and African states, replicating such arrangements for the post-Brexit UK may not be straightforward. The EPA processes and outcomes provide an important learning opportunity that can help the UK devise an appropriate development-friendly trade regime for sub-Saharan Africa. This article outlines a potential way forward in the short to medium term that would be considered more development-friendly than EPAs and minimise any trade disruptions during the transition period, while paving the way for building a long-run trading relationship.

INTRODUCTION

The UK's exiting the European Union, termed as Brexit, and formulating its own trade policy has major implications particularly for sub-Saharan Africa (SSA). After more than a decade long difficult negotiations when the conclusion of the Economic Partnership Agreements (EPAs) at various African regional levels was to usher in a new trading relationship with the EU, Brexit appears to unsettle a part of it. It is imperative that the UK's new found trade policy sovereignty does not result in disruptive and/or unfavourable outcomes for SSA. The EPA processes and outcomes provide an important learning opportunity that can also help devise an appropriate development-friendly policy regime, marking a new UK-SSA trading relationship. This article offers some broad guidelines in this regard.

SUB-SAHARAN AFRICA'S TRADE WITH THE EU AND THE UK

The EU, including the UK, has been one of the most important trade, investment and development partners of SSA. Since 2000, SSA's total merchandise exports to the EU have risen from US\$30 billion to about US\$110 billion during 2011-2014, before registering a decline to US\$74 billion in 2015 due to an unprecedented global trade slowdown, weaker commodity prices, and subdued economic expansion in the Eurozone. The EU (including the

UK) remains the single most important market for SSA although its share as the destination for SSA exports has fallen from 37.4% in 2001 to about 26% in 2015 with the corresponding UK share declining from about 9% to 4.3%. Rising trade with China and rising trade between African countries explains this declining relative significance of the EU.

The total UK-SSA trade in goods almost trebled between 2001 and 2012 from US\$11 billion to US\$32 billion before the impact of slowdown in global trade setting in. In 2015, UK-SSA trade stood at about US\$22 billion, of which SSA exports to the UK were US\$12.1 billion while SSA imports from the UK were US\$9.8 billion.

Despite its relatively low share compared with the overall EU market, the UK is an important export destination for several SSA countries. For Botswana and Seychelles, more than 40% of their exports to the EU are destined for the UK, while another five countries, namely The Gambia, Equatorial Guinea, Mauritius, Kenya and South Africa, send more than 20 per cent of their EU exports to the UK. Several SSA states also depend heavily on the UK market for exports of certain products, such as tea (Kenya and Malawi), fresh vegetables (Kenya), processed fish products (Ghana, Mauritius and Seychelles), fresh or frozen beef (Botswana and Namibia), gold and precious minerals (South Africa) and diamonds (Botswana and Zambia).

POST-BREXIT UK-SSA TRADING ARRANGEMENTS

The exports of most SSA countries to the EU currently receive duty-free market access under the EPAs, where these have been signed, and under the Everything-But-Arms (EBA) initiative for the least developed countries (LDCs). The EU and SSA have negotiated five EPAs that are at different stages of finalisation or implementation. Upon formal exit from the EU, all rights and obligations under these various agreements will cease to apply for the UK when it will devise its own trade policy.

CONSEQUENCES ARISING FROM DISCONTINUATION OF CURRENT MARKET ACCESS IN THE UK

In the absence of equivalent treatment post-Brexit, products entering the UK market would face Most Favoured Nation (MFN) duties. Although the current EU-UK MFN duty rates are generally low, certain product categories, including those where SSA countries have export interests, attract considerably higher rates. These include, among others, fish, meat, seafood and floricultural products, vegetables, clothing, footwear, and aluminium products.

According to one estimate, African, Caribbean and Pacific (ACP) states face a potential calculable import duties of US\$734 million if MFN tariffs are applied on their exports⁵¹. These new tariffs therefore can severely compromise SSA's export competitiveness and expose them to greater competition in the UK market. Although arguably the overall effect in terms of the proportion of SSA exports being impacted can be small, there will be significant and disproportionate consequences for certain sectors that are heavily reliant on the UK market.

⁵¹ This is based on estimates provided in Chris Stevens and Jane Kennan (2016) "Trade Implications of Brexit for Commonwealth Developing Countries". Commonwealth Trade Hot Topics, Issue 133

ENSURING UNDISRUPTED MARKET ACCESS FOR LDCS

There are various possibilities for framing and shaping the UK's future trading arrangements to avoid such adverse outcomes. For the LDCs, perhaps the best option would be for the UK to devise its own unilateral Generalised System of Preferences (GSP) like the EU's EBA scheme. The UK can however make it more development-friendly by incorporating relaxed and more generous rules of origin (RoO) provisions. The current EU RoO provisions are quite involved while there are instances of more flexible options used by other countries⁵². Another area of improvement could be to explore possibilities of offering some trade preferences in services, in line with the agreed LDC Waiver under the WTO.

TRADE PREFERENCES FOR NON-LDC SSA STATES

While an EBA-type arrangement for LDCs is relatively straightforward, options for offering trade preferences to non-LDC SSA states need to be considered carefully. The EU and ACP countries have considered the free trade agreement (FTA) route in the form of EPAs to exchange trade preferences. These reciprocal arrangements conform to WTO rules that set the provisions for forming FTAs. One key issue is whether the UK can install EPA-replicas. But, it will require the UK and SSA states negotiating FTAs otherwise it could be challenged in the WTO. This option would re-open negotiations on many contentious issues that confronted EPAs for long. Given so many competing demands on the post-Brexit UK, negotiation with SSA states might not get a priority in the short to medium term.

⁵² While the EU's RoO often require process transformations, e.g. in the case of apparels, clothing items have to be domestically produced (from imported fabrics) in the recipient countries. On the other hand, countries such as Australia and Canada require recipient countries to add just 25% local value for goods to qualify for duty-free access.

The EPA negotiation processes and outcomes have also been greeted with criticisms. Many SSA states reluctantly signed EPAs because the alternative preference schemes gave less favourable market access to their important export products⁵³. Reciprocal market access has always been a major concern for loss of revenues and overall welfare implications for ACP policymakers⁵⁴. One dilemma faced by the LDCs has been that while under the EBA they can enjoy duty-free access to the EU market, EPAs require them reciprocating in terms of similar market opening for EU suppliers. There are also views that by establishing multiple trading regimes, EPAs may affect regional integration processes in Africa and constrain the possibility of building regional value chains⁵⁵. Finally, assessments of the CARIFORM-EPA, the only EPA that includes both goods and services and that has been under implementation since 2008, seem to suggest very limited benefits accruing to CARIFORUM members who are also confronted with severe implementation-related challenges⁵⁶. All this requires the UK to consider if replication of EPAs can be possible and should be pursued.

To avoid any immediate adverse outcomes, the UK could consider offering a unilateral (non-reciprocal) GSP scheme to SSA states that would be comparable to market access provisions contained in EPAs. There are WTO requirements for the GSP schemes but the guidelines are quite broad and could potentially accommodate a suitable design⁵⁷.

⁵³ Stevens, C. (2016). "Options for a new UK trade policy to support development", written evidence submitted to All Party Parliamentary Group on Africa Free Trade Initiative, dated 8 July 2016.

⁵⁴ However, gradual transition process and some exclusions in liberalisation measures mean any adverse impact will not be felt immediately.

⁵⁵ See the editorial in *Economic Partnership Agreements and Beyond*, GREAT Insights, vol. 3, issue 9, November 2014, ECDPM.

⁵⁶ See, for example, Greene, G. (2015). "The CARIFORUM Economic Partnership Agreement: Lessons from Implementation", *Trade Hot Topics*, issue 121, London: Commonwealth Secretariat.

⁵⁷ Stevens, C. and Kennan, J. (2016) op cit.

If required, the UK could also request waivers to grant non-reciprocal preferences. There are precedents for such arrangements. The USA has obtained WTO waivers for its trade preference initiatives with the Caribbean (i.e. the Caribbean Basin Initiative) and Africa (i.e. the African Growth and Opportunity Act, AGOA).

The above-mentioned unilateral trade preference scheme can be short- to medium term transitory measures to provide policy continuity, avoiding trade disruptions. A medium- to longer-term option would be to negotiate development-friendly trade agreements with SSA/ACP regions. Under the African Union's formal integration plan, member states aim to launch an African Customs Union. Such an eventual outcome would constitute an opportunity for post-Brexit UK and Africa to negotiate a single FTA reinforcing African continental integration. This agreement could then also frame the UK's approach to overall development cooperation including overseas development assistance and Aid for Trade to support Africa's development objectives.

Along with unilateral trade preferences, the UK's RoO for SSA states can be made more development-friendly, as discussed above. A major challenge for many SSA exporters is compliance with the high standards and regulations to access the EU market. There are concerns that some of these regulations are unnecessarily onerous and even protectionist, and should be reviewed. If the post-Brexit UK will significantly deviate from the Common Agricultural Policy (CAP), reconsideration of the application of CAP-related levies can benefit certain SSA states. Devising a trade policy regime for SSA will also be dependent on the nature of a trade deal that will be settled between the UK and the EU. In the case of a comprehensive Customs Union, the EU's trade policy instruments will be maintained resulting in the UK's preserving tariff commitments contained in EPAs. On the other hand, if the UK loses the benefit of the 'single market', and/or adopts more liberal trade

regimes (e.g. flexible RoO), intra-EU movement of SSA goods through the UK could be hampered.

POST-BREXIT TRADING ARRANGEMENTS AND THE COMMONWEALTH

There has been some interest in the issue of the role of the Commonwealth in post-Brexit trading arrangements. Although not a trading bloc, such factors as historical ties, familiar administrative and legal system, the use of largely one language, English, as the means of communicating with foreign partners, and large and dynamic diasporas have contributed to strong trade relationships amongst members. Since 2000, intra-Commonwealth trade in goods and services have tripled to more than \$600 billion. There is also econometric evidence that when both bilateral partners are Commonwealth members, they tend to trade, on average, 20% more, and generate 10% more foreign direct investment flows than otherwise. This 'Commonwealth effect' or 'advantage' would imply bilateral trading costs between Commonwealth partners are on average 19 percentage points lower compared with other country pairs⁵⁸. There also exist huge untapped trading opportunities within the Commonwealth and – according to one estimate – even without being a trading bloc, intra-Commonwealth trade could expand to reach between \$1.3 trillion to \$1.9 trillion over the next 15 years or so⁵⁹. Post-Brexit, bilateral trade deals involving the UK and interested Commonwealth members are possible. However, a Commonwealth-wide preferential trade deal could be difficult to achieve, as Malta and Cyprus remain EU members. Additionally, the Commonwealth is an association of very diverse members – in terms of their size and levels of

development. Trade negotiations involving such a diverse set of countries can be very time-consuming often yielding marginal gains. Rather, expanded productive capacity, improved trade facilitation, tackling non-tariff measures, and promoting private sector development and business-to-business contacts will likely to result in significant trade gains⁶⁰. Also, the challenge of devising post-Brexit UK-Africa trading arrangements go much beyond the Commonwealth. In SSA, there are just 18 Commonwealth members while there are many more non-Commonwealth states that have also important trade linkages with the UK.

CONCLUSION

The UK's commitment to promoting trade and development is indisputable. It has always recognised and championed the special needs and challenges facing such country groups as the LDCs, sub-Saharan Africa and small states. It is one of the few high-income countries that fulfils the UN target of providing 0.7% of gross national income as overseas development assistance. It is in this spirit that the UK's newfound trade policy sovereignty should result in improvements over the currently existing trade preferences for SSA. SSA countries including the LDCs need to be reassured that their market access to the UK after the two years of withdrawal negotiations from the EU will be just as favourable as existing arrangements. Given Brexit-related uncertainties, such reassurances of trade continuity are imperative for investment decisions and future planning.

⁵⁸ These findings are available in Commonwealth Trade Review 2015, The Commonwealth in the Unfolding Global Trade Landscape: Prospects, Priorities and Perspectives, London: Commonwealth Secretariat.

⁵⁹ See "Brexit and Commonwealth trade", Commonwealth Trade Policy Briefing, London: Commonwealth Secretariat.

⁶⁰ Many of such measures that do not require adopting discriminatory trade policy stances to favour Commonwealth members are elaborated in Commonwealth Trade Review 2015.

2.4.2 Essay 7: Case Study on the UK's Trade Relationship with South Africa Post Brexit: A Civil Society Perspective

Malcolm Damon (Executive Director of the Economic Justice Network of FOCCISA (Fellowship of Christian Councils in Southern Africa) with assistance from Dr. Richard Kamidza.

ABSTRACT

This article wants to highlight some of the important issues to take into consideration as the UK approaches Brexit and the importance of these trade negotiations not only for South Africa but also for other developing countries.

'All trade deals that UK has in place with South Africa are essentially trade agreements with the EU', hence the Brexit vote throws into question the agreements South Africa has with both the UK and the EU. The article therefore presents different scenarios taking into consideration the World Trade Organisation's compatibility clause. It also argues for a strong development orientation that will benefit both South Africa, other developing countries and the UK.

INTRODUCTION AND CONTEXT

In a few years time the United Kingdom (UK) will have to negotiate trade deals with all its trading partners including South Africa and other developing countries. In this light this article wants to highlight some of the important issues to take into consideration as it approaches Brexit and the importance of these trade negotiations not only for South Africa but also for other developing countries.

South Africa has historical and very close trade ties with the UK. Most of these relations were inherited by the EU when South Africa signed a Trade, Development and Cooperation Agreement (TDCA) with the bloc that came into effect in 2000. Under TDCA, 95% of South African goods entered the EU market free of customs duties while the former offered up to 86% of the latter goods duty free market access. As a result, South African exports to the EU doubled from \$8.7 billion in 2000 to \$17.8 billion in 2014 while her imports from the EU increased by 160%. Furthermore, in 2014, the UK was South Africa's eighth largest market, accounting for about 3.82% of total exports as well as the eighth supplier of all goods imported, with a market share of 3.28% (Gibb, 2016). Similarly, in 2015, the UK accounted for approximately 20% of the total

exports from South Africa, representing about 4% of her global exports. In this regard, the main exports destined for the UK market include precious metals and stones (39% of all exports to the UK); fruits and nuts, mainly fresh fruit (16%) and; vehicle and vehicle parts (15%). Thus, that free-trade agreement made both the UK and the EU jointly important trading partners of South Africa. Essentially this means that 'all trade deals that UK has in place with South Africa are essentially trade agreements with the EU', hence the Brexit vote throws into question the agreements South Africa has with both the UK and the EU.

South Africa has been the largest recipient of British foreign direct investments (FDI) in Africa, estimated at 30%, with special focus on mining and financial services. In 2010, for instance, the UK accounted for over R1 trillion (about US\$65.7 billion) foreign direct investment stock in South Africa. This is supported by the South African Reserve Bank when it confirmed that a significant 46% of South Africa's global direct investments originate from the UK, amounting to approximately \$54-billion. The above shows that in the area of FDI, finance and portfolio investments, the South Africa-UK relationship is significant, hence both countries have very equal

POSSIBLE TRADE SCENARIOS

Scenario	Remarks
Slightly modify the recently signed Economic Partnership Agreement (EPA) in order to cover a transitional period.	This is informed by the fact that the EU negotiators takes into account the interest of all member states. It is therefore assumed that the commercial interests of the UK government were adequately covered by Brussels negotiators.
Accept the existing EPA Agreement	This is informed by the fact that the EU negotiators takes into account the interest of all member states. It is therefore assumed that the commercial interests of the UK government were adequately covered by Brussels negotiators.
Negotiate a new South Africa-UK Agreement.	This is likely to be another round of protracted negotiations, in which South African negotiators will certainly bring along other SACU countries with their market access sensitivities. Indeed, the outcome and time-frame of a new South Africa-UK trade, tariff and quota regime will be uncertain.
Accept EPA but renegotiate agricultural access to the UK market	This scenario is based on the assumption that the UK will fundamentally express willingness to leave the CAP regime. In this regard, the focus of the negotiation will be on agricultural market access as one of the key issues for discussion, a development that has significant interest to South Africa.

reason to carefully protect their respective mercantile interests in the post-Brexit era. The reality now is that a new South Africa (Southern African Customs Union - SACU) - UK trade and development agreement will have to be negotiated, signed and ratified preferably by 2019 in order to abide by the World Trade Organisation compatibility clause.

Available options for consideration are reflected in the table above.

From the above, both South Africa and the UK will have to formally negotiate the best scenario. The soft option is simply to accept the EPA regime as it is. For the rest of the scenarios, there is a likelihood that South Africa – UK will have to renegotiate future trade relations while the EU insist that the EPA regime already signed and ratified by all SACU countries should be implemented as agreed. In the short-term, this development generates a degree of trade uncertainty that potentially have implications on trade and FDIs flows between the two economies and could

be disruptive to South Africa.

If disruption of SA exports is to be avoided then a transitional unilateral measure from the UK government will be required, extending current market access arrangements (SADC EPA) unilaterally, on a purely transitional basis (so as to avoid a WTO challenge) until an alternative FTA can be negotiated, which restores parity of treatment for UK exporters with EU27 exporters (note: the UK exports nothing which EU27 exporters couldn't supply) and improves access for SA exports (EPA + involving better access for agricultural exports, improved SPS treatment and rules of origin).

Re-negotiating the recently signed and ratified EPA regime between UK and South Africa is likely to be a protracted process unfolding under similar contextual conditions of the EU led process. It is certain under this scenario that Pretoria negotiators, as was the case under the EPA process, will boldly employ trade-related sensitivities of other SACU economies in addition to

encouraging them to directly participate in the negotiations. Indeed, as with EPA roadmap, South Africa will certainly avoid the TDCA-related costly mistakes of excluding other SACU countries, which is blamed for disrupting in fiscal revenue flows, and dislocating some economic entrepreneurial activities.

Will South Africa's commercial interests suffer from Brexit?

The narrative of South Africa economically suffering from Brexit remains speculative masked with emotions. There is no tangible evidence given that trade remains normal until London and Brussels are confirmed separate trade negotiating platforms. For now, the Brexit threat to South Africa is speculatively linked to potential reduction in export demand if the UK economy become negatively damaged as a result of leaving the EU. Under such speculative scenario, South African industries, particularly agriculture (wine and fresh fruit, especially grapes), precious stones and motor vehicles that currently have established a footprint in the UK economy may become more vulnerable as a result of Brexit induced economic slow-down. This is based on the assumption that Brexit disrupt the UK economy thereby reducing demand for South African products. But, without indisputable scientific evidence, this remains a theoretical fear. Indeed, in reality, there is no evidence of negative impact in the areas of trade revenues, FDI, finance and portfolio investments. But, the ongoing scramble for Africa in which significant global trading partners including emerging economies – the BRICS – are strategically positioning themselves, using South Africa as the gateway into the continent in terms of both markets and investment, suggest also that the UK will carefully consider the imperative of maintaining existing legal binding clauses in government both trade and investment flows.

The UK is unlikely to support the Common Agricultural Policy (CAP), which the EU employed to subsidise agricultural production. Gibb (2016) argues that "what is certain is that no UK government would subsidise agriculture on the scale operated under the EU". This suggests that any UK negotiated agricultural tariff is likely to be less restrictive than the current CAP one. The UK will be expected to reduce agricultural imports from the EU due to the functioning of the CAP thereby opening up opportunities for South Africa to export more agricultural products, especially wine, fruits, beef and sugar to that economy. Similarly, most provisions contained in the current EPA are likely to remain intact.

There is no doubt that the UK is an important trading partner of South Africa for centuries. There is equally no doubt that South Africa needs the UK market as well as investment flows. Thus, failure to recognise this perspective may lead South Africa to loss trade and investment opportunities.

2.4.3 Essay 8: A Private Sector Perspective on Priorities for UK-Africa Trade Relations Post Brexit

Dr Edward George, Country Head, UK Representative Office & Head of Group Research, Ecobank.

ABSTRACT

Brexit could significantly boost trade relations between the UK and Africa in the long term, but in the short to medium term it raises as many problems as it does opportunities. The UK is held in high esteem across Africa and the British model of doing business – open, dynamic and underpinned by English law and credible benchmarks – is well suited to crafting bespoke trade deals with African countries. Key priorities for the UK are the four largest Anglophone countries – Nigeria, South Africa, Kenya & Ghana – and the two largest Francophone countries – Côte d'Ivoire & Senegal. These deals could target existing trade & investment flows, as well as support the transfer of knowhow and technology to Africa, something the EPAs have been criticised for lacking. However, until the UK completes its exit from the EU (a process that will take at least two years), Brexit will be an obstacle to any new trade deals for Africa (e.g. the EAC).

Brexit has the potential to transform trade relations between the UK and Africa, drive economic diversification and foster new business partnerships between British & African companies. But in the short to medium term it raises as many problems as it does opportunities. If Brexit has one undeniable implication, it is that the UK needs to develop trade relations with countries and regions outside the EU. More than forty years of integration into European institutions and the Single Market has come at the expense of the UK's other international partners, many of whom sit in Africa. This means that African trade has played second fiddle to the EU, which currently accounts for over 50% of the UK's trade flows with the world, while Africa manages just 2.6% of the total. As the post-Brexit landscape emerges, there is an opportunity – indeed an imperative – for the UK to deepen trade relations with Africa, with which Britain has a strong and positive relationship. Across Africa the UK is held in high esteem for its economic and cultural achievements, both of which have been cemented by longstanding family and investment ties between the UK and Africa. Moreover, the British model of doing business – open, dynamic and underpinned by English law and credible benchmarks (such as LIBOR and Brent Crude) – is admired across the continent and is well suited to

crafting the kind of bespoke trade deals with African countries that could follow Brexit. The problem is that British officials are focused on forging trade deals with the world's largest economies, from the USA to China and India. But by focusing on the largest economies, the UK is missing out on a huge opportunity. Because over the next century Africa is set to be the world's fastest-growing region. This growth will be underpinned by economies that are rapidly diversifying and growing their consumer base. Africa already has one fifth of the world's population and one quarter of its under-18s, and this proportion will rise dramatically over the next 50 years. In tandem, African purchasing power, the rate of urbanisation, and demand for goods and services will also rise. As the UK recalibrates its global trade relationships, Africa needs to be a key partner.

The UK's post-Brexit strategy should focus on three groups of African countries

Given the sheer size and complexity of Africa, any post-Brexit strategy must focus on key markets. These fall into three groups. Top of the list are Africa's four largest Anglophone countries: South Africa, Nigeria, Kenya & Ghana. These countries should form the backbone of the UK's post-Brexit Africa trade strategy, together accounting for over half of the UK's trade with Africa.

Country	UK exports to	UK imports from	Total trade flows with UK	% total
South Africa	3,368	5,904	9,272	32,2%
Nigeria	1,621	2,173	3,794	13,2%
Algeria	552	2,731	3,283	11,4%
Egypt	1,621	906	2,527	8,8%
Morocco	1,545	884	2,429	8,4%
Angola	733	1,006	1,739	6,0%
Kenya	699	404	1,103	3,8%
Ghana	509	308	818	2,8%
Ethiopia	476	68	544	1,9%
Côte d'Ivoire	213	291,999	505	1,8%
Other	893	1,902	2,795	9,7%
Total	12,231	16,578	28,809	100.0%

Table: UK trade with Africa, USD millions, 2015

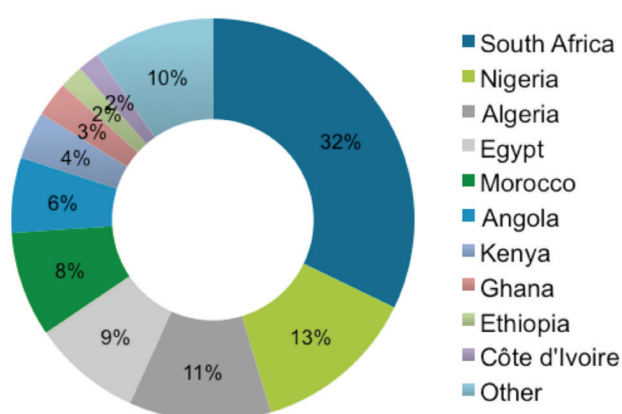


Fig.3 - Pie chart: % share of UK's total trade with Africa, 2015, USD

South Africa is the UK's largest single trade partner in Africa, with trade flows worth USD9.3bn in 2015, around one third of the total. This reflects South Africa's importance as a supplier of gold, platinum group metals and citrus fruits to the UK market, as well as its role as an offtaker of British capital goods (machinery, vehicles & electronics). Given the wealth of mineral and agricultural resources in South Africa, along with its vibrant financial and services sector, the potential to boost UK-South African trade and investment is enormous and should be a top priority.

The UK's trade flows with Nigeria are dominated by imports of Nigerian crude (worth USD2.1bn in 2015, or 55% of the total) and exports of capital and consumer goods. But given the size of the Nigerian economy and its potential to develop into Africa's single largest consumer market, there is huge potential to

diversify UK-Nigeria trade and investment flows, notably in the services, media, engineering, logistics, food processing and manufacturing sectors. Trade with Ghana also has the potential to diversify beyond Ghanaian exports of cocoa, fish and fruits (70% of the total) and imports of British capital goods.

Trade with Kenya is focused on exports of agricultural goods, ranging from cut flowers & live plants to tea and coffee, which are matched by imports of British capital goods, pharmaceuticals and textiles. Given Kenya's position as East Africa's leading trade and investment hub, supported by Africa's most dynamic and disruptive financial sector, there is huge potential to boost UK-Kenyan partnerships across a wide array of sectors where the UK flourishes, ranging from financial services and fintech to value chain management and engineering.

Given the advantages of a shared common language (English), strong cultural & family ties, a similar legal system and membership of the Commonwealth, these four Anglophone countries are ideal partners for deepening UK-African trade and investment, each offering opportunities to diversify trade flows and develop new partnerships.

The second group of African countries to prioritise are North Africa's three largest economies: Algeria, Egypt & Morocco. Together these countries accounted for 28.6% of the UK's trade flows with Africa in 2015, worth an estimated USD8.2bn. UK imports from Algeria are dominated by crude oil & gas (98% of the total), but they are more varied for Egypt & Morocco and include electronics, textiles and food. UK exports to these countries are equally varied, including capital goods, food, textiles and pharmaceuticals. Given the growth of purchasing power and diversification of these economies, the UK is well positioned to expand its market share in North Africa's consumer markets and to develop new partnerships in the services, manufacturing and logistics sector. The third African group is where the UK is missing a trick, namely Africa's two largest Francophone countries: Côte d'Ivoire & Senegal. Both countries will be two of the fastest growing African economies in 2016 and 2017, producing, processing and exporting commodities to world markets whilst also acting as hubs for trade and services across the CFA Franc Zone. But despite their importance to West African trade flows, the UK's trade relations with Côte d'Ivoire and Senegal are relatively weak, comprising just 2.4% of UK-Africa trade flows. This reflects the predominantly Francophone focus of the CFA Franc zone, which has crowded out Anglophone investors. This is more a reflection of 'business as usual' than prejudice; Francophone businesses would welcome British partners given the relative lack of competition in their markets. And there are many sectors where the flexibility and openness of the British model of doing business would confer a huge advantage

over French corporations, which have been given an easy ride for decades.

Together these three groups, comprising nine African countries, accounted for 83% of UK-Africa trade flows in 2015, and there is immense potential to expand these flows, diversify them and build new partnerships between British and African companies and governments. This will require a clear and pragmatic policy approach by the British government, dispensing with wishful thinking and vacuous pledges. Instead, the focus should be on what makes up each country's trade flows with the UK, how these flows can be enhanced and diversified, and which sectors are worthy of special attention and support.

Brexit offers the UK an opportunity to develop a fairer trade relationship not based solely on the import of raw commodities and export of capital goods. For example, the UK's fintech sector, with revenues of USD6.6bn last year, has demonstrated how the innovative and business-friendly British model can meld with African ingenuity and deep knowledge of local markets to create huge successes. Mobile money platform M-PESA (which began as a start-up funded by the UK's Department for International Development) is an African poster child for the sector. There is huge scope for other British business sectors to expand into African markets, from engineering and logistics, to consumer goods, services and education.

Brexit negotiations are a handbrake on future trade deals.

However, development of UK-Africa trade relations faces a serious obstacle in the short to medium term – namely, the Brexit negotiations themselves, which are likely to last until end-2018, and possibly longer. Discussions to extricate the UK from the EU will be fraught and complex, attempting to disentangle many interlocking issues, and they will act as a brake on new bilateral trade deals. Many countries and companies invest and trade with the UK because of its status as a world finance hub and its membership of the EU's Single

Market. Unravelling these commercial relationships will be time-consuming and could fundamentally alter the way the UK fits into the world economy. As a result, any trade negotiations with African countries will have to be provisional, as their shape and scope will be influenced by the deal the UK secures with the EU. Take the case of East African exports of cut flowers to the UK and the Netherlands; any post-Brexit deal will need to take account of both interlinking flows in order not to disrupt the value chain.

The 'Brexit handbrake' is already hampering the EU's attempts to conclude negotiations for Economic Partnership Agreements (EPAs) with Africa's key regions. In East Africa Kenya has broken ranks with its peers to sign up to the EPA, concerned that if it missed the deadline its status as East Africa's only Medium Developed Country (MDC) would result in it losing duty-free access to EU markets for its cut flower exports. In contrast Tanzania and Uganda, which are both Least Developed Countries (LDCs), have refused to sign up, as their trade with the EU is already covered by the Everything But Arms (EBA) deal. These countries have long grumbled that they stand to gain little from an EPA, which will open up their markets to EU

exporters and service providers over the next 25 years while doing little to promote industrialisation in Africa and the transfer of skills.

The serious divisions within the EAC over the EPA are a powerful example of how Brexit could reset trade relations between the UK and Africa, offering a more equitable model under which British and African companies can collaborate, invest, and trade with each other for mutual benefit. It is therefore critical that the UK makes Africa integral to the post-Brexit trade agenda

2.4.4 Essay 9: Lessons from EPAs for UK-Africa Trade Relations – A Civil Society Perspective.

Ruth Bergman, Coordinator of the Trade Justice Movement

ABSTRACT

This essay argues that the UK can learn three key lessons from the EU's negotiations towards Economic Partnership Agreements. First, that the priorities and concerns of developing countries must be fully addressed. Second, that commitments under the Sustainable Development Goals must shape the nature of any trade arrangements. Finally, that trade arrangements need to take account of developing countries' broader regional and international goals. The essay concludes by arguing that the decision to leave the EU presents an opportunity to design trade relations that genuinely support development goals and that the UK can set the tone for this by undertaking an urgent review and reform of the protections it offers to international investors.

INTRODUCTION

The result of the UK referendum on EU membership has given rise to questions about the future of UK trade policy. A new Department for International Trade has been established and it seems likely that the UK will have to negotiate new trade agreements with a range of trading partners, including developing countries, in the coming years. Trade and investment are also key priorities for the new Secretary of State for International Development.

EU trade relations with the world's poorest countries are set out the Lome Convention, superseded by the Cotonou agreement and the launch of negotiations on Economic Partnership Agreements (EPAs) in 2000⁶¹. EPAs have been of significant concern to civil society organisations in both the UK and Europe, with campaigns involving hundreds of thousands of people. The Trade Justice Movement coordinated high profile public campaigns, including a mass lobby of European embassies in London, calling for the EU to not 'lock

Africa into poverty'⁶². EPAs were one of the early examples of how, despite being a complex, technical issue, trade captures the public imagination because of the deep connection to issues of justice and power relations. The campaigns were built on a significant body of research and analysis, developed with governments and partners in the African, Caribbean and Pacific (ACP) countries. This essay sets out the key concerns of the campaign and points to ways in which the UK can avoid repeating the same mistakes as it takes back competence for trade and investment policy.

NON-WTO ISSUES

One of the most challenging aspects of the EPA negotiations was the EC's attempt to include issues that go beyond existing WTO commitments, for example the liberalisation of investment and competition. These issues have long been contentious at the WTO and African countries have serious concerns about the 'sunset clauses' included in EPAs that commit them to negotiating on these issues.

⁶¹ See European Commission The Lome Convention, The Cotonou Agreement available at http://ec.europa.eu/development/body/cotonou/lome_history_en.htm and Economic Partnerships available at http://ec.europa.eu/trade/policy/countries-and-regions/development/economic-partnerships/index_en.htm both accessed 18/11/16

⁶² Trade Justice Movement (2007) Campaigners stage first ever simultaneous lobby of all EU embassies in London to call for a stop to unfair trade deals available at <http://www.tjm.org.uk/latest-news/8-press-releases/54-campaigners-stage-first-ever-simultaneous-lobby-of-all-eu-embassies-in-london-to-call-for-a-stop-to-unfair-trade-deals-19-april-2007.html> accessed 18/11/16

The problems associated with investment protection provisions have been in the spotlight in recent years due to the proposed inclusion of such a chapter within the Transatlantic Trade and Investment Partnership (TTIP – a trade agreement between the EU and the US)⁶³.

However investment protection provisions arguably pose even greater threats to developing countries. These provisions, usually contained in Bilateral Investment Treaties (BITs) or in Free Trade Agreements (FTAs) offer protections to international investors that are not available to domestic companies or citizens, with no corresponding responsibilities placed on investors. One of the most problematic provisions is an Investor-to-State Dispute Settlement (ISDS) mechanism, which allows international investors to sue governments in international tribunals if they believe a policy undermines the profitability of their investment. The costs associated with these cases are extremely high, although these are dwarfed by the magnitude of the awards granted to winning investors. There is growing evidence that the fear of facing a case deters governments from taking legitimate policy decisions in relation to important sectors such as health and energy⁶⁴. There is meanwhile little evidence that the existence of such deals influence investment decisions or increase investment to developing countries⁶⁵.

⁶³ Hazel Sheffield (25 April 2016) TTIP: UK Government found secret courts in trade deal have 'lots of risk and no benefit' in its only assessment London: The Independent, available at <http://www.independent.co.uk/news/business/news/ttip-uk-government-only-did-one-assessment-of-trade-deal-and-found-it-had-lots-of-risks-and-no-a6999646.html> accessed 18/11/16

⁶⁴ London School of Economics (2014) Interview: Toby Landau QC on arbitration and human rights London: LSE, available at <https://www.youtube.com/watch?v=bJaoAD-pICJs> accessed 18/11/16

⁶⁵ Hallward-Driemeier, Mary (2003) Do Bilateral Investment Treaties Attract Foreign Investment? Only a Bit ... and they could bite Washington: World Bank

The outcomes of such cases can have detrimental impacts for women and men living in poverty. For example, in a claim brought by Standard Chartered Bank against Tanzania, related to the provision of energy, there have been no less than three arbitral proceedings relating to the purchase by the bank (via companies in Hong Kong and Malaysia) of a bundle of investment assets, including a loan for the building and operation of an electricity generation facility in Tanzania. Although, to date, no award has been made, the government has stated that the counsel and expert costs for just one of them will amount to more than US\$8 million. In the most recent case, the tribunal ordered the parties to recalculate the electricity tariff, increasing costs for end users⁶⁶. Because developing countries have a greater need to make changes to policy or introduce new policies that might increase costs to business, they are at increased risk of cases.

Although the EU took over competence for investment under the 2009 Lisbon Treaty, member states have retained competence for existing agreements via a 'grandfathering' arrangement. The UK has 106 BITs, twenty-five of which are with African countries, and more than fifty cases have been initiated by UK companies. Yet UK agreements are out of date: they have not kept pace with global reform trends, nor have they been updated to bring them in line with human rights and environmental commitments. For example, despite being one of the UK's more recently agreed deals, the BIT between the UK and Ethiopia contains no language to protect Ethiopia's right to regulate to protect the environment and human rights.

⁶⁶ Ruth Bergan (2015) Worried About UK BITs? The case for reviewing UK investment protection provisions London: Trade Justice Movement

INDUSTRIALISATION

Industrialisation – moving away from reliance on low-value raw materials and unprocessed agricultural products and towards higher-value manufactured goods – has long been a key development goal of many African countries⁶⁷. One of the major concerns raised during the EPA campaign regarded the levels of liberalisation that were demanded by the EU, which pushed for at least 80% liberalisation of all tariff lines – i.e. for the removal of import taxes on the majority of all products. Yet for many African countries, tariffs are an important tool to support industrialisation and they feared that the EU's proposed levels of liberalisation would be hugely damaging to many of their industries.

There are a number of ways in which the proposed tariff liberalisation could negatively impact on progress towards industrialisation. African countries have much more limited range of industries as compared with the EU, which means that they can ill-afford for even a small number to be undermined by premature liberalisation. Few African companies are in a position to compete with European companies: they are competitive in only three to fourteen percent of tariff lines, depending on the region⁶⁸. African countries also lack the resources make use of alternative strategies to support industries and mitigate for lower tariff levels (which means lost government revenue), such as support for research and development or alternative taxation⁶⁹.

⁶⁷ See for example African Union (2008) Action Plan for the Accelerated Industrial Development of Africa available at http://au.int/en/sites/default/files/documents/30985-doc-plan_of_action_of_aida.pdf accessed 18/11/16

⁶⁸ South Centre (2012) The EPAs and Risks for Africa: Local Production and Regional Trade Geneva: South Centre
⁶⁹ For a summary of these concerns see for example South Centre (2012) The EPAs and Risks for Africa: Local Production and Regional Trade Geneva: South Centre

African countries therefore feared that EPAs would lock them into low value production, seriously hindering efforts to reach their development goals.

REGIONAL INTEGRATION

There has been growing recognition that domestic and regional markets are critical to development, particularly in the wake of the 2008 financial crash and the impacts on developing countries of things like volatile food prices. Boosting regional trade can help reduce exposure to shocks by allowing developing countries to diversify their export markets⁷⁰. It can also help to increase both the number and quality of jobs⁷¹. Regional integration has therefore been a priority for African countries for many years; the ultimate aim is to establish an African Economic Community (AEC), as set out in the African Union Plan for Boosting intra-African Trade⁷². The Cotonou Agreement, recognises the importance of regional integration and specifically states that EPA negotiations shall take into account regional integration processes and build on existing initiatives⁷³.

However significant fears were raised over the course of the EPA negotiations that the resulting deals would in fact hinder regional integration processes. The EU's approach to EPAs exacerbated an already complex situation by creating further overlaps in African country groupings. One of the biggest problems

⁷⁰ Powell, Sophie (2007) Economic Partnership Agreements: Building or shattering African regional integration? Nairobi: EcoNews Africa; Kampala: SEATINI and London: Traidcraft Exchange

⁷¹ All Party Parliamentary Group for Trade Out of Poverty (2016) Inquiry into the UK's Africa Free Trade Initiative, Final Report p.30 London: APPG Trade Out of Poverty

⁷² For more information on African Union plans, see Boosting Intra-African Trade available at <http://www.au.int/en/ti/biat/about> accessed 17/11/16

⁷³ European Commission (2010) The Cotonou Agreement and multiannual financial framework 2014-20, p49 Brussels: European Commission

was the inclusion of Least Developed Country (LDC) and non-LDC countries in the same EPA groups.

LDCs qualify for membership of the EU's 'Everything But Arms' scheme, which gives them duty-free access to the European market for everything except arms exports⁷⁴. LDCs therefore have little need to sign a further free trade agreement, yet they have come under huge pressure from both the EU and the non-LDC group members to sign. If they choose not to, EU exports could still reach their markets, at low or no tariff levels, via non-LDC regional members of other country groupings who have signed. The only solution to this would be costly border controls with their neighbours, but this would run counter to regional integration efforts. Non-LDC members feared a significant worsening of their trade position if EPAs were not signed.

Progress on regional integration in Africa has been slow for a number of reasons, including a lack of resources for regional institutions and secretariats to support cooperation, and barriers in the form of poor hard and soft infrastructure⁷⁵. African countries need time and resources to address these issues and the creation of yet more overlapping configurations during the EPAs negotiations meant that resources for this were instead further stretched.

CONCLUSIONS AND RECOMMENDATIONS

The UK government needs to ensure that post-Brexit trade policies are pro-poor and equitable for men and women in Africa. Many countries already have unilateral trade preference schemes for developing countries and such schemes can be designed so as to be fully compatible with WTO rules, for

example the US African Growth and Opportunities Act (AGOA). Brexit provides an opportunity for the UK to design a trade preference scheme that improves on the EU arrangements and does not replicate their limitations. It should be a duty-free, quota-free system that covers many tariff lines as possible and that allows for regional sourcing by developing countries, through simple and flexible rules of origin to enable maximum regional cumulation and hence value addition for developing countries. Work needs to begin immediately to design transitional arrangements and a new preference schemes. The UK can set the tone for the future direction of trade and investment policy by undertaking an urgent review and reform of the protections it offers to international investors.

The following represent some first steps that the UK can take as it takes back competence:

- The UK needs to give assurance to African countries and producers at the earliest opportunity that they will be offered at least equivalent and preferably better terms of trade as the UK withdraws from the EU in order to avoid disruption in Africa-UK trade relations.
- Serious thought must be given to the constraints faced by African countries, in particular LDCs, when it comes to negotiations. The negotiation process should be adapted to take into account the lack of developing country negotiating capacity, and aid for trade should continue to be used to support this.
- An urgent review and reform of the protections offered by the UK to international investors, including existing treaties and the practices of third party funders must be undertaken. ISDS must be removed from existing deals and it should not be included in future deals, instead working with African countries to design and implement alternative

⁷⁴ European Commission (2013) Everything But Arms (EBA) – Who Benefits? Brussels: European Commission

⁷⁵ South Centre (2007) Regional Integration and the EPAs Geneva: South Centre

arrangements for investment protection.

- Robust and gender-sensitive assessments should be carried out of the potential environmental, economic and social impacts of the core provisions of trade deals with least developed countries (LDCs), and of the potential impact of deals between the UK and large developing countries with similar exports to those of LDCs.

- The UK has already recognised regional integration as a priority for developing countries, for example in its white paper of 2011, over the coming years more work should be done to improve this and ensure the outcomes of this are genuinely pro-poor⁷⁶. For example, the same type of preferential access should be offered to all African countries, rules of origin should permit regional sourcing and aid for trade should be used to support regional infrastructure that reaches smallholder farmers, women traders and communities living in poverty.

- Agreements should allow developing countries to implement the full range of policies necessary to reduce poverty and develop their economies, notably to retain the flexibility to shelter vulnerable sectors from competition in order to achieve overall national development goals.

⁷⁶ Department for Business, Innovation and Skills (2011) Trade and Investment for Growth London: Department for Business, Innovation and Skills

2.4.5 Essay 10: Principles and Options for the UK's Post-Brexit Trade Arrangements with Africa

Dr David Luke, Jamie MacLeod (Africa Trade Policy Centre at the UN Economic Commission for Africa)

ABSTRACT

Faced with uncertainty as to how the UK's future trade policy landscape will evolve, three guiding principles can anchor the UK's trade policy approach to Africa: 1) supporting Africa's regional integration priorities, 2) Pro-poor, pro-development arrangements, and 3) market access continuity. Pursuant to this, the UK should take a continental approach to an African trade agreement as distinct from the fragmented approach of the EU's Economic Partnership Agreements (EPAs), improve upon the EPAs for a truly development-oriented trading partnership, and create transitional arrangements to ensure continuity in market access arrangements as a bridge towards a comprehensive trade agreement with Africa.

INTRODUCTION

When the UK joined the European Economic Community 43 years ago, it transferred all authority for its trading arrangements to the Community. In 2015, the UK's £717 billion in trade was channelled through these clear and predictable legal and institutional frameworks. For Africa, this encompassed the Cotonou and its predecessor agreements, which expanded preferential access into the EU market and more recently established the Economic Partnership Agreements (EPAs) through which Africa is poised to gradually open up 75–80 per cent of its own market to the EU. After years of arduous negotiations and despite opposition, some progress has been made in finalizing these agreements in the last few years.

The UK's decision in July 2016 to exit from the European Union is both a challenge and an opportunity for the UK-Africa trading relationship. The exact form in which the UK will leave the EU has not yet been determined. This throws up uncertainties for the formulation of Africa's future trading relationship with the UK, as well as the continuation of Africa's current arrangements with the EU. At the same time, the African countries are negotiating a mega-regional free trade agreement of their own, which is likely to require a rethink of Africa's trading relationship with the rest of the world.

Given the importance of the UK market for many African countries, it is crucial that UK trade policy towards Africa going forward is consistent with Africa's developmental needs. Despite the current uncertainty, some guiding principles can be identified which also draw lessons from the EPA and other experiences, and ensures continuity and certainty for African businesses reliant on the UK market. These principles should be to 1) support Africa's regional integration priorities, 2) support pro-poor, pro-development arrangements, and 3) ensure market access continuity.

SUPPORT AFRICA'S REGIONAL INTEGRATION PRIORITIES

Africa's regional integration is a priority for the continent. Integration was a key objective of the African Union when it was formed in 2000, itself stemming from agreement for a Continental Customs Union in the 1991 Abuja Treaty and related aspirations in the immediate post-independence period when the Organisation for African Unity was formed. A recent milestone was the launch of the Continental Free Trade Area (CFTA) negotiations in June 2015. When it becomes operational, the CFTA will bring 54 African countries into one market with a combined population of over one billion people and a GDP of US \$3.4 trillion.

The CFTA is a policy cornerstone of African economic development. It offers a stronger basis for Africa's industrialisation by making scale economies possible in a continent of fragmented markets and by supporting the expansion of intra-African trade, which embodies a greater share of value-added and industrial products. This intra-regional trade facilitates regional value-chains, with such examples as South African made automobiles with leather seats from Botswana and Swazi zippers on Lesotho's clothing and apparel. These developing value chains diversify Africa's exports, reducing dependency on primary commodity exports, which have fallen in value following the end of the 1995-2012 commodity super cycle.

Table 1 illustrates this, demonstrating how intra-African trade is contributing to the growth of Africa's processed and value-added exports: between 2000 and 2014, the intra-Africa market accounted for 57 percent of Africa's export growth in capital goods, 51 percent in processed food and beverages, 46 percent in consumer goods, 45 percent in transport equipment, and 44 percent in processed industrial supplies. Intra-African trade increased dramatically from \$18 billion to \$82 billion, in real terms, over this period ⁷⁷

While intra-African trade is looking promising, the Mega-Regional Trade Agreements (MRTAs) under development, such as the TPP, TTIP and RCEP, are expected to contribute to preference erosion and increased competition for Africa on the MRTA markets⁷⁸. ECA research has shown that the implementation of the

CFTA would through increased intra-African trade help mitigate these losses⁷⁹.

It should be noted that regionalisation and the fostering of regional investments and value chains is widely regarded as a success story in Southeast Asia, with ASEAN helping to propel the rapid growth of the 'tiger cub' economies through such channels.

As such, the UK's trade policy towards Africa must be cognisant of Africa's continental integration opportunity and priorities. It must draw lessons from the EPAs, which divided Africa into regional blocs that were mostly not coterminous with the existing regional economic communities and after 14 years of negotiations have struggled to gain popular support. This is also in part due to discordance with African trade policy, making the EPAs difficult for African leaders to endorse and champion. Caution should also be drawn from the experience of the U.S. in the Americas, which through picking 'can do' Latin American countries for bilateral negotiations split Latin America into those with trade agreements with the U.S. and those without. To this day the MERCOSUR countries to the east of South America remain as a separate block from the 'can do' countries in the west, hindering prospects for further regional integration. It is important that the UK's trading arrangements, and those of other partners, do not pick apart the African regional integration agenda and the considerable benefits it can provide. The developmental value of Africa's regionalisation, the commitment of African leaders and development institutions to continental integration and the CFTA, and the lessons of not just the EPAs, but of Latin America and ASEAN emphasise the need for the UK to take a continental approach to its future trading arrangements with Africa.

⁷⁷ As calculated in real 2010 dollars, to deflate exchange rate and inflation changes.

⁷⁸ These are the Trans Pacific Partnership (TPP) between the U.S. and Pacific Rim countries, the Transatlantic Trade and Investment Partnership (TTIP) between the U.S. and the EU, and the Regional Comprehensive Economic Partnership (RCEP) between the ten ASEAN member countries of Southeast Asia and Australia, China, India, Japan, South Korea and New Zealand.

⁷⁹ Mevel S. and M. Mathieu. (2016). "Emergence of mega-regional trade agreements and the imperative for African economies to strategically enhance trade-related South-South Cooperation". Paper selected for presentation at the 19th Annual Conference on Global Economic Analysis, Washington D.C., 15-17 June 2016.

		Share of Africa's export growth attributable to each market			
Export Category		Emerging Markets	Intra-Africa	Developed Markets	Other Developed Markets
Food and beverages	Primary	14%	18%	31%	36%
	Processed	3%	51%	30%	15%
Industrial supplies	Primary	43%	15%	6%	36%
	Processed	15%	44%	27%	13%
Capital Goods		3%	57%	28%	12%
Transport equipment		5%	45%	45%	6%
Consumer Goods		5%	46%	30%	19%

Table 2: Share of Africa's Export Growth in Non-Extractive Export Categories, By Destination Market, 2000-2014

Engagement with Africa at the continental level, for a comprehensive UK-Africa level relationship, should drive post-Brexit UK trade policy towards Africa. This is of mutual benefit, as it will also provide the UK with a simpler framework than engaging with individual countries or smaller blocs, and also taking into account that the UK has weaker historical ties with the non-Anglophone African countries.

SUPPORT PRO-POOR, PRO-DEVELOPMENT ARRANGEMENTS⁸⁰

To create a framework which addresses Africa's industrialisation ambitions, a continent-wide trade agreement with Africa should incorporate limited reciprocity, immediate access to the UK market, flexible rules of origin that allow for cross-cumulation and phased-in UK access to the African market. Such an approach will heed the lessons of the failed US-led Free Trade Area of the Americas

⁸⁰ Values compare the export growth between three year averages of 1998/00 and 2012/14, and calculate the proportion of export growth attributable to each market such that $\text{Share Attributable}_{ij} = (\text{Exp}_{ij,t} - \text{Exp}_{ij,t-1}) / (\text{Total}_{i,t} - \text{Total}_{i,t-1})$, where i is the export category, j is the buying market, and t is the time period. Exp is the value of exports of category i to market j while Total is the total value of exports from Africa of product j . Emerging markets are India, Brazil, Turkey and China. Developed markets includes all developed countries. Non-extractive Exports here exclude petroleum oils (SITC 33), gas (SITC 34), non-ferrous metals (SITC 68), metalliferous ores and metal scrap (SITC 28), crude fertilizers and minerals (SITC 27), coal, coke and briquettes (SITC 32), as well as the remaining precious metals in HS 71, uranium (HS 2844), and the basic iron products of HS7201 – HS7206.

(FTAA) initiative, in which a one-size fits all trade agreement with no flexibilities for its less developed members was ultimately rejected by the 34 countries of the Americas in 2005. On the other hand, a part of the success of ASEAN was in allowing less developed members to integrate at a slower more manageable pace, but in the same direction and to the same destination of convergence. Similarly with Africa, the UK should take cognisance of the variety of country economic configurations and country needs across the continent. While the EPAs have aspired to incorporate some of the core elements outline above, the UK can build upon and improve the approach taken by the EU. For a truly development-oriented trade agreement, the future relationship should also include considerations for the environment and climate change, and in particular green technology transfer; free of subsidies that unfairly disadvantage African agriculture, fostering a rural poverty trap; and create partnerships in trade in services to help African countries learn from the UK's strengths on services. Provisions on agriculture will be of particular interest for ensuring that future UK arrangements with Africa are pro-poor and pro-development.

In particular, the new UK-Africa trade relationship should seek to address EU technical barriers to trade, which have restricted the UK market for products in which Africa has a comparative advantage,

such as tropical fruits and vegetables, fish and bovine meats. The South African Citrus Growers Association has suggested that revised UK plant health regulations on citrus imports could be easier to comply with than present EU regulations. Similar improvements could be made for fish and beef, of which African exports to the EU have fallen following compulsory and expensive regulations. An example relates to regulations to prevent BSE, which are applied to African countries in which BSE has never been diagnosed. But it is also recognised that the UK may wish to continue to utilise EU standards in some areas, so as not to duplicate regulations where unnecessary.

ENSURE MARKET ACCESS CONTINUITY

The uncertainty created by Brexit is likely to impact African business and investment in a negative way. Transitional trading arrangements will be required while a new agreement takes shape to alleviate some of these effects. The UK will have many negotiating priorities during Brexit, and such transitional arrangements must bridge the gap to a more comprehensive and progressive trade agreement as advocated in this chapter.

The most preferable option is for the UK to incorporate transitional arrangements into its EU exit agreement, such that it temporarily continues to participate in EU–Africa trade arrangements. This is a procedure commonly referred to as ‘grandfathering’, which will require current parties to EU trade agreements to agree to temporarily maintain the current trade arrangements. Effectively the UK would retain transitional participation in certain EU agreements, providing legal certainty and assurance for African exporters and investors, and continuity for African businesses.

Such an approach is not without its challenges. Temporary arrangements should not slow down the achievement of permanent solutions. Assuming a ‘hard’

Brexit and the UK leaves the European customs union, side agreements may also be necessary to determine how rules of origin and cumulation would apply for UK goods incorporating European inputs, for instance. But these arrangements would help streamline Africa’s export requirements, while providing valuable market access continuity that helps businesses continue to invest and grow.

CONCLUSIONS

Brexit presents challenges and opportunities for the UK’s future trading relationship with Africa. Notwithstanding the current uncertainty, this chapter has proposed three guiding principles onto which the UK can ground its Africa trade policy which would advance the Anglo-African development partnership. To recap, these are, 1) support Africa’s regional integration priorities, 2) support pro-poor, pro-development arrangements, and 3) ensure market access continuity. By adhering to these principles, the UK can sow the seeds for a successful trade policy engagement with Africa that draws from past lessons and experiences to arrive at a trade agenda that is consistent with Africa’s developmental needs.

2.4.6 Essay 11: Supporting African Development Agendas in our Future Trading Relationships

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ABSTRACT

The UK is a valuable export destination for many African nations. Brexit could lead to an increase in UK import tariffs being applied to their goods; making them less competitive. African countries should not be rushed into negotiating hasty trade agreements. This will prematurely expose their domestic markets to competition, limit the policy space of governments and hinder regional cooperation. Instead the UK should offer non-reciprocal market access to economically vulnerable countries. The incorporation of flexible rules of origin would encourage regional integration and cooperation, helping African states to diversify, move up the value chain and contribute to development.

INTRODUCTION

The outcome of the referendum on the UK's membership of the European Union (EU) and the prospective departure of the UK from the EU has created significant uncertainty for trading partners in developing countries. These countries face multiple challenges including the potential for an increase in tariffs for goods imported into the UK, reduced demand for their produce and increased bureaucracy to meet the demands of multiple markets. The UK faces complex negotiations with the EU before turning its attention to the wider world. It is unlikely that Britain will prioritise its trading relationship with African nations who face the prospect of increased tariffs until alternative measures are put in place. The government could alleviate the pressures facing these states by offering non-reciprocal tariff free access to economically vulnerable countries. This would offer certainty and continuity to producers who rely on exports to the UK for their livelihoods. It would not require extensive negotiations and would allow the UK and African nations to normalise their trade relationships in the immediate post-Brexit period.

UK- AFRICAN TRADE

The UK imports approximately £15.5bn⁸¹ worth of goods from African countries each year with just under a third of this entering the UK under preferential terms devised to benefit the least developed countries. The UK provides this non-reciprocal duty-free, quota-free access to developing economies via the generalised scheme of preferences (GSP), GSP+ and everything but arms (EBA) initiatives⁸². These allow a range of imports from developing countries to enter the UK without the application of import taxes. The waiving of taxes on these imports reduces the price of products from developing countries which enables them to compete with goods from developed countries and increase their share of global trade. This benefits workers through increased job security, better wages and improved working and living conditions. In addition to these preference schemes some African states have also entered into the reciprocal Economic Partnership Agreements (EPAs) covered in other sections of this report. Depending on the outcome of the Article 50 negotiations, the UK may opt for a complete withdrawal from the EU. This would mean it will no longer be party to

⁸¹ Average 2013-15 taken from Eurostat COMEXT database using current exchange rates (1GBP = 1.16EUR)

⁸² http://ec.europa.eu/trade/policy/countries-and-regions/development/generalised-scheme-of-preferences/index_en.htm

these schemes and African countries face the prospect of losing their preferential market access to the UK automatically on the day of exit. If the UK were to simply adopt the current EU tariff schedule, additional tariffs will be applied to African imports which will reduce their competitiveness. Any reduction in competitiveness would be a challenge on its own but considered in the context of the other pressures facing the UK economy, it could have significant consequences. The reduced value of sterling, predicted increases in the cost of living as a result of inflation and potential increases in UK unemployment will all contribute to a further reduction in demand for African produce. With many countries relying on exporting to the UK as a significant contribution to their economic development any potential trade diversion could be devastating for economic development.

AFRICAN PROSPECTS

Clearly the British government has a number of challenges to overcome as it navigates the complexity of withdrawal from the EU. Before it can negotiate its trade arrangements with third countries it will need to complete the process of exiting the EU. Once this is complete it must establish its tariff schedules at the WTO which will provide a baseline and form the basis of future negotiations. Initial negotiations are likely to include markets deemed to be of most value to the UK; the US, Canada, Australia, New Zealand and the emerging markets of China and India. Even if the government had the resources to conduct parallel negotiations it could be a decade or more before they are in a position to address the issue of trade with African nations. At the other extreme, it would also be detrimental to conduct rushed trade negotiations with African governments simply to secure quick deals. Prematurely exposing African markets to UK exports would be damaging for infant domestic industries and restrict the policy space of African governments.

Engaging in trade negotiations with the UK could hinder African regional integration and the development of an African customs union and continental free trade area. One of the many criticisms of the EU economic partnership agreements with blocs of African countries is that by offering different arrangements to countries in the same customs unions it has led to fragmentation and created intra-African tensions⁸³. Any future UK-African trade negotiations must take Africa's stated development priorities as a starting point⁸⁴, be conducted in a transparent manner and include extensive civil society consultation. None of this would be possible if negotiations were to be conducted quickly after the UK leaves the EU. Rapidly conducted negotiations to suit a UK timetable would not deliver a trade agreement in the best interests of African countries. Given that the loss of preferential market access will damage the prospects of African exports and an adequate FTA would not be feasible in the period following Brexit, the government must look for a suitable interim approach to minimise the potential damage of Brexit on African economies.

DEVELOPMENT FRIENDLY APPROACH

Instead of free trade agreements with African nations the UK could establish the gold standard in non-reciprocal, tariff free market access to economically vulnerable countries. By enabling imports from these countries to enter the UK without imposing import taxes the government could ease some of the pressures facing African countries and ensure much needed stability for African producers whilst enabling UK business and consumers to retain access to lower priced goods. Without positive action by the UK, African states face the prospect of additional tariffs being applied to their goods. For example, around 99% of imports from Swaziland, 80% of imports from Uganda and 55% of imports

⁸³ <http://www.traidcraft.co.uk/media/588c24fc-4d53-4ec1-94fd-d0bdd1d20a9d>

⁸⁴ <http://agenda2063.au.int/en/vision>

from Ghana benefit from the waiving of applicable taxes while remaining trade relies on reduced or zero rated most favoured nation tariffs⁸⁵. The UK could adopt the product coverage of the EU's everything but arms scheme, allowing unrestricted access to all non-arms related goods, and extend coverage to incorporate the most economically vulnerable countries, including those in Africa. This would ensure that there would be no import taxes applicable on around 99% of tariff lines. If eligibility for these preferences was based on established, objective criteria this scheme would not be controversial and would improve on the offer currently made by the UK as a member of the EU. It would comply with World Trade Organisation (WTO) rules which, via the enabling clause⁸⁶, allow developed countries to offer preferential, non-reciprocal terms to developing countries. Given the challenges faced by the government, offering this non-reciprocal access would be a politically attractive option. It would not require extensive negotiations or government resources and could be introduced very quickly. To ensure stability for commercial relationships and investment decisions an interim measure like this would need to be in place for a reasonable timeframe, for example, an initial period of at least 10 years.

While stability and predictability are important factors in maintaining continuity in trade relationships the UK could also adopt policies that would further enhance the trade prospects of African countries. If the UK was to adopt flexible rules of origin it could support African regional integration, enhance cooperation amongst neighbouring countries and enable states to increase the share of value addition taking place on the African continent. Traditionally preference schemes and FTAs have imposed direct shipment rules and other measures to define the levels of

⁸⁵ Kennan, J. and Stevens C. (2016) 'Data to support the creation of a UK trade policy towards developing countries'

⁸⁶ https://www.wto.org/english/docs_e/legal_e/enabling1979_e.htm

processing eligible for preferential exports. If the UK was to adopt a flexible approach it could enable imports from other countries to be processed in eligible states, have value added to them and be exported to the UK without attracting additional tariffs or requiring extensive, costly origin certification. Measures such as this would contribute towards the strengthening of African regional ties and encourage retention of the value addition components of supply chains within Africa.

FUTURE TRADE RELATIONSHIPS WITH AFRICA

The introduction of interim measures in the immediate aftermath of Brexit does preclude the potential for a more comprehensive trade relationship at a suitable time in the future. A maturing continental free trade area or African customs union should foster more cohesive and integrated regional trade, alongside more reliable supply chains. This could mean that African nations will be better placed to form stronger trade partnerships with the UK. As outlined earlier, if this were to occur then any future negotiations between the UK and the African Union must incorporate extensive consideration of the developmental impacts. Negotiations should be transparent and include extensive civil society consultation.

IMPACT ASSESSMENTS FOR 3RD COUNTRIES

In addition to the importance of direct trade between African states and the UK, consideration must also be given to the impacts of the UK's trade relationships with other partners. Each potential agreement, particularly those with large agricultural or mineral commodity exporters, will have implications for competing developing country partners where exporters, farmers and workers depend on international trade for their livelihoods. If the UK reduces tariffs for a large agriculture exporting country such as Australia this will create competition for African producers and

could hamper their ability to trade with the UK. Impact assessments must be carried out to ascertain the potential implications for trade with developing countries if the UK signs agreements with other states. Among other things these must assess the human rights, gender, environmental, economic and social implications. Where risks are identified appropriate mitigating steps should be taken. For example, the Department for International Development could provide technical support to help developing countries diversify their economy.

CONCLUSION

While the UK addresses the many economic, legal and political challenges ahead it must not lose sight of the importance of ensuring open market access for African states. The UK is an important export destination for many African nations. Brexit has created uncertainty that could impact on the competitiveness of African produce, stunt development and lead to increased prices for UK consumers. Workers and producers already coping with low wages and uncertain employment face the prospect of even greater insecurity as a result of the UK leaving the EU. The UK could move to minimise trade disruption with African states by creating a non-reciprocal duty-free, quota-free preference scheme for economically vulnerable countries. This would allow all non-arms related produce to enter the UK tariff free, improving the competitiveness of African produce. Incorporation of flexible rules of origin will enhance regional integration

and allow African states to move away from reliance on primary produce towards higher value processed goods. As it progresses with defining its trade policies outside of the EU the government must ensure that development principles are embedded in its approach. One way this could be achieved is through the adoption of thorough, transparent impact assessments before commencing trade negotiations with third countries. This approach should also be adopted by the UK in any potential future trade negotiations with African Union countries.

Given the uncertainty likely to overshadow UK trade priorities over the coming years, offering unilateral market access for economically vulnerable countries, including African states, is a logical step for the British government to take.

CONCLUSIONS & RECOMMENDATIONS

Many African countries are on a path of rapid and fundamental change with growing economies and populations- Africa's population is predicted to double to two billion by 2050. Will these two billion people sustain themselves, create wealth and drive global growth? Or will they remain comparatively poorer and struggle to add value to their raw materials and break into international trade? This is a crucial moment in the UK's relationship with Africa and the world. The UK has a long history of trade with Africa, some harmful, some enriching. Now comes another turning point. The UK will no longer be bound by EU rules of trade with ACP countries. Outside of WTO rules it is free to make its own deals on its own terms anywhere in the world. UK's agreements with Africa should establish flexible and fair trading relationships that support Africa's development, industrialisation and regional integration plans. There is little point in having a £2.5 billion aid programme if development is undermined by damaging trading arrangements.

EPA negotiations began more than a decade ago and since then the mood has changed. The trend towards further integration through a myriad of rules and technicalities has given way to a desire for greater flexibility and freedom. The context in which the UK will be negotiating trade arrangements with African countries, will be very different. "Cutting and pasting" from EPAs to create trade agreements will not be an option. Better informed African negotiators and technical advisors will have a clearer vision of what trade relations they want and with whom. The EPA negotiations have been a steep learning curve for many African countries and Brexit is now seen as opportunity to rectify some of those issues and reach agreements of solid mutual benefit.

The outlook on the UK's relationship with the EU is still clouded in uncertainty but

since the Brexit vote, we have already seen some African countries react to the news. Tanzania has pulled out of its EPA because UK market access is not guaranteed anymore. This could open up opportunities for more bilateral trade agreements with African countries. But one clear message the delegation received was concern that numerous bilateral agreements may undermine regional and continental wide integration projects already underway. The strong message that the delegation took away was that the UK post Brexit should try to work with existing regional agreements and negotiate with blocks rather than deploy a "divide and rule" approach that the EPA process has been accused of.

The Cotonou Agreement aimed at giving less developed countries market access to wealthier nations. Some suggest this may have been lost during the EPA negotiations as power shifted from elected parliamentarians to technocrats at the EU level. Some hoped that the UK as a development advocate in the EU might be able to negotiate fairer trading arrangements. When working with African countries UK policy makers need to ask what sort of agreements would truly benefit Africa's development and also allow the development policy space for African countries to make their own decisions regarding their industrialisation policies, whether the UK Government agrees with their development approach or not.

All stakeholders prioritised the need for transitional trade arrangements such as a generalised scheme of preferences to ensure that trade access is maintained. The Africa Growth and Opportunity Act (AGOA) between African countries and the US is non-reciprocal and the WTO has recently granted a 10 year extension. It is likely that the UK would be allowed by the WTO to have a similar non-reciprocal interim trade arrangement with countries formerly covered by an EPA while replacement agreements are negotiated.

As the Leader of the Opposition in Namibia, McHenry Venaani, said any future trade agreements need to include fairer trading practices and also address issues of transfer asset pricing, a profit shifting tactic he said many EU and UK companies deployed in their supply chains. He said he hoped that Brexit would be an opportunity to re-visit the relationship to include fairer trading arrangements and anti-corruption safeguards.

As such the key conclusions and suggestions based on the delegation's key observations are detailed below.

Actions to be taken as soon as possible:

- The APPG recommends that either the newly established International Trade Committee and/or the International Development Committee urgently instigate an inquiry into UK-Africa trade relations for the period immediately after Brexit. It should explore interim measures with the WTO and consult African regional bodies and civil society which work on trade issues. The inquiry should evaluate how far current trading arrangements contribute towards development in ACP countries.
- Ensure that exports from African countries to the UK are not interrupted by the Brexit process. This should be a UK Government Priority. We would like immediate reassurance that trade with our African trading partners will not be disrupted. The Secretary of State for International Trade should make transparent inquiries with the WTO on the feasibility of a generalised scheme of preferences or Everything but Arms arrangements for ACP countries that are party to an Economic Partnership Agreement with the UK. This should be a non-reciprocal duty-free and quota-free preference scheme.

Implications for UK's future trading arrangements:

- The rules and exemptions of the WTO should be clearly established before negotiations begin.
- Any future trade agreements made with African countries and trade blocs must allow adequate policy space for them to choose their own development paths and support regional integration and development priorities.
- Agreements made with regional bodies should be negotiated holistically (in a similar fashion to how the EU negotiates) so as not to undermine regional integration projects.
- If included in future agreements, market liberalisation targets should be clearly tied to development indicators and benchmarks rather than arbitrary time frames. Proper procedures and processes need to ensure that development targets have been met. If circumstances change, ACP countries should be allowed to accommodate these changes.
- Rules of origin in future agreements should help support regional value chains and integration in African states to assist them to move away from reliance on primary produce to adding value by processing goods.
- Trade agreements should include commitments from the UK to ensure that the Government addresses issues such as transfer asset pricing in supply chains which deprive African countries of their due revenues.

On parliamentary and democratic oversight of trade agreements:

- The APPG acknowledges the work already being done in this area by organisations such as the CPA-UK, IPU and AWEPA. The Africa APPG would like more financial support in the form of small grants from the Government to facilitate peer to

peer learning between parliaments and their relevant committees. This would increase capacity and help create oversight mechanisms for international trade agreements. Additionally, Government support for oversight of trade agreements by UK parliament during and after Brexit will become more urgent as more policy decisions will be made at a domestic rather than EU level.

- The UK Government should strategically implement a soft power approach to encourage African Executives to better fund their own parliaments.
- Future trade agreements should not be rushed or forced through. Parliament must be allowed time for formal parliamentary debate and civil society discussion so all parties are thoroughly consulted with each country involved.

The APPG hopes that the conclusions of the delegation will stimulate parliamentary debate as well as wider discussion which engage with Africa's experience of EPAs. We hope the UK Government and parliamentarians will work with their African counterparts to promote democratic oversight and parliamentary scrutiny of future UK-Africa trade arrangements post-Brexit.

The Africa All Party Parliamentary Group (APPG) is a cross party group of almost 200 UK parliamentarians who share an interest in Africa. The Secretariat of the Africa APPG is provided by the Royal African Society, a not-for-profit charity working to promote Africa in business, politics, culture and academia. If you would like to find out about making a donation towards sustaining the work of the APPG then please contact Lailah Nesbitt-Ahmed on nesbittahmedl@parliament.uk

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For further information on the Africa APPG:
<http://www.royalafricansociety.org/africa-appg>

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