

**AN INVESTIGATION INTO THE OBSTACLES FACED IN THE  
CONCLUSION OF ECONOMIC PARTNERSHIP AGREEMENTS  
(EPAs) AND IMPLICATIONS FOR EASTERN AND SOUTHERN  
AFRICAN STATES (ESA)**

**BY**

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**A DISSERTATION SUBMITTED IN PARTIAL FULFILMENT OF THE  
REQUIREMENTS OF THE MASTER OF SCIENCE DEGREE IN INTERNATIONAL  
RELATIONS**

**DEPARTMENT OF POLITICAL AND ADMINSTRATIVE STUDIES**

**FACULTY OF SOCIAL STUDIES**

**UNIVERSITY OF ZIMBABWE**

**APRIL 2013**

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## **Dedication**

This study is dedicated with lots of love to two people who made major contributions to my life through the invaluable life nuggets that they gave me in my childhood. My late great grandmother Rachel Mthethwa and my late step father Ernest Mapanzure. May their dear souls rest in eternal peace.

## **Acknowledgements**

This research would not have been possible without the contributions of numerous individuals. First of all, I give special thanks to my supervisor, **Dr. C. Manyeruke** for the guidance and continual support she rendered me throughout my studies. I am also indebted to my friends in the academic circles who gave me important insights especially Mr. A. Murwira, who gave an important critique of my work. My husband Billy Mukasa and children Tinashe and Zoe who were faithful in giving me the room to further my academic ambitions. My family indeed gave me the enthusiasm and the spiritual support I needed to run this course. I have fought the good fight, I almost finishing my academic race, and I thank you.

Special mention goes to Honorable Cde Mike Bimha, the Deputy Minister of Industry and Commerce for affording me the opportunity to field questions to the Ministry. The feedback I got made this research to come out with the exceptional quality it has. I am aware that without the ministry's input, this research project would have been impossible.

Lastly I would like to give a special thank you to all my good friends, with a special mention to Oppah Muchinguri; Yeukai Tizora; Stabile Dewa and Upenyu Mangwanya who always encouraged and challenged me to finish this academic programe. I would not have made it without you all. Thank you very much.

## Acronyms and Abbreviations

|        |   |
|--------|---|
| ACP    | African Caribbean and Pacific                 |
| AUC    | African Union Commission                      |
| BRICS  | Brazil Russia India China South Africa        |
| CA     | Central Africa                                |
| CAP    | Common Agricultural Policy                    |
| CBD    | Convention on Biological Diversity            |
| CET    | Common External Tariff                        |
| CFSD   | Common Foreign and Security Policy            |
| COMESA | Common Market for Eastern and Southern Africa |
| DRC    | Democratic Republic of Congo                  |
| EAC    | East Africa Community                         |
| EBA    | Everything But Arms                           |
| EC     | European Community                            |
| EEC    | European Economic Community                   |
| ECOWAS | Economic Community of West African States     |
| EDF    | European Development Fund                     |
| EPA    | Economic Partnership Agreement                |
| ESA    | East and Southern Africa                      |
| EU     | European Union                                |
| EU-ACP | European Union African Caribbean and Pacific  |
| FDI    | Foreign Direct Investment                     |
| FTA    | Free Trade Area                               |
| GATT   | General Agreement on Tariffs and Trade        |
| GDP    | Gross Domestic Product                        |
| GSP    | Generalised Systems of Preferences            |
| IG     | Inclusive Government                          |
| IMF    | International Monetary Fund                   |
| IPC    | International Policy Council                  |
| LDCs   | Less Developed Countries                      |
| MDC-T  | Movement for Democratic Change Tsvangirai     |
| MDC-M  | Movement for Democratic Change Mutambara      |
| MFN    | Most Favoured Nations                         |

|         |  |
|---------|--|
| NDTPF   | National Development and Trade Policy Forum                |
| NGO     | Non Governmental Organisation                              |
| NIEO    | New International Economic Order                           |
| OCT     | Overseas Countries and Territories                         |
| REC     | Regional Economic Community                                |
| SADC    | Southern African Development Community                     |
| SAP     | Structural Adjustment Programme                            |
| STABEX  | System Of Stabilisation Of Export Earnings                 |
| SYSMIN  | System For The Promotion Of Mineral Production and Exports |
| TWC     | Third World Countries                                      |
| UNECA   | United Nations Economic Commission for Africa              |
| USSR    | Union of Soviet Socialist Republic                         |
| WA      | West Africa  |
| WTO     | World Trade Organisation                                   |
| ZANU PF | Zimbabwe African National Union Patriotic Front            |



## **Abstract**

Economic engagements between the European Union (EU) and some developing countries within the African Caribbean and Pacific (ACP) region have been characterised by exploitative traits to the advantage of the former. This study argues that internal and external factors have severely hindered the conclusion of EPAs between ESA states and the EU. Internal issues of the Economic Partnership Agreement (EPAs) such as contentious issues, lack of funding and new emerging issues in the form of the Turkey clause have created an unfavorable negotiating atmosphere. External forces manifested in the form of the global financial crisis and the economic rise of non EU member states (China, Brazil and India) have shifted the priority options of both the EU and ACP states. To ACP states, EPAs appear to tighten the neo-colonial wave of the developed EU and also cause regional disintegration among the ACP region. With the use of documentary search and in-depth interviews with key informants, this study established that EPAs have cemented dependency of ACP states on the EU and have not resulted in sustainable economic development. It recommends the need for ACP states to be given enough policy space in the negotiations while new issues need to be shelved until the already contentious issues have been resolved. ACP states should also address internal political issues before committing to multiple economic fronts such as the EPAs.



## **Chapter 1: Introduction**

### **1.1 Background to the study**

This study examines the proposed Economic Partnership Agreement (EPA) between the European Union (EU) and East and Southern Africa (ESA). In particular, it investigates the obstacles faced by the two regions in concluding the EPA. The obstacles and implications faced in the conclusion of EPAs can be grouped into internal and external factors. The internal factors to be investigated in this study are the negotiating process constraints whilst the external are the global events emanating from the outside the two negotiating regions.

The researcher explores the historical background of trade between Africa and Europe which is of importance because the present is a result of past engagements and has significant implications for the future. This study mainly contends that the major obstacle in concluding the EPA is that it reinforces patterns of dependency and exploitation of Africa in general and ESA in particular. It argues that the EU is negotiating the EPA based on its previous engagements with Africa while Africa seeks its own developmental agenda. The trade relationship between Africa and Europe can be traced back to the Trans-Atlantic slave trade where Europe exploited African labour for its economic development. According to Rodney (1976:144) “European buyers purchased African captives on the coasts of Africa and the transaction between themselves and Africans was a form of trade.” To this end, it can be argued that Europe has had an exploitative trade relationship with Africa dating back centuries. The slave trade is a precursor to and set the stage for unfair trade between Europe and Africa.

Apart from the slave trade, Africa also engaged in trade with Europe through colonialism. One of the reasons for the ‘Scramble for Africa’ was to access the continents raw materials and labour as well as gain access to African markets. The attempt by the EU to engage Africa under the EPA is evidence that Europe still has a keen interest in Africa’s markets and resources. Perhaps what has changed is that Europe now seeks to engage Africa more diplomatically but the motives of supplying their home market remains the same. It is with a background of slave trade, imperialism, colonialism and capitalism that the EU comes to the negotiating table and seeks to influence the trade arrangements that perpetuate their historical trajectory and preserve the status quo.

Fontagne (2008:46) (<http://trade.ec.europa.eu>) forwards the development of trade between the EU and Africa as follows:

The EU began a cooperation policy with the African, Caribbean and Pacific (ACP) states as a whole in 1975. Until 2000 these relations were governed by the regularly updated Lomé Conventions. The conventions were based on equal partnership as a cornerstone for cooperation...they focused on economic and commercial cooperation and development cooperation. The trade cooperation was based on non-reciprocal basis which was later replaced by the Cotonou Agreement which was built on reciprocity. Over time, ACP countries felt that the principle of 'equal partnership' had been eroded and replaced by a relationship based on 'conditionality'.

For example, according to <http://www2.ohchr.org> "respect for human rights, democratic principles and the rule of law became 'essential elements' whose violation could lead to partial or total suspension of development aid." As such the aid that developing countries have been receiving from the EU has come attached with conditions on democracy and human rights.

It is clear that the Lome and the conventions or agreements which followed between the EU and African countries were designed by the EU and ultimately calculated to their advantage. Manyeruke (2011:226) states that "although the ACP states are at the top of the list in enjoying preferential market in the EU market, the ACP states are at the bottom of the list when it comes to exports to the EU markets." Fontagne (2008:3), (<http://trade.ec.europa.eu>) concurs this by stating that "Lomé, granted unilateral preferences to the ACP countries on the EU market. A change was therefore required and the Cotonou Agreement in 2000 paved the way for a new trading regime based on reciprocal preferences." Due to such bias, the Lome Convention was replaced by the Cotonou Agreement in 2000. The Cotonou Agreement paved the way for a new trading regime based on reciprocal preferences. However, the Cotonou Agreement came under scrutiny on the principle of reciprocity. Karingi et al (2006:2) posit that:

The principle of reciprocity itself raises important questions as the removal of customs duties on imports from Europe, could have serious repercussions on national economies in Africa. A fall in revenue on customs' levies would have an increase in

European imports but to the detriment of the local producers as well as to those exporters from non-European countries.

As such it can be observed that African countries end up becoming markets for EU's finished products whilst Africa exports unprocessed valuable raw materials. Further the blow to local producers in African states violates the concept of "infant industry argument" which needs to be protected for sustainable development to take off.

It has been argued that EPAs are an attempt to redress the imbalances of the past conventions and agreements between EU and ACP countries in this case the ESA. According to <http://www.europa.eu>. (2012) "the EPA provides the measures necessary to establish a Free Trade Area (FTA) compatible with WTO requirements. Under EPA the provisions concern in particular rules of origin, non-tariff measures, trade defense measures, trade dispute avoidance and settlement, fisheries and development." Furthermore, "the EPA is to be implemented in line with ESA development strategies and partners undertake to cooperate to strengthen the regional integration process of African countries." (<http://www.europa.eu>). Reality has shown that the EPA is a continuation of the past trade negotiations as it is still tilted in favour of the drafters (EU) which has made reaching an ESA conclusion difficult.

## **1.2 Statement of the Problem**

Wide differences between the developed and developing countries have impeded the conclusion of international trade agreements. In this case, the EPA with ESA countries began in 2000 but up to this time of writing a comprehensive agreement has not been finalised. This study examines the obstacles that have unfolded in the EPAs and how best they can be mitigated or resolved for sustainable trade agreements to materialise. Even though the WTO emphasises on the principles of transparency and reciprocity to ensure fair trade, member countries continue to violate these rules and regulations under the WTO's watch. Elements of protectionism and lack of transparency continue to exist. These have been buttressed by factors such as overlapping membership of states, the emergence of economically powerful states such as China and the Asian Tigers, consensus within the EU and lack of political will by negotiating partners. From an African point of view EPAs have been questioned if they are not another form of colonialism due to their biasness towards the EU countries. Though in the 1990s the WTO managed to stress on the principle of reciprocity between the EU and ACP states, negotiating parties in the EPA have since however, not yet fully followed such WTO principles.

### **1.3 Objectives of the study**

The study seeks to:

- a. Trace the historical overview of regional economic trade negotiations between the EU and ACP countries, in particular ESA;
- b. Investigate the scope and objectives of EPAs in relation to ESA since 2000;
- c. Examine the nature and types of performance constraints faced by negotiating states in regional trade agreements;
- d. Analyse the implications of EPA for Africa in general and ESA in particular;
- e. Proffer policy recommendations on how best the obstacles in EPA can be mitigated or resolved.

### **1.4 Research Questions**

- a. How has regional economic trade agreements evolved and for what purpose?
- b. What are the benefits of EPAs to ESA's developmental needs?
- c. What are the challenges in negotiating EPAs with ESA member states?
- d. Does ESA member states have any effective strategies to handle the challenges of its regional configuration in relation to the EPAs?
- e. What are the prospects for the conclusion of EPAs with ESA?

### **1.5 Hypothesis**

Internal and external factors have severely curtailed the conclusion of EPAs between the EU and ESA countries.

### **1.6 Justification of the study**

Findings of this study help to fill in the gap in literature of regional integration between EU and ACP countries in particular ESA. The research findings might bring a number of practical benefits to the policy makers or negotiating parties in the EPA with the ESA states which might enhance the speedy conclusion of such trade arrangements. The academic community with an interest in international economic studies at universities, colleges and research bodies might benefit also. The study is of importance to African countries in this case the ESA, who seem to have lacked effective capacity in trade negotiations with the EU member states.

## **1.7 Delimitation**

This study covers the period from 2000 when the EPA began up to 2012 as the trade negotiations are still on. It also focuses on the EU negotiating parties and ACP states in particular the ESA regional configuration which consists of countries such as Zimbabwe, Zambia, Comoros, Seychelles, Mauritius and Madagascar.

## **1.8 Limitations**

Most of the ESA island countries have no embassies in Zimbabwe such as Comoros, Seychelles, Mauritius and Madagascar which will make it difficult to obtain their views on EPA through key in-depth interviews. The researcher will attempt to overcome this by interviewing extensively ministry officials in the Ministry of Trade Industry and Commerce in Zimbabwe and also Zambian diplomatic personnel. Some of the trade information of countries is difficult to access as it might fall under the classified category, which the researcher will also attempt overcome through probing during the interviews.

## **1.9 Methodology**

This study extensively relies on qualitative methodology. Creswell (2007:57) defines qualitative research as “an inquiry process of understanding where the researcher develops a complex, holistic picture, analyses words, and reports detailed views of informants and conducts the study in a natural setting.” Qualitative methodology is suitable for this research because of the nature of the subject under study; information will be drawn from case studies, face to face interviews with key informants and documentary search.

### **1.9.1 Case Study Approach**

The point of departure will be the case of ESA negotiating states in the EPAs. These states include Zimbabwe, Zambia, Mauritius, Seychelles, Madagascar and Comoros. Mouton (2001:160) articulates that an advantage of the case study approach is that “it strives towards a comprehensive (holistic) understanding of how participants relate and interact with each other and how they make meaning of a phenomenon under study.” An analysis of ESA countries gives a picture of the negotiating processes with the EU in the EPA since 2000.

## **1.9.2 Data Collection Methods**

### **1.9.2.1 Documentary search**

Documentary search involves the use of books, official documents and newspaper articles as source materials. According to Blanche et al (2006:316) “documentary search is easier, cheaper and more extensive findings are obtained than doing interviews.” The researcher will use qualitative content analysis as a tool to interpret the content of text data. Mouton (2001:165) states that

Content analysis entails studies that analyse the content of text or documents (such as letters, speeches, annual reports, journals and public documents). This method is unobtrusive which means that errors associated in the interaction between researchers and subjects are avoided.

Documentary search gives the researcher the historical overview of prior economic partnerships arrangements between the EU and developing countries. In this respect the researcher shall analyse documents such as the WTO reports and EU-ACP/ESA agreements and minutes of their meetings. Secondary sources will be obtained from University of Zimbabwe (UZ) libraries, Trade Centre in Harare and the WTO reference centre at UZ where books, journals, reports, newspaper articles and e-research shall be gathered.

### **1.9.2.2 In-Depth Interviews with Key Informants**

To complement findings from documentary search, the researcher will conduct in-depth interviews with key informants who will be willing to be interviewed. These key informants will be drawn from the ministry of trade and regional integration in Zimbabwe and diplomatic personnel who have participated in EPA negotiating forums. During the research, the researcher will be guided by an interview guide. Purposive or judgemental sampling will be employed in selecting the key informants. This non-probability strategy will be employed because it targets a particular group of people who have the requisite expertise in economic trade agreements. The researcher shall also take advantage of the interviews to be put in touch with other key informants through the snowball technique. To this end random selection is eliminated and the researcher saves time and elicits quality responses. In addition, interviews will also be conducted with various embassy officials based in Harare whose respective countries have participated in EPAs. These include but are not limited to countries such as Zambia and the United Kingdom.



## **10.0 Literature Review and Theoretical Framework**

Under the Cotonou Agreement EPAs will be established to regulate trade between the EU and Africa. There have therefore been concerted efforts to ensure that trade between the EU and Africa conform to WTO standards in relation to Article XXIV of the GATT. In order to effectively negotiate the establishment of EPAs, Africa has been grouped into the Southern African Development Community (SADC), Eastern and Southern Africa (ESA), West Africa, Central Africa, the Caribbean and the Pacific.

While integration into the global market is indeed essential to the ACP countries, concerns are raised about the way in which the EU wishes to integrate the ACP. Fontagne et al (2008:5) (<http://trade.ec.europa.eu>) raise the concerns of ACP countries stating “Giving preferential access to EU products, under a reciprocal arrangement, would put their producers in numerous sectors at risk of increased competition. They also fear that cutting tariffs for EU products would result in a sizeable loss of tariff revenue that would hurt their public budgets.” In developing states, governments seek to protect the home industry as it provides employment, and contributes to the GDP. Tariffs and customs duty also contribute to the GDP hence states may not be keen to lower tariffs under the EPA.

According to <http://www.agritrade.org> (2011):

ACP states are primarily concerned with the risks that tariff removal pose for their domestic producers and industries. ACP economies are characterized by high production costs due to factors including poor infrastructure for transport, resulting high cost for inputs and small production units. ACP countries asserted that locally produced goods, including agricultural commodities, would not be able to compete with duty-free European goods, which would lead to the dismantling of local industries and negative social and economic consequences. Additionally, ACP countries were concerned that the gradual removal of tariffs would reduce budget revenues and hence decrease governmental support for social and economic programs. ACP therefore seeks to protect its infant industry from being over-run by the developed states and there is need to balance the need for development and sustainable development that has proved to be an obstacle in concluding EPAs.

The export taxes provision that the EU imposed has also been a cause of concern. It provides that existing export taxes should not be increased and new export taxes should not be introduced. “ACP countries oppose the provision. They consider export taxes to be an essential policy tool, mainly used to protect domestic manufacturing industries by securing their access to local raw material as well as to address food security concerns (Ibid).” Alt and Chrystal (1983:78) argue that “Trade policy reflects the ability of governments to dictate the terms of which goods will be permitted across their frontiers, in either direction. What goods may cross frontiers, in what volume and at what rate of tax?” In this respect, the EU has undermined the capacity of ACP countries to formulate and implement their own trade policy. Like tariffs, export taxes are a way to increase government revenues. The export tax provision is in its own right an attack on the sovereignty of ACP countries. In addition, the standstill clause has also been an issue of debate. The clause “...binds ACP countries’ tariffs. ACP countries insist that the clause prevents ACP countries from adjusting to changing economic circumstances, especially fluctuations in world markets” <http://www.agritrade.org>. This too is a curtailment of ACP sovereignty.

Further, the “Most Favoured Nation clause is also included in all EPA texts. It stipulates that any more favourable tariff preference granted to any “major trading economy (Ibid)” (more than one percent of global goods exports) will automatically be granted to every party of the EPA. The clause protects EU commercial interests against more favourable treatment granted to competing third countries, in particular Brazil, China or India. On the ACP side, the clause is seen as undermining their scope for future trade negotiations with third world countries. ACP states assert that the clause will affect their integration in the world economy (Ibid).” This is because of the unequal benefits within such agreements.

This study is based on three theories which are dependency, liberalisation and neo-liberalisation which give greater picture of regional economic trade integration between and among WTO member-states.

Dependency theory emerged around 1950s as a reaction to modernisation theory which was biased towards the developed countries and has prescribed that developing states need to follow Rostow’s five stages of development for them to develop. Manyeruke (2011:226) argues that “modernisation theorists view such developments (EPAs) as key in bringing about development to developing countries as resources and technology are transferred. On the

other hand dependency theorists view such arrangements as promoting dependency and neo-colonialism. The proponents of dependency include the likes of Paul Baran and Andre Gunder Frank who argue that Africa's underdevelopment is a result of its continued dependency on the developed countries. African countries in this case ESA continue to rely on financial and technical assistance from the EU in the EPAs. For example in the case of Zimbabwe:

The EU sponsored the training workshop for negotiators which was coordinated by TRADES Centre. The EU also offered to pay airfares for the negotiators whom it engaged starting September 2004. Further, funding for the ACP negotiations is being done under the European Development Fund (EDF). The Fund has been operational since 1957. The issue of failure by the Zimbabwean Government (and some of the ESA states) to mobilise funds for the studies and negotiations compromises its position since its strategies cannot remain confidential from the donor (Ibid).

Such financial dependency makes ESA states vulnerable to exploitation in the EPA negotiations hence their views cannot be effectively put forward. It is from such situations that proponents on dependency prescribe for South to South cooperation which is now evident with some of the ESA countries opting for the Look East trading arrangements which has less conditionality attached to trade agreements. Due to the rise of China and the Asian Tigers some ESA states are now focusing on partnering these global actors rather than the EPAs with the EU. These developments have curtailed the conclusion of EPAs with ESA. In addition dependency theorists encourage delinking of ties with the developed countries which is however, not possible in the globalisation era where economies are intertwined

Fontagne et al (2008:16) (<http://trade.ec.europa.eu>) observes that "On the one hand there is the EU, one of the richest regions in the world, where ACP countries do not count much in terms of trade. On the other hand ACP negotiating groups are a combination of relatively poor developing countries and LDCs, most of which are highly dependent on the trade relationship with the EU. This dependence is a central aspect when considering the potential losses in import taxes that EPAs may engender and the potential negative impacts of any deterioration in market access should EPAs not be concluded."

Some are of the view that the EPAs would be beneficial to Africa. While European exporters may be the main beneficiaries of the EPAs, as their sales to the ACP markets increase substantially after the implementation of these agreements Africa will also gain. Hinkel et al

(2004) is of the persuasion that the EPAs implementation "...pushes the prices of imports from Europe down, thus reducing the imports from non-EU countries. At the same time the welfare of ACP consumers is increased due to a reduction in prices." Thus liberalisation theory provides a clear picture of the nature of trade relations between the developed and developing countries.

Liberalism is the historic alternative to realism. The theory can trace its lineage more than 200 hundred years to Adam Smith and David Ricardo. Writings associated with liberalism include John Stuart Mill who was an English liberal and European liberal such as the Australian economist Fredrick Von Ltoyek (1960). Liberalism is also known as neo classical thinking and extols the virtues of free markets and trade. James Williamson (1972), a liberalist advocates for "strengthening market and price mechanisms subordinating the role of policies for development and economic progress." This prescription is however, not suitable to developing countries as they face institutional and technological challenges. Liberalists draw a line on politics, the state and the economy, arguing that the state should have minimal intervention in the economic sectors and only concentrate on politics, Bekana (2011:5) (<http://www.rejournal.eu>). To classical liberalists such as Adam Smith, he suggests for policy tool which "limit the role of the state to public works, issuing regulatory frameworks and law enforcement, arguing that government intervention in the economy in the form of ownership, production and sale of goods and services leads to inefficiency of economic operation and management." The EPAs arrangement is thus hinged on the liberal traits which encourage opening up of economies to allow smooth trade between the EU and ACP states.

Another theory of importance to this study is the neoliberal theory. According to [www.inter.nl.net.com](http://www.inter.nl.net.com) (2012):

Neo-liberalism has emerged since the 1990s where the word has been used in reference for global market liberalism (capitalism) and for free trade policies. The term is often used interchangeably with globalisation. Further, the theory is not just economics it is a social and moral philosophy in some aspects qualitatively different from liberalism. The effects of neo-liberalism are evident as the rich grow richer and the poor grow poorer. Around the world neo-liberalism has been imposed by powerful financial institutions like the International Monetary Fund (IMF).

In the case of trade negotiations the EU has and is engaging African states only to their advantage, this has contributed on African regional configuration such as ESA delaying the conclusion of EPAs due to such inequalities which liberals and neo-liberals try to encourage.

Some are of the view that the EPA would be beneficial to Africa. While European exporters may be the main beneficiaries of the EPAs, as their sales to the ACP markets increase substantially after the implementation of these agreements, Africa will also gain. Hinkel et al (2004) is of the persuasion that the EPAs implementation "...pushes the prices of imports from Europe down, thus reducing the imports from non-EU countries. At the same time the welfare of ACP consumers is increased due to a reduction in prices." This ensures that competition is established forcing the prices of goods and services to go down and affordable to citizens of ACP countries. Thus liberalization theory provides a clear picture of the nature of trade between the developed and developing countries.

### **1.10 Dissertation Outline**

The next chapter unpacks the historical overview of economic arrangements prior to EPAs between the EU and developing countries. Chapter three explores the nature and environment in which the EPAs negotiations have taken place. The negotiation challenges and their implications are analysed in chapter four. Lastly chapter five concludes and possible recommendations are proffered.

## **Chapter 2: Economic Arrangements Prior To Economic Partnership Agreements (EPAs)**

### **2.1 Introduction**

This chapter traces the historical overview of the EU-ACP economic trade agreements. Economic partnership relations between Europe and her former colonies as well as overseas countries can be traced back to the 1950s under the Treaty of Rome in 1957. Europe has since continued to express support and solidarity for these territories by engaging in a number of economic partnerships with them. Participants in these arrangements have increased with the passage of time. There has also been a corresponding increase in the scope of objectives of these partnerships to encompass political, economic, social and environmental concerns. This Chapter analyses the nature of economic agreements such as the Yaoundé Conventions, Lomé 1-4, the Cotonou Agreement and Economic Partnership Agreements (EPAs). The main thrust of this Chapter is to provide a relatively comprehensive overview of trade relations between Europe and the ACP countries prior to the EPAs. The Chapter examines the evolution of trade between the two parties and the nature of the trade. It also highlights faults within the respective economic agreements and argues that they have the impact of posing obstacles to the conclusion of EPAs if they remain unchecked.

### **2.2 Origins of EU-ACP Economic Agreements**

With most African or colonised states gaining independence and attaining their right to self determination, European states who were the colonising countries sought to normalise relations with the newly independent states through economic and political cooperation. Robert Schuman 1950 cited by David (2000:11) declared that “Europe would with increased resources be able to pursue one of its essential tasks; the development of African continent.” It is evident that Europe took the task of developing Africa through economic cooperation. This has further led to the concepts of development aid to developing countries. It can also be argued that having lost direct control of the colonies and their resources at independence, Europe now sought to maintain access and control of the former colonies through indirect means and through what is also called neo-colonialism. Development aid to ACP countries has not always translated into economic development in receiving countries as the aid is attached to prefabricated conditionalities. These conditionalities are not reflective of domestic policies and interests of receiving countries, but rather suit the policies and interests of developed countries. The EU-ACP arrangements are premised on the modernisation theory

which prescribes that developing states must follow the steps taken by developed states for them to develop.

The declaration by Robert Schuman in 1950 was followed by the signing of the Treaty of Rome in 1957. David (2000:11) articulates that the treaty “made a provision for the association of the overseas countries and territories (OCTs) with the embryo European Community.” Thus in this context, Europe-Africa relations were initially under the banner of an OCT Association. The purpose of the association was to foster the economic and social development of the countries and territories and to establish close economic relations between them and the Community as a whole. Evident from this assertion is the fact that Europe desired to maintain its influence over its former colonies to continue accessing their colonial market benefits.

Arguably, the Treaty of Rome 1957 effectively laid the basis for the creation of economic cooperation between the EU and ACP countries. It is from this treaty that the two Yaoundé Conventions and the four Lomé Conventions evolved from to the point of negotiating the new ACP-EU Partnership Agreements signed in Cotonou. However, despite the progress made in establishing these aforementioned agreements and the successes attained under them, various internal and external factors within these conventions led to their collapse and have impeded on the conclusion of EPAs between the two sides.

To support OCTs, the European Economic Community (EEC) set up the European Development Fund (EDF) to disburse funds. According to Bartels (2007:726) “The fund was intended to be spent on public investments in particular hospitals and educational facilities and other economic investments.” The fact that Europe was and has remained as the founder and funder of the economic cooperation with African states, has resulted in the cementing of financial dependency of the ACP countries.

The historical evolution of the relationship between EU and ACP can be summarised as follows:

**Table 1: Evolution of the Europe-ACP partnership during the past 40 years**

| Year | Event                | No. Of countries |        | EDF<br>Amount<br>(Including<br>OCT's) in<br>millions |
|------|----------------------|------------------|--------|--|
|      |                      | ACP              | Europe |  |
| 1957 | Association system   |                  |        | 596,4  |
| 1963 | Yaoundé 1 Convention | 18               | 6      | 730,4  |
| 1969 | Yaoundé 2 Convention | 18               | 6      | 887,3  |
| 1975 | Lomé 1 Convention    | 46               | 9      | 3.053,3  |
| 1980 | Lomé 2 Convention    | 58               | 9      | 4.207  |
| 1985 | Lomé 3 Convention    | 65               | 10     | 7.882,6  |
| 1990 | Lomé 4 Convention    | 68               | 12     | 11.583,0   |
| 1995 | Lomé 4 Convention    | 70               | 15     | 13.151,10  |
| 2000 | Cotonou Agreement    | 77               | 15     | 14.300   |

Source: European Commission in The Courier September 2000, Special Issue-Cotonou Agreement, p12.

From the above table it can be noted that the cooperation between the EU and ACP states started in the form of Association systems under the banner of OCTs. There was an increase in the number of participating countries with the passage of time accompanied by an increase in development funding. This increase reflects a growing and strengthening of trade between the parties and a commitment to fostering economic development as decolonisation increased. According to David (2000:11) it is impossible to gain an understanding of the evolution of the partnership between EU-ACP states without taking into account the context of decolonisation (Association of Overseas Countries and Territories and Yaoundé Conventions). Thus decolonisation marked a new era of cooperation between the EU-ACP, graduating from a direct exploitative nature from the slave trade to the colonial era and to an indirect exploitation through economic cooperation and development aid.



### **2.3 Yaoundé 1 and 2 Conventions**

The association system in the form of the OCT was replaced by the Yaoundé 1 of 1963 and Yaoundé 2 Convention of 1969. According to SEATINI (2005) (<http://www.seatini.org>) “the Yaoundé conventions were the first formal arrangements which began in 1963 and covered mainly French speaking African countries.” The main reason of the creation of Yaoundé Agreement was to support the newly created states or developing countries. David (2000:11) propounds that “Yaoundé 1 and 2 conventions covered 18 Associated African states and Madagascar. The two constituted a learning process, not only in terms of partnership (the setting-up of joint institutions) but also in terms of contractual systems.” It is evident that the birth of these conventions laid the ground for cooperation between the EU and ACP states based on contractual terms. Unfortunately the crafters of these contracts (at most the EU) remain as full beneficiaries whilst the other partners (ACP states) loose as they are not the initiators in the process. Under the Yaoundé 1 and 2, the field of action was related essentially to trade and financial and technical cooperation. At a sectoral level, funding was granted principally to economic and social infrastructure projects (Ibid:12). Some of the projects included the construction of road networks, schools and dams.

Gligor (2011:16) states that under Yaoundé, “Preferential trade arrangements were granted to some goods to be imported in the ECC space. The Convention facilitated industrial goods man-made in the African states to be exported into the European Economic Community. For the agricultural products, it was a little bit more difficult to have imports from Third World Countries (TWCs), because the European farmers had to be protected as well through the Common Agricultural Policy (CAP). The acceptance of imports from the TWCs was of course based on the principle of reciprocity. A lot of European products were exported to African countries and this way the economic market extended.” Thus to a greater degree, TWCs opened up more to European imports than Europe did to Third World countries. This saw TWCs compromising their local sectors in the face of increased completion while Europe maintained protectionist systems in agriculture.

Under the Treaty of Rome and Yaoundé 1-2 Agreements, the international community argued that, the “EEC’s Common External Tariff (CET) would divert trade from non-associated to associated countries. The perception of non-associated developing countries was that they were suffering from the Community’s special preferences for the associated countries” Bartels

(2007:726). Such factors led the Community to revise its policy and negotiate successor agreements under Lomé.

## **2.4 Lomé 1 to 4 Conventions**

The increase in membership on the part of the EEC and the attainment of independence by some ACP states necessitated the formation of the Lomé Conventions 1 to 4. According to David (2000:12):

Expansion of the EC to include new members such as the United Kingdom, Spain and Portugal had a considerable influence on the Lomé policy. Further, the Maastricht Treaty, which enshrined development cooperation policy as one of the elements of the Common Foreign and Security Policy (CFSP) naturally, laid the groundwork for the political dimension of the new Cotonou Agreement.

With the increase in membership, the scope of the economic partnership also broadened. The development of the Yaoundé's policy into Lomé was to result in a larger number of partners and a diversification of objectives (Ibid: 12). Manyeruke (2007:225) articulates that “the Lomé Conventions came about as a result of the need by ACP states to create a New International Economic Order (NIEO) which could result in clear procedures, mechanisms and adjustments that would promote fair economic relations between the developed and developing countries.” As such the Lomé agreements were attempts to redress the historical economic trade imbalances of the past. Spero (1985:245) asserts that “Lomé 1 increased aid to the ACP states and gave them a greater voice in aid management.

The agreements provided for preferential access for ACP products to EEC markets without reciprocal advantages for EEC products.” Although the ACP countries are at the top of the list in enjoying preferential market in the EU market, the ACP states are at the bottom of the list when it comes to exports to European markets Manyeruke (2007:226). However, to dependency theorist such as Paul Baran the NIEO is just a change in name and not a change of the capitalist system which continue to favour the developed states whilst developing states continue to under-develop.

According to SEATINI (2005) (<http://www.seatini.org>) “the Lomé conventions were formally recognised under the rules of GATT. They were recognised under Article 24 of GATT read in conjunction with Part 4 of that agreement, to allow one way free trade areas or under waiver of the GATT non-discrimination obligation which was available under both the Enabling

Clause and Article 25 of GATT.” This article under GATT thus provides the legal basis for the foundation of the trade conventions.

Politically, Manyeruke (2007:225) argues that “During the Cold War, the Lomé Conventions became strategic partnerships against the Union of Soviet Socialist Republic (USSR).” David (2000:12) furthers that “The 1970s were characterised at one and the same time by a triumphant pro-Third World attitude, bitter East/West confrontation and rising commodity prices (first oil crisis).” Hence, it can be noted that the bipolar system made it impossible for political cooperation between EU-ACP states, as some ACP states were non-aligned politically; others had the communist influence, whilst some tended to be following the capitalist web. Lomé 1 Convention of 1975 was signed between 9 European countries and 46 ACP countries. The focus of Lomé 1 and 2 was to address issues of infrastructure and agricultural-programme funding. It marked a new model of North-South development based on partnership and solidarity (Ibid: 12). The model however, did not translate to sustainable development in the ACP states, thus questions continue to arise whether ACP states should continue to tie themselves in such partnerships under EPAs.

Unlike Yaoundé, Lomé 1 to 4 were based on non-reciprocal trade which included the concept of aid and trade. According to Manyeruke (2000:226) “the non-reciprocal trade preferences was based on the present ‘development needs’ of ACP states as described in the Lomé 1 Convention. This arrangement is inconsistent with the Most Favoured-Nation (MFN) rule which is the fundamental principles of the World Trade Organisation (WTO).” Further the Lomé systems were hinged on the principle of mutual obligations which entailed issues on human rights, democracy, corruption and good governance (Ibid: 226). It is evident that the developed countries laid down the dictates of conditionalities to developing states thus tightening their ideological grip on them to promote their interest at large. These conditionalities are contrary to “the 1975 Georgetown Agreement which institutionalised the ACP group and gave it a permanent structure: the General Secretariat. At political level, it was proclaimed that each State has the right to determine its own policies David (2000:12).” Any state that would violate principles set (human rights and good governance) would not be legible to qualify for the benefits under the economic partnerships arrangements.

The unilateral trade preferences for ACP countries extended by the EU under Lomé were not consistent with WTO rules. According to a UNCTAD Report (2003:45)“they were neither

extended to all developing countries, nor could they be considered to fall under WTO rules for regional free trade arrangements because they were not reciprocal” They did not include reverse preferences for imports from the EU extended by the ACP countries. Lomé therefore was temporarily maintained under a WTO waiver.

The Stabilisation of Export Earnings (STABEX) system which was created in 1975 under Lomé was a noble initiative aimed at protecting developing countries against fluctuations in export earnings. Stiftung (2000:8) asserts that “the STABEX scheme provided assistance to agricultural dependent ACP economies when faced with unforeseen yet specified levels of export earnings losses from specific agricultural exports.” Similarly Bartels (2007:738) states that “In principle, this system was supposed to provide repayable loans to make up temporary shortfalls in export earnings of basic commodities. However, it suffered from a long-term decline in commodity prices, leading to unpaid loans and insufficient funds in the system, and soon turned into simply yet another subsidy.” The failure to repay the loans only served to further strain the EDF. It can be argued that if STABEX ended up having the impact of a subsidy it unintentionally ended up violating WTO rules on subsidies. Spero (1985:245) posits that “STABEX was a scheme meant to stabilise the export earning of the associated states from twelve key commodities.” In addition, it can be noted that the STABEX scheme also fostered dependency on funds from the EU by ACP states.

David (2000:13) notes that “the STABEX system was later replaced by the System for the Promotion of Mineral Production and Exports (SYSMIN) mechanism which was of the same type as STABEX but relating to mining-product resources.” To its credit, the SYSMIN mechanism was more effective in that it focused on a particular sector unlike the broader STABEX system. Stiftung (2000:8) asserts that “the SYSMIN scheme provided similar support for mineral dependent economies when faced also with unforeseen yet specified levels of export earnings losses from specified mineral exports.” The STABEX and SYSMIN were non-programmable aid instruments under Lomé 4.

The Lomé 1 was succeeded by the Lomé 2 which was signed in October 1979. According to Spero (1985:245) “the negotiations over Lomé 2 proved difficult, as the ACP states tried unsuccessfully to expand the convention substantially...The main provision under Lomé 2 was the increase in aid of nearly 70%, an expansion of STABEX of almost 50%, and greater industrial cooperation between Europe and ACP states.” The problem that came up in the

Lomé 2 was that it provided trade concessions which were minor to developing countries which were mainly on agricultural products and processed goods.

In addition to Lomé 1-3, in <http://www.eclac.org> asserts that “Lomé 4 recognised that the debt situation of ACP countries had worsened and viewed the aid as an obstacle to development and economic reform. As a result, the European Community tied a portion of its financial aid to the undertaking and implementation of structural reform” This suggests that prior conventions between the EU and ACP countries contributed to the debt crisis which was also buttressed by Structural Adjustment Programmes (SAPs) advocated for by the International Monetary Fund (IMF) and the World Bank. The combined effect of the debt trap and SAPs worsened the dependency situation of ACP countries. In addition to widening the debt crisis the Green Paper (1995:12) acknowledged that, “...trade preferences did not improve ACP countries export performance. During the Lomé conventions ACP market share declined from 7 % in 1976 to 3% in 1998.” Except in a few cases, most countries were unable to diversify exports. Moreau (2000:6) asserts that “Approximately 60% of total exports are concentrated on only ten products.” The failure of ACP countries to diversify and in turn increase exports impedes on sustainable development in ACP countries.

It can be noted that legal complications contributed also to the collapse of the Lomé conventions. According to SEATINI (2005) (<http://www.seatini.org>) the legal challenges under GATT were that “they favoured ACP states but not other developing countries, the argument being that preferences to developing countries should be accorded to all developing countries rather than a group of developing countries.”

## **2.5 Cotonou Agreement of 2000**

With the end of the Cold War, the EU could now focus on development issues. The ACP-EU Partnership Agreement was signed between 77 ACP countries and the EU in June 2000 in Cotonou (Benin). The Cotonou Agreement lasts for 20 years and contains a clause allowing it to be revised every 5 years. ACP-EU cooperation is based on two main pillars that are economic and trade co-operation; and aid Nalunga (2004:1). According to Ong’wen (2004:7) the Cotonou Agreement has the following new characteristics; “it breaks the solidarity of ACP countries by creating regional differentiation through negotiation of EPAs; it introduces reciprocity; and it seeks to be WTO compatible.”

The main objective of Cotonou Partnership Agreement according to Gligor (2011:23) (<http://www.seatini.org>) is “...reducing and eventually eradicating poverty consistent with the objectives of sustainable development and the gradual integration of the ACP countries into the world economy. The basic principle of the agreement is equality of the partners and ownership of the development strategies.” The aspect of ACP countries being partners and owners of their own development strategies was a significant shift from previous arrangements in which the EU prefabricated arrangements and imposed them on ACP countries.

McQueen 1998 cited by Manyeruke (2007:227) asserts that the Cotonou agreement has five pillars of partnership namely,

A comprehensive political dimension with key emphasis on human rights, democratic principles and political dialogue in addressing issues of mutual concern; Participatory approaches by promoting non-state actors involvement in the implementation of projects; A strengthened focus on poverty reduction; A new framework of trading arrangements that will pursue trade liberalisation between the parties and formulate provisions in related issues; A reform of financial co-operation.

The principle which focuses on human rights, democracy and good governance has to some extent contributed to the delays in the conclusion of EU-ACP cooperation given that some ACP member states are viewed as politically immature by EU on the above factors. In reality political reform or maturity is not an overnight issue as it is procedural. Furthermore it is also difficult to attain given that the imposers of the conditions are the ones who judge or measure the degree of political reforms in the receiving countries. In addition the inclusion of non state actors is also dependent on the relations between the non state actors and the state.

While the Cotonou Agreement is built on past agreement principles, it also demonstrates a shift from the previous Lomé 1 to 4 Conventions which were not compatible with GATT principles as it stipulates that the Cotonou Agreement seeks to be consistent with WTO rules. Fontagne et al (2008:1) (<http://trade.ec.europa.eu>) assert that “the Lomé conventions violated WTO rules as they established unfair discrimination between developing countries.” This crack under Lomé led to the birth of the Cotonou Agreement. The Cotonou Agreement paved way for the new trading regime based on reciprocal preferences. On this basis, the WTO in 2001 agreed to give waiver to the EU to continue providing unilateral preferences until January 2008 (<http://trade.ec.europa.eu>). The waiver given by the WTO resulted in the

establishment of EPAs. The objectives of EPAs are the sustainable development of ACP countries, their smooth and gradual integration into the global economy and eradication of poverty.

According to Gligor (2011:23) (<http://www.seatini.org>) the Cotonou Agreement introduced some important innovations, like:

...the suspension of financial aid in the case of violation of human rights, democracy and the rule of law. Provisions were included in Cotonou to ensure the input of non-state actors in ACP countries in the policy process as it was acknowledged that civil society and the private sector are essential elements in promoting economic development.

This saw an increase in the scope of engagement of the EU and ACP acknowledging that economic development is also premised on national stability and that the focus of power is no longer solely the state but non-state actors are also centres of influence and power.

In an interview held with an official from the Ministry of Industry and Commerce (Harare 29 January 2013) the “EPAs are a drastic shift from the former ACP relationship with the EU that existed from the Yaunde Convention (1963) through to the Cotonou Partnership, which was based on non-reciprocal duty free preferential access for most of ACP exports to the EU market. The Lome and its successor were based on non-reciprocal preferential access. Reciprocal EPAs arrangement thus became compatible to the WTO trade regulations. However, though the EPAs are compatible to WTO rules and regulations they still continue to work to the advantage of developed countries as they are the major drivers in the negotiating process of EPAs.

## **2.6 Conclusion**

The current trade relationship between the EU and the ACP countries is a result of an evolution of arrangements due to changes in the international community and attempts to build more favourable economic partnerships. Such adjustments have resulted in significant changes in the structure and policies of trade between the two parties. Indeed, the integration of developing states into the world economy is essential, and the EU's efforts in expressing support and solidarity of its former colonies is commendable. However, the focus should not be on the integration of developing states into the global economic system, for inevitably they are already a part of it. Rather, the focus should be on how developing countries are

integrated. These are the lessons that parties in trade negotiations between the EU and ACP countries have come to appreciate as they have tackled issues in successive trade arrangements.

The Yaoundé agreements gave trade preferences; financial and technical support to newly independent ex-colonies. However, they maintained protectionist practises under the CAP. It generally maintained an exploitative structure as it enforced agricultural trade in one direction while protecting European farmers on the other. The Lomé Conventions sought to rectify trade inefficiencies and engaged in trade on a non-reciprocal basis. It sought to conform to WTO rules and advocated for structural reform. The Cotonou Agreement tied development to conditionality and emphasised respect for human rights. It acknowledged the need for civil society and other non-state actors input to achieve economic development. As such it sought to establish partnerships and put ownership of development in ACP countries hands. The current EPAs which are yet to be concluded, though they are broad there is need to balance the needs and interests of the two parties reflecting the developmental needs of the ACP states which had been neglected in the past trade agreements.

However, despite all the attempts by the EU to foster development in ACP countries, it is important to note that unless the EU in turn allows for significant market access especially in agriculture, trade flows risk being one way. Financial assistance though much appreciated reinforces dependency and there is need for ACP countries to diversify their economies to avoid risk of dependency on one sector and to improve economic development.



## **Chapter 3: The Nature and Environment of the EU-ESA EPAs Negotiations**

### **3.1 Introduction**

This Chapter focuses on the EPAs being negotiated between the EU and ACP countries. It serves to help in understanding the nature, type and negotiating process of the EPAs. The Chapter also analyses the environment in which the EPAs are being negotiated. By highlighting the EPAs and the environment they are negotiated in, this Chapter serves as an introduction to the following Chapter which draws its argument on the basis that the manner in which the EPAs are been negotiated and factors in the international environment are some of the challenges faced by ESA states and the EU in successfully concluding the EPAs. While the researcher acknowledges that this Chapter only generalises the international environment and EPAs as a whole, it is desired that the overview will be sufficient to provide an understanding of where some of the challenges emanate from. The Chapter argues that the global economic crisis; the drive for Africa's regionalism and continental unity; the rise of non-EU member states and strained bilateral ties between some ESA states and the EU have created a challenging environment and have been the source of some challenges in concluding EPAs. The Chapter serves as a broad introduction to the challenges which are to be critically discussed in Chapter Four.

### **3.2 EPAs Defined**

With the end of the OCTs, Yaounde, Lome and Cotonou Agreements, the EU and ACP countries agreed to enter into a new economic partnership which they hope will bring sustainable development. The EPAs are the new economic arrangements between the EU and ACP states which began in 2002 and are yet to be concluded in the African and Pacific regions. EPAs are trade agreements that are being developed by the EC in order to facilitate the regional integration of the ACP countries and their inclusion in the process of globalization. Bilal (2005:3) (<http://www.seatini.org>) states that “the ACP-EU agreed to enter negotiations on EPAs which are envisaged as deep free trade arrangements (FTAs).” In this respect, the EPAs are part of the globalization process which is expected to deepen and widen ensuring trade between the EU and ACP countries. Michael (2008:2) argues that “EPAs were developed because the trade preferences that had previously been in place were not succeeding in their objective of helping to integrate the ACP countries in the world economy.” Central to the EPAs, is the aspect of integrating ACP countries in a sustainable

manner. Jones and Marti (2009:5) note that “the rationale for EPAs is not to forward the economic interests of the European Union, but rather to stop the economic marginalisation of ACP countries. With EPAs, ‘trade meets development’ through gradual, managed liberalization in goods and services combined with transparent rules, credible institutions, and aid.” To this end, EPAs have the capacity to strategically integrate ESA countries into the global economy if the process is carried out in a transparent manner that takes into account each party’s concerns.

Previous trade preference agreements were criticized for being incompatible with WTO rules due to their lack of reciprocity. The European Commission states that EPAs should help developing countries to ‘build larger markets, foster trade in goods and stimulate investment’ which should help with realizing the goal of poverty eradication’ (<http://www.ec.europa.eu.org> 2012). As the EPA negotiations were not going to be completed in time for the December 2007 deadline, interim agreements were drafted. Due to the deadline, several interim agreements were initialed with individual countries rather than the full ACP regions.

### **3.3 Guiding Principles and Objectives of EPAs**

Under the Cotonou Partnership Agreement, it was arranged that regional trade agreements, called EPAs, would be concluded by 2008. The Cotonou Agreement sets out the basis for the EPAs. The main objective of the EPAs is set out in article 34 of the Cotonou Agreement on economic and trade cooperation which states that

...the cooperation shall aim at fostering the smooth and gradual integration of the ACP states into the world economy...the cooperation shall be implemented on in full conformity with the provisions of the WTO, including special and differential treatment, taking account of the Parties’ mutual interests and their respective levels of development.

Nalunga (2004:1) articulates that “the overall objective and principle of EPAs are the sustainable development of ACP countries..., the eradication of poverty and further support regional integration initiatives existing within the ACP.” This objective of EPAs is in line with the 2007 Lisbon Treaty principle that all EU policies that affect developing countries should take into account the objective of poverty eradication. Stiftung (2000:8) argues that “it needs to be borne in mind that African and Caribbean economies have been closely integrated

into the world trade at least from the time of slave trade. This however, has not provided the basis for either sustainable development or the eradication of poverty.” The words smooth and gradual integration of ACP states are an attempt to paint a positive and beneficial arrangement for ACP states which were in the past trade arrangements not beneficial to their development. In reality what needs to be done is for the EPAs to be designed to suit the developmental needs and interests of ACP states first before considering a smooth and gradual integration of them in the world economy.

EPAs are formed on four main principles set out in the Cotonou Agreement which are development, reciprocity, differentiation and regionalism. Bilal (2009:5) (<http://www.seatini.org>) asserts that “EPAs negotiations must be placed in the context of the overall development objectives of ACP countries and the objectives defined in the Cotonou Partnership Agreement” Such a principle in theory puts ACP states interest ahead of the EU which makes it different from the prior trade arrangements which did not spell out the development aspects of ACP economies. To be of benefit to the ACP, EPAs must be economically meaningful, politically sustainable and socially acceptable (<http://www.seatini.org>). All the Lome conventions had the development aspect but sustainable development has never been realized.

Article 35.3 of the Cotonou Agreement states that “EPAs will take into account the different levels of development of contracting parties.” The principle of Differentiation and Special Treatment of states is built on the Marrakesh Agreement preamble which establishes the WTO and recognizes that “...there is need for positive efforts designed to ensure that developing countries and especially the least developed among them, secure a share in the growth in international trade commensurate in the needs of their economic development” (<http://www.wto.org>, 2012). Similarly, according to <http://www.seatini.org> (2005) “All ESA countries fall in the category of developing and least developed countries. Most of them being least developed countries 33 of the 45 African countries negotiating EPAs with the EC are least developed countries.” Assuming that the principle is implemented correctly it should lead to sustainable development of these states in such arrangements. Bilal (2009:6) (<http://www.seatini.org>) asserts that “LDCs, small and vulnerable economies, landlocked countries and small islands should be able to benefit from Special and Differential treatment.” This principle is flexible and tilted in favor of ACP countries as it is compatible with the

WTO provisions unlike in the Lome Conventions where all the ACP signatories to the conventions were treated the same.

Reciprocity is one of the key principles in the EPAs between EU and ACP states. According to Bilal (2009:6) (<http://www.seatini.org>):

ACP countries will have to open up on a reciprocal basis, their own markets to the EU products in order to retain their preferential access to the EU market. The rationale for reciprocity rests on the principle that liberalization of ACP markets towards the EU will increase competition within ACP economies thereby stimulating EU investment and the necessary adjustments of their economies leading to growth and development.

Given the huge gap of development between the EU and ACP states, reciprocity is questionable in that it does lead to fair competition or a level trading field. It rather worsens poverty in ACP states as the infant local industries are crushed as they cannot match the supply of commodities to the EU and worse off cannot compete with the cheap EU products imported to their countries. In support of this, Hurt (2009:11) postulates that “in sum when placed in historical context, the plan for reciprocal trade relations under EPAs is in fact a return to the relationship that was first set up in the Treaty of Rome and the Yaounde Conventions”

The EPAs are to be negotiated on the principle of regionalism. Bilal (2009:7) asserts that “the EU clearly envisages negotiating with ACP regional groupings which will be in a position to do so, though it has not ruled out the possibility of concluding agreements with single countries in exceptional cases.” This possibility of reaching agreements with single countries creates mistrust among ACP states which weaken their ability to integrate on their own regional cooperation. Article 35.2 of the Cotonou Agreement states that “basing the future trade cooperation on regional integration initiatives stems from the conviction that regional integration is a key stepping stone towards further integration into the world economy.” Arguably, Hurt (2009:11) notes that “breaking the ACP state into regional blocs could be seen as a divide and rule strategy” by the EU to pursue its economic and political interest within these countries and regions. The divide and rule strategy weakens the ACP states position in the negotiating process to the advantage of the EU who appears to be united.

### 3.4 EPAs Negotiation Process

For the negotiation processes EPAs are discussed at regional basis which resulted in the ACP states arranging themselves into six configurations. These are the ESA, East African Community (EAC), Central Africa (CA), Southern African Development Community (SADC), West Africa (WA), the Caribbean and Pacific region. The ESA states comprise of Zimbabwe, Burundi, Comoros, DRC, Kenya, Malawi, Sudan, Zambia, Uganda, Ethiopia, Rwanda, Eritrea, Mauritius and Djibouti (Nalunga 2004:2). Of importance to note is that these countries in ESA are also members of other regional groupings for example Zimbabwe is also under SADC which hinders regional economic integration. Manyeruke (2007:229) asserts that “all ESA states are mandated to negotiate trade and development on six clusters which are development issues, market access, agriculture, fisheries, trade in services and trade related areas as well as establish national and regional structures.” Given these clusters that ESA states need to negotiate on, what they need is to have technical capacity to negotiate with the EU in line with their priorities, interests and needs for sustainable development to materialize.

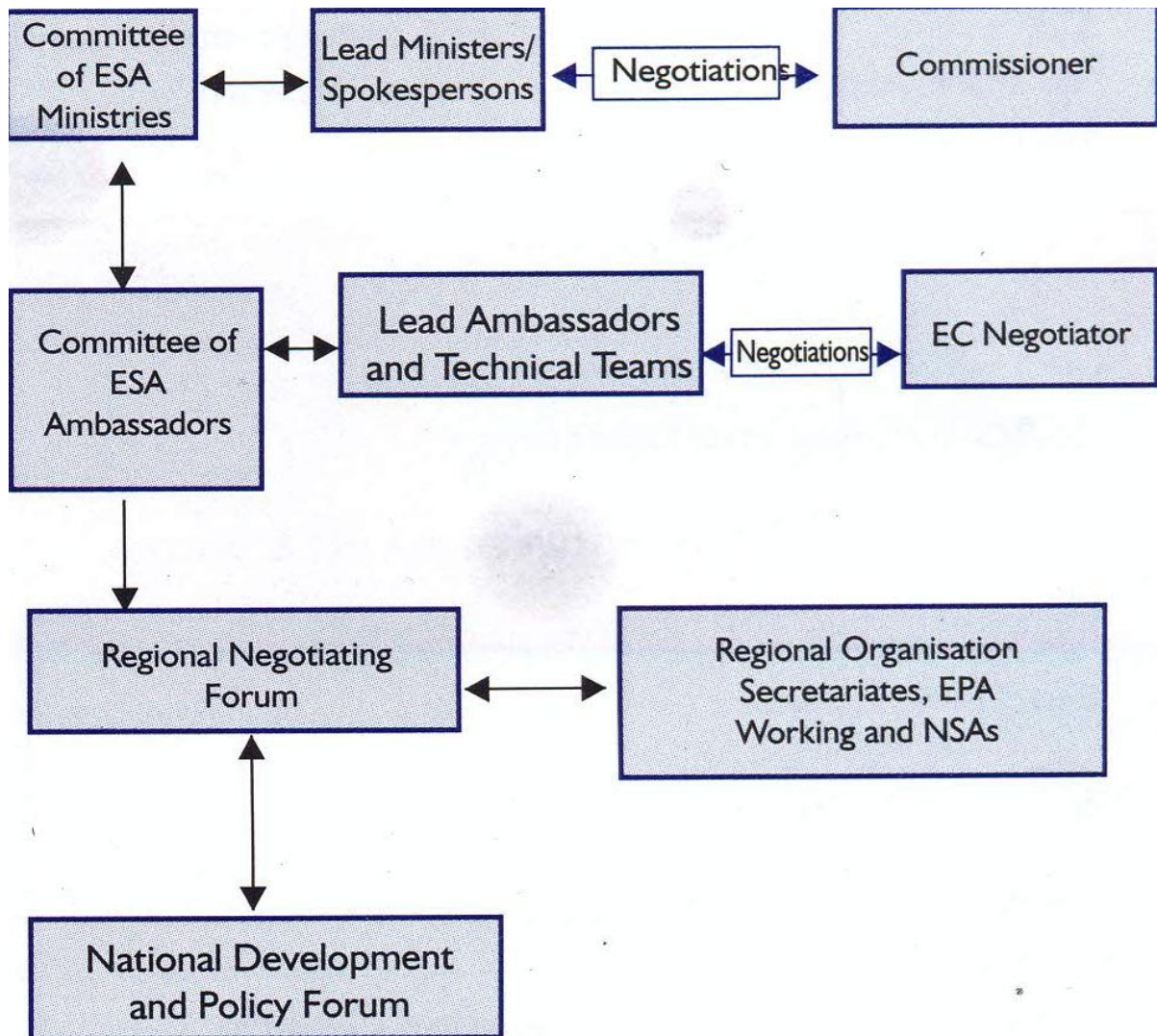
The EPAs with the ESA were to be discussed in three phases as from “August 2004 (Setting up priorities), phase 2 December 2005 (Substantive Negotiations) and phase 3 January 2006 (Continuation and finalization) then in January 2008 the EPAs would come into force” (Nalunga 2004:2). Under the EPAs each ACP state was supposed to create a negotiating structure which would feed into the regional configuration.

According to Manyeruke (2007:229) “every ESA state is supposed to establish a National Development and Trade Policy Forum (NDTPF) which is multi-sectoral, incorporating the civil society, private sector and the government.” Such an arrangement or national structure makes it inclusive of other stakeholders which might help in the identification of the broader developmental needs of each state in the EPAs. According to Kamidza (2005:10)

the configuration of Africa has limited capacity at every layer-national, regional and ambassadorial level in comparison to their counterparts in the EC. The EU is well positioned to ensure that its negotiating policy space and options, financial, institutional and technical resources serve its interests at bilateral and multilateral trade negotiations. Indeed the EC has technical experts whose duty is likely to exploit its superior bilateral bargaining power to drive for EPAs outcomes that maximize the Union’s political and economic interests at the WTO level.

For example, “Zimbabwe at national level does not have a structure for negotiating EPAs but it is done under the Ministry of International Trade” (GLOBAL NETWORK). Zimbabwe’s lack of a consistent and devoted negotiating structure puts her at a disadvantage in the EPAs negotiations, as the other negotiating partner (EU) has got personnel that specialize in negotiating the EPAs. At regional level the structure of the negotiations is illustrated in figure 1:

**Figure 1: ESA Negotiating Structure**



Source: TRADES Centre 2004.

The chart shows the ESA-EPA negotiating structure. According to TRADES Centre (2004:2) each of the issues clusters is represented by a lead minister or spokesperson in approving negotiating positions. The negotiating positions are then carried out by Lead Ambassadors or Spokespersons. The Regional negotiating forum provides a platform where lead and other Ambassadors, capital-based officials, Non-Governmental Officials (NGOs) and Secretariats prepare negotiating briefs and manage negotiations.

### 3.5 ESA Interim Agreements

By 2008, the ESA configuration had initialed an interim agreement with the EU under the ESA-EU framework. From the agreement, “countries that have not initialed an interim agreement (or have done so without submitting a market access schedule as in the case of Zambia) are exporting under the Everything But Arms (EBA) initiative since 1 January 2008 for which they are eligible due to their Least Developed Countries (LDCs) status [www.ecdpm.org/epa](http://www.ecdpm.org/epa).” The countries include Djibouti, Eritrea, Ethiopia, Malawi, Sudan and Zambia.

Under the ESA configuration, the EC initialed an interim agreement with the Seychelles and Zimbabwe in Brussels on 28 November 2007. Mauritius did the same on 4 December 2007. While Comoros and Madagascar followed on 11 December 2007. According to <http://www.ecdpm.org/epa> “the deal includes a WTO-compatible market access schedule, provisions on development cooperation, fisheries and other issues. The agreement allows for 100% liberalization by value by the EU as of 1 January 2008 with transition periods for the rice and sugar.”

Accordingly the Seychelles agreed that 97.5% of its imports from the EU by 2022 shall be broken down as follows: 62% of their imports will be liberalized after 5 years, 77% by 2017 and the remaining 20.5% by 2022. Zimbabwe will liberalize 80% of their imports from the EU by 2022: 45% by 2012, with the remaining 355 of their imports being liberalized progressively until 2022. Mauritius on its part, will liberalize 95.6% of its imports from the EU: 24.5% in 2008, 53.6% by 2017 and the remaining 42% will be liberalized in 2022. Coverage for Comoros and Madagascar is over 80% of their imports from the EU. In the case of Comoros, 21.5% of their imports will be liberalized after 5 years and the remaining 59.1% will be progressively liberalized by 2022. In the case of Madagascar, 37% of their imports from the EU will be liberalized after 5 years; the remaining 43.7% will be progressively liberalized by 2022.

Several products from the different sectors have been excluded from the liberalization, mainly due to the need to protect sensitive products in the countries. Goods excluded by Seychelles include meat, fisheries, beverages, leather articles, glass and ceramic and vehicles. In the case of Zimbabwe the goods are animal origin, cereals, beverages paper, plastics and rubber,

textiles and clothing, footwear, glass and ceramics, consumer electronics and vehicles. While Mauritius excluded live animals and meat, edible products of animal origin, fats, edible preparations and beverages chemicals, plastics and rubber articles of leather and fur, skins, iron and steel and consumer electronics. However, though some goods have been excluded in the liberalization process with the EU, they find their way in through other countries that are not party to the ESA group such as South Africa.

Having paid attention to the nature of the EPAs and their negotiation structures and processes, the study shall now focus on the international environment in which the EPAs are being negotiated.

### **3.6 The Global Economic Crisis**

The EPAs negotiations have been taking place under a global economic crisis and recession which have had an impact on developed and developing countries alike. Bilal et al (2009: 5) argue that ACP countries have been impacted “In terms of their prospects for economic growth and development, notably through a decline of trade, investment flows and lower remittances.” Statistically, the IMF and teVelde (2009) when assessing the aggregate impact of the 2008 global financial crisis proffered that “Sub-Saharan Africa was growing at nearly 7% a year in the years leading up to the crisis. Growth prospects changed dramatically after the crisis as Africa was forecasted to grow by only 1.7% in 2009 before returning to more than 5% in 2011.” The 2008 global financial crisis and subsequent recession resulted in restrictions in credit facilities, in the issuance of bonds, and negatively affected the flow of FDIs to ACP countries and also contributed to a fall in the price of export commodities accompanied by a decrease in the value of trade. The negotiations have therefore been taking place under a crisis that has placed pressure on ACP states and EU member states to seek ways of surviving the economic crises and recession. The challenge is for all states to stimulate economic activity and growth to the best of their interest amidst a global financial crisis.

### **3.7 Regional and Continental Integration**

The drive towards regionalism was not initiated by the 2008 global financial crises and the subsequent recession. Concerted efforts to achieve enhanced economic co-operation are evident in the formation of bodies such as the SADC, Common Market for Eastern and Southern Africa (COMESA), and the Economic Community of West African States



(ECOWAS). Hence, from the onset the negotiations have been taking place in an environment characterised by attempts to strengthen regional and bilateral trade on the African continent. The EU through its negotiations is trying to shift Africa's focus towards multilateralism. Stichele (2007:2) argues that "The EU has been pushing for liberalisation of services and investment in EPAs far beyond the pace and approaches that the various ACP regions have agreed among themselves." While the EU has acknowledged in principle that regional integration is a key instrument in global integration, it can be argued that in practice the EU has neglected to fully take into account the pace of Africa's regional processes and that the EU is increasing the pace of Africa's integration into the global economy to a pace that she has neither fully prepared for nor achieved regionally.

In relation to the above, Stichele (2007:7) gives the example of COMESA's draft Regulation for a Regional Framework for Trade in Services which "...covers cooperation and liberalisation on trade in services between its own members only, with the creation of a common market as the ultimate aim. The draft texts also explicitly mention that the first priority is the implementation of these COMESA regulations before entering into progressive liberalisation with non-member states" Thus the negotiations are taking place in an environment that on the one hand emphasises a pan-African integration agenda and on the other hand advocates for a multilateral integration agenda. They are negotiations that are undertaken by African's carrying ideologies of pan-Africanism and of an African renaissance; ideologies carried in the Lagos Plan of Action 1980 and the Abuja Treaty 1994 which represent the African vision of regional integration which is an end towards achieving full continental integration. The challenges that arise as a result of these two paradigms are discussed in detail in the following Chapter.

### **3.8 The Economic Rise of Non-EU member states**

The EU also has to negotiate EPAs in the face of what Fareed Zakaria termed "The Rise of the Rest." Emerging economies like Brazil, Russia, India, China and South Africa (BRICS) now play a larger role in international trade and have added to the competitiveness of the international market. This implies the EU has to negotiate with ESA with an understanding that ESA has alternative markets that it can turn to if negotiations with the EU totally fail. It also places pressure on the EU to improve the quality of trade and trade negotiations with ESA countries.

Of significant note is the involvement of China on the African continent. Chinese trade with Africa has grown exponentially during recent years. China Daily (2009) reports that in 2008 there was a “45.1% increase in the volume of trade between China and Africa to a record total of US\$107 billion; the SADC region is of particular importance given that the two main trade partners of China for 2008 were Angola and South Africa.” The rise and influence of China and other non-EU member states stands to threaten EU interests in the EPA negotiating process and trade interests in Africa. The EU therefore finds herself negotiating EPAs with the ACP region at a time of heightening trade competition.

### **3.9 Strained Bilateral Ties**

Negotiations have also been taking place amidst strained bilateral relations between the EU and some members of the ESA region. An example of such tensions can be found in the relations between the EU and Zimbabwe with the former imposing economic sanctions on the latter in 2002. According to Mbanje and Mahuku (2011:3) the sanctions contributed to “declines in Foreign Direct Investment, unemployment and the withdrawal of the multilateral financial institutions from providing balance of payments support to Zimbabwe.” Though the EPA can be viewed as a method by which Zimbabwe can counter the negative impact of sanctions, the EPA may be difficult to fully conclude in the background of the sanctions. Commendably, EPA negotiations have been carried out between the two despite their differences. Uganda also has had bad relations with the EU over her law which denies gay marriages. However, there is a risk that strained bilateral relations between Zimbabwe and the EU have the capacity to impede on negotiations if they are carried out with a sense of mistrust, contempt or in bad faith.

### **3.10 Conclusion**

The EU-ACP EPAs are intended to integrate the ACP countries into the global economic system in a sustainable manner and in compliance with WTO standards. To this end, negotiations have been taking place with the ACP split into the ESA, CA, SADC, WA and the CP regions. The negotiations are being carried out based on the principles of regionalism, reciprocity, development and differentiation and special treatment. These principles need to be practically applied in order for them to be effective in eradicating poverty in the ACP region. Despite the noble intentions of the negotiating parties and their desire to negotiate a mutually beneficial agreement, the environment they are faced with poses a significant challenge even before negotiations are entered into. The global economic crisis poses the

challenge of retarding economic activity. Africa's drive towards regional and continental unity poses a challenge for the EU to compliment Africa's attempts at regional development while luring the African market. The economic rise of non-EU member states presents competition for the EU and strained bilateral ties between Zimbabwe, Uganda and the EU result in negotiations with a judgmental mind-set.

## **Chapter 4: EPAs Negotiating Challenges and their Implications**

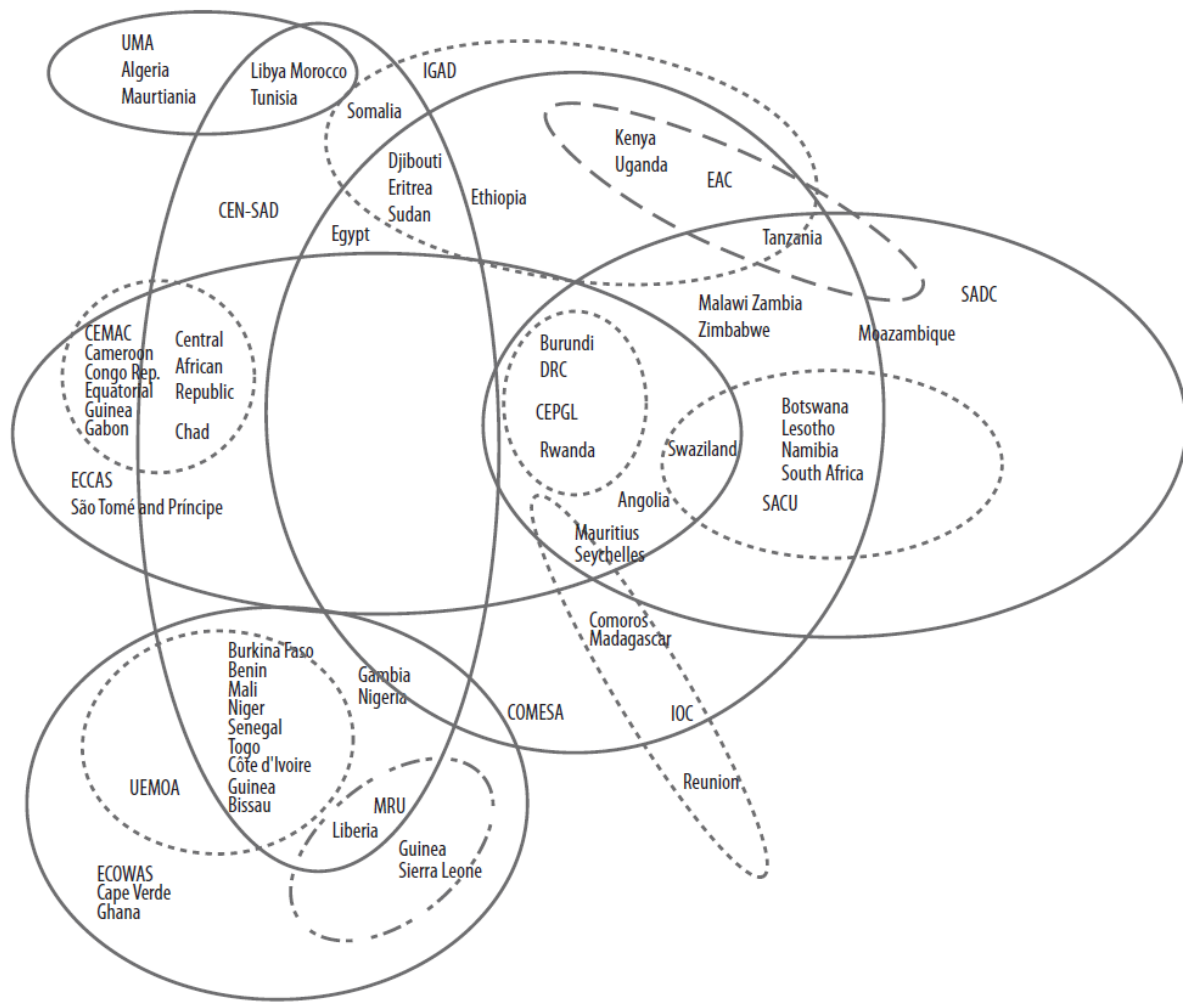
### **4.1 Introduction**

Prior EPAs trade arrangements between the EC later EU and developing countries have been characterised by challenges which have spilt over into the current EPAs. This Chapter analyses these challenges and their implications on concluding an EPA agreement. The challenges discussed in this Chapter are overlapping membership, conflicting interests of negotiating partners, contentious issues contained in the EPA, the standstill clause, special agricultural safeguards, the Most Favoured Nation Treatment, limited funding, limited institutional capacity, protracted time-frames, the need to balance liberalism and protectionism, and adjustment costs. The main argument of this Chapter is that the aforementioned challenges have seriously curtailed the conclusion of EPAs, buttressed by the external factors which were discussed in the previous chapter.

### **4.2 Multiplicity of membership within ACP states**

According to Kamidza (2005;10) (<http://www.seatini.org>) “EPAs have bundled countries in Africa into new regional political structures, a development that separates them from ongoing regional integration framework and hampers regionalism efforts, thereby likening it to divide and rule tactic by the EU.” As a result African states had to align into the new configurations for the EPAs negotiations which led to multiplicity of membership, a key hindrance to regional integration and the conclusion of EPAs. Most of the ACP countries belong to different Regional Economic Communities (RECs) which serve almost the purpose and functions. In a study carried out by “the United Nations Economic Commission for Africa (UNECA) and the African Union Commission (AUC) in 2006, an average of 95% of the members of a given REC was also members of another.” Chiumya (2009:88) describes this scenario as Africa having a spaghetti bowl of its own, as shown in figure 2:

#### **Figure 2: Spaghetti Bowl**



Source: UNECA, Assessing Regional Integration Report II.

Multiplicity of membership affects trade negotiations and regional integration for sustainable economic development. Chiumya (2009:88) asserts that “the situation does not only drain the already scarce resources but also impact negatively on the efficiency of trade administration” In support, the European Parliament (2012:29) states that “overlapping membership result in a dilution of already scarce human and technical resources, high administrative costs and inconsistent obligations.” By losing resources through overlapping membership, African states are tied back to dependency on the developed countries for financial assistance. For example “Democratic Republic of Congo (DRC) has been negotiating the EPAs both from the ESA and the CEMAC regional grouping and was yet (as of 2008) to decide which group was it going to sign EPA from” (<http://www.ecdpm.org/epa>, 2008). The main thrust of EPAs which is smooth integration of ACP states into the world economy cannot be attained; worse still the conclusion of EPAs remains delayed due to competition and mistrust among ACP states. In the same view, Bilal (2005;11) (<http://www.seatini.org>) posits that “these regional

groupings in the African context have in some cases conflicting objectives and obligations as in the case of ESA with COMESA/SADC/EAC whose integration processes and agendas are still not consistent.” This puts ACP states at a disadvantage in that EU states are not found with many regional economic groupings and in overlapping membership, thereby remain united in their trade negotiations.

The conclusion of EPAs in the ESA configuration has been slowed by the heterogeneous composition of the region in terms of the level of development of the negotiating countries.

Of the 15 countries in the ESA region, 11 are Least Developed Countries (LDCs) that retain duty and quota free access to the EU market even in absence of an EPA based on the Everything But Arms (EBA) initiative. Hence for these countries the need to conclude an EPA is less urgent than for the 4 middle income countries (Kenya, Mauritius, Seychelles and Zimbabwe) which were facing the threat of a significant increase in tariffs on their exports to the EU (<http://www.ecdpm.org/epa> 2008).

This serves to show that the different needs and priorities of the countries in the ESA affect the pace of the conclusion of EPAs as other countries do not have the sense of urgency as yet with regards to the agreement.

In addition, ACP states in general and Zimbabwe in particular, face trade challenges on multiple fronts:

In that it must conclude agreements with the WTO, SADC, COMESA and the AU as well as the Convention on Biological Diversity (CBD). To add on Zimbabwe has several bilateral agreements with several developing countries such as South Africa. Effectively participating in all these simultaneous negotiations from an informed perspective with a view to achieving results that support the rapid economic development of the country may prove difficult for most ACP countries and Zimbabwe in particular ([www.THEGLOBALNETWORK.net](http://www.THEGLOBALNETWORK.net) p9).

This contributes to the delay in the conclusion of EPAs worsened also by shortage of technical experts to match that of their counterparts especially the EU.

#### **4.3 Conflicting interest of the Negotiating Partners**

Not only does overlapping of membership create conflicting interest, but the EU and ACP states do not share common interests in the trade negotiations which have led to the postponement of EPAs conclusion. Arguably, Manyeruke (2007:239) notes that “the nature of

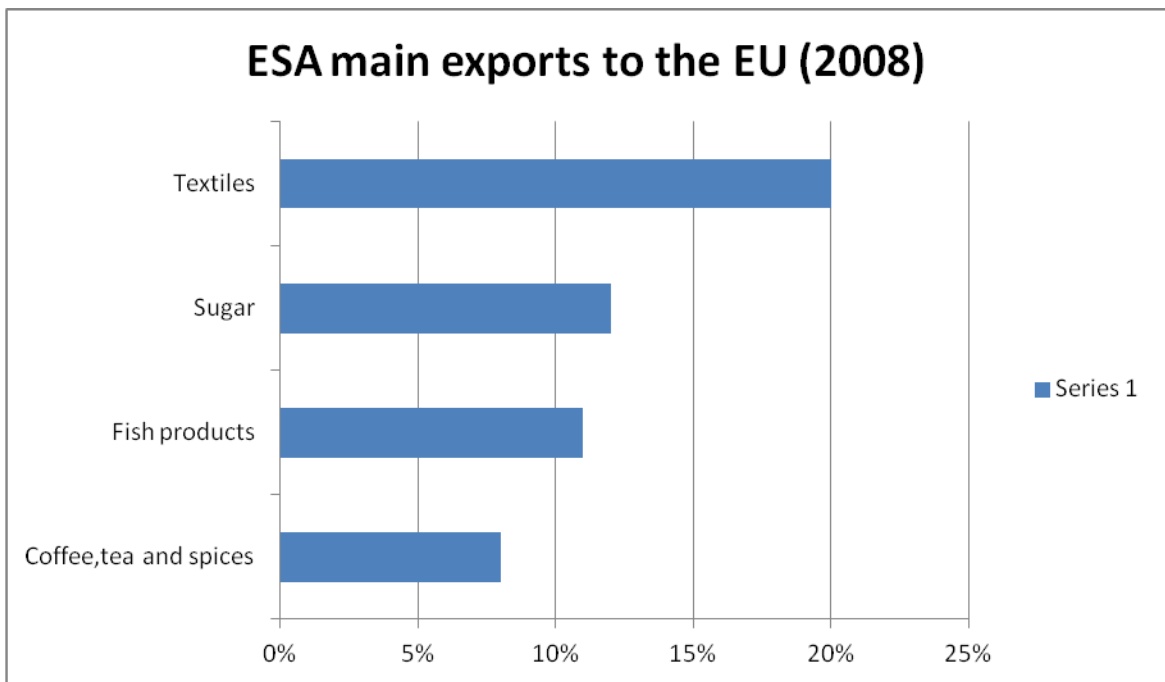
the negotiations is tilted in favour of the EU. One can observe that the EU already knows exactly what it wants from the negotiations. It has already done its assessments studies and knows which strategy to apply to different regions in the negotiations.” The past trade agreements between the EU and developing states have demonstrated that the prefabricated trade negotiations are designed to serve the political and economic interest of the EU. This creates uncertainties on the part of ACP states in the EPAs, which leads them to be cautionary in the negotiating process, thereby effectively slowing the pace.

Kamidza (2005:10) (<http://www.seatini.org>) articulates that “forming new regional configurations is likely to produce desirable results comparable to the 1884 Berlin Conference which curve Africa into small but controllable states solely for the benefit of Europe.” On one hand ACP states want sustainable development basing on their needs whilst Europe wants dominance politically and economically under the guise of the ‘developmental aid purse’ in the EPAs.

Aware of the rise of non EU economic giants such as Brazil, Russia, India and China, the EU wants to shun these states from interfering with its markets in the ACP states. According to Kamidza (2005:9) (<http://www.seatini.org>) “the current thrust of the EPAs negotiations suggest solving Europe’s overproduction and profitability crisis by opening up more markets for its products and services in Africa thus creating free trade areas between parties who are unequal on economic and political terms while being supported by one size fit all neoliberal policies.” The trade between EU and ESA states can be illustrated in the diagrams below:

The export and import trend between ESA-EU as of 2008 can be summarized in the tables below:

**Table 2: ESA export trends to EU in 2008**

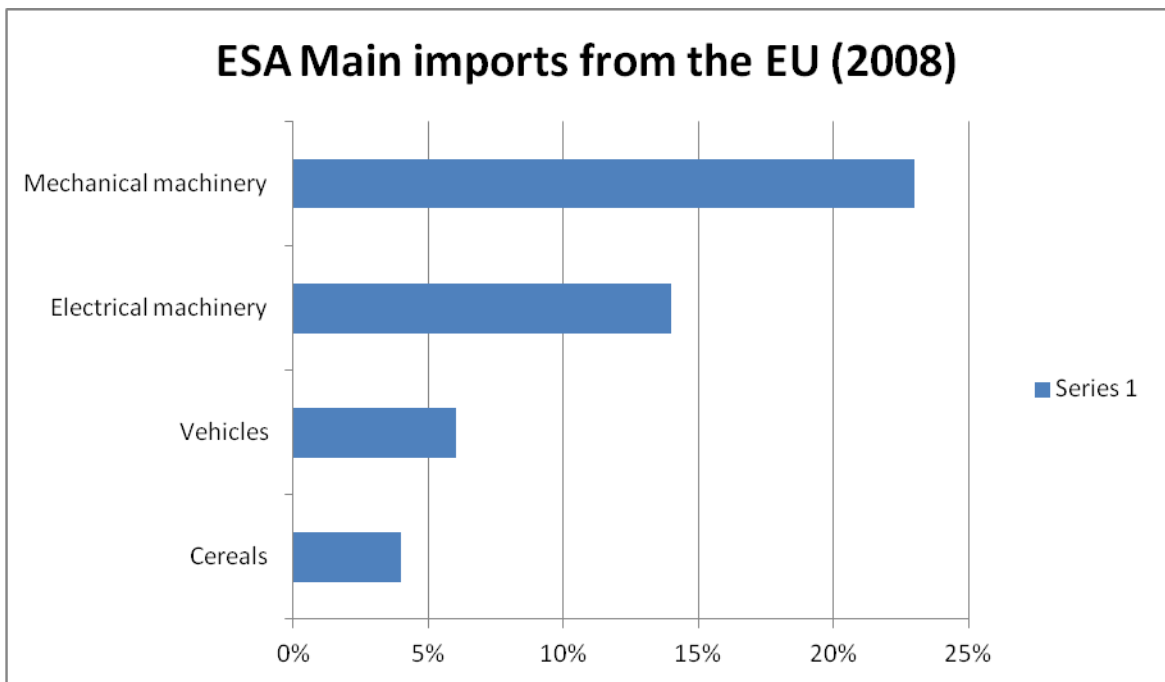


Source: European Commission (2008)

The table above shows that during the year 2008, ESA countries exported less agricultural produce to the EU market in comparison to exports in textiles. The EU has been criticised for advocating liberalisation in other markets while maintaining protectionist policies within its market. “The EPAs require ACP countries to provide reciprocal market access that is open to their markets to EU goods (Interview with Ministry of Industry and Commerce, Harare).” While the EPA is ideally meant to foster reciprocity, there has been a challenge of the need to balance liberalism and protection of home industry which will be discussed in detail in the following sections. Table 3 below further outlines the imports that ESA has been getting from the EU in 2008:

**Table 3: ESA imports from the EU in 2008**





Source: European Commission (2008)

The above table notes that ESA countries are importing large volumes of finished products from the EU. When compared to the exports ESA countries make to the same region comprised of mainly raw materials, it can be noted that ESA countries have not emphasised on value addition. In effect they liberalise their markets allowing the EU access to raw materials and import them back as processed goods. It also implies that under ESA, there has not been sufficient or effective transfer of skills and technologies obtained by ESA states when trading with the EU and there is a risk that EPAs have benefited the EU more than ESA countries. The argument being that EPAs are negotiated and designed to the favour of the EU while ESA reaps marginal gains.

#### 4.4 Contentious Issues in the EPAs

The differences on the content of the EPAs have derailed the progress of concluding it between ACP and EU states. According to European Parliament (2012:24) “From the beginning of the negotiations, the EC and ACP countries did not share the same vision of what future EPAs may contain, especially in the areas of trade liberalisation, the so called Singapore issues and development.” The Singapore issues include trade and investment, trade and competition policy, transparency in government procurement and trade facilitation. “ACP states have constantly raised concerns about these fundamental differences and tried to resist pressure from the EC to conclude EPAs before the end of WTO waiver 31 December 2007

(Ibid).” The argument put forward by the EC on the Singapore issues is that they facilitate Foreign Direct Investment (FDI) in developing countries which translate to economic growth. However, the past proves that to ACP states, that FDI has not yielded intended results from the EC but rather negatively crushed the infant industries within the developing economies. A Non Governmental Organisation (NGO), Action aid (2012) states that “the Singapore issues seek to enshrine greater rights for European corporations and further impede the ability of ACP governments to regulate them effectively.” This means that the EU and ACP states have to first have a common vision and understanding in the EPAs contents, for them negotiate speedily and meaningfully on the EPAs.

ACP states are arguing that the EU is trying to sneak the Singapore issues into the EPAs which they totally disregard for their development or poverty eradication. Accusations from the NGOs on the EPAs, is that, “the EC has been increasingly using its economic and political power to force its own vision of EPAs onto the ACP. Further, the EC was accused of hiding highly sensitive and potentially dangerous trade liberalisation under the pretence of development rhetoric” (European Parliament 2012:24). Given this situation the EPAs appear to become a paper bomb if concluded on the part of developing countries.

Another contentious issue is the standstill clause which stipulates that after the entry into force of the EPAs, the parties may not introduce new tariffs, or may not raise existing tariffs and, once eliminated, tariffs may not be re-imposed. Schloemann (2010:11) argues that “the imposition of a standstill clause assumes a static view of comparative advantage that is essentially locked in. That is, those industries that at the time of EPA negotiation do not enjoy domestic production cannot benefit from the protection of future tariff increases during the EPA implementation period.” African states feel that the standstill clause should be removed from the EPA texts in order to allow for maximum use of policy space for development purposes. African countries need to remain flexible to make trade policy changes if necessary.

Agricultural Safeguards have also proven to be a challenge in the conclusion of EPAs. Schloemann (2010:12) states that “Some ACP regions have proposed to provide for a Special Agricultural Safeguard that would allow them to apply additional tariffs if and when imports from the EU either surge above a certain volume threshold.” The EU argues that there is no need for these safeguards and argue that they would conflict with the standstill clause if both the safeguards and the stand still clause were to be adopted. However, it is worth noting that

the EU still maintains her CAP while denying ACP states the same right to protect their agricultural sectors.

Another matter that has been of contention is The Most Favoured Nation (MFN) clause. Schloemann (2010:10) explains that following the conclusion of an EPA, "...should any ACP country or grouping conclude a Free Trade Agreement with any developed country or any other major trading economy, including the newly emerging economies such as China, India, Russia and Brazil, then any more favourable treatment provided to that developed country or grouping must also be extended to the EU and vice versa." Some ACP negotiators consider that the inclusion of the MFN provision inhibits South-South co-operation, specifically under the "Enabling Clause" at the WTO. The Enabling Clause entails the differential and more favourable treatment reciprocity and fuller participation of developing since 1979 it permits derogation from the MFN principle allowing developing countries to enter into regional trade agreements among themselves (<http://www.cuts-international>, 2009). ACP member states argue that the Enabling Clause does not violate WTO rules which the EPA is meant to be compliant with. ACP states further argue that the Enabling Clause was established to legitimise the principles under which unilateral preference schemes were granted by developed to developing countries, and to allow lower thresholds for liberalisation in agreements between developing countries. Hence its application should exclude the above newly emerging countries.

#### **4.5 Funding**

EPAs are funded by the EU through the EDF and have been in operational since 1957. The EDF was created under article 131 and 136 of the Treaty of Rome; "the aim was to finance investment projects in associated territories 1958-62. Germany and France were to provide two thirds of finance in equal shares with about 90% of expenditure in French dependent countries (<http://www.caef.org.uk>)." In the case of EPAs, the fund has been insufficient as the funders and founders of the fund have been hit by the global financial crisis of 2007. Kamidza (2005:10) (<http://www.seatini.org>) cites that "all African countries negotiating an EPA are locked in unhealthy post-colonial dependence on Europe for development aid, fiscal support and markets, a development that has hindered Africa's competitiveness at the national, regional and international markets." The continued funding of EPAs through the EDF strengthens the neo-colonial wave in the African context which does not translate to

development at all. Through this fund “the EU is therefore maintaining its octopus grip on the ACP states” as a whole (Manyeruke 2007:238).

As ACP states have gained political independence, the purpose of EDF has been to “promote and expedite economic, cultural and social development of ACP states party to the Cotonou Agreement with a view to contributing to peace and security and to promote a stable and democratic environment” (Ibid). What needs to be uprooted is the genuine interest of the funder of the EDF versus the mentioned purpose of meaningful development which has not yet taken full swing since 1957. Though an element of misuse of the funds from the EDF by the receiving ACP states is present, there has been selective and conditional allocation of the EDF. This has made it ineffective in the attainment of development. Furthermore, the conditionalities attached to EU trade arrangements backtracks the conclusion of EPAs as some ACP states are turning to China whose aid is condition free.

Criticism has been levelled against the EDF in that, as noted by Manyeruke (2007:237) “the degree of bureaucracy attached to the EDF has made disbursements of the fund intermittently slow and thus of course renders other facilities such as STABEX and SYSMIN inefficient since they rely on drawing from this fund.” As such the EDF on its own becomes oversubscribed by factors it has to cover worsened by the poor financial base of ACP states. The Zimbabwean case demonstrates the financial dependency of ACP states on the EU. Manyeruke (2007:237) asserts that;

The EU in the case of Zimbabwe sponsored the training workshop for negotiators which was coordinated by TRADES Centre. The EU also offered to pay airfares for the negotiators. The domination of funding by the EU leaves Zimbabwe as a vulnerable state in the negotiations. The issue of failure by the Zimbabwe government to mobilise funds for studies and negotiations compromises its position since its strategies cannot remain confidential from the donor.

The issue at stake is not about funding from the EU but the underlying matter is that the EPAs are being negotiated by two groups (EU and ACP) who have a wide gap of economic and political development. Thus the EPAs remain biased in the interest of the developed EU at the expense of the developing ACP group which effectively curtails the conclusion of the economic arrangements.

#### **4.6 Institutional Capacity**

Lack of institutional structures on the ACP states part has created a stumbling block in the conclusion of EPAs. Tandon (2001) in Manyeruke (2007:240) postulates that on one hand “the EU has legal status, institutional structure (including the Council of Ministers and the European Parliament), a powerful functioning bureaucracy that seats in Brussels and a team of skilled negotiators.” On the other hand, “the ACP states are struggling to formulate the institutional frameworks to handle the negotiations more so; funding the process is limited since the organisation is heavily dependent on the EU for funding Manyeruke (2007:240).” For example, “ESA group does not have the legal standing and structure.....the EU is supporting ESA-EPA activities through the COMESA legal and political structures” Kamidza (2005:11) (<http://www.seatini.org>). The institutional gap between the EU and the ACP region puts the EU at an advantage as they are highly advanced in the negotiating process thereby pushing their interests as the ACP is weak.

#### **4.7 Time Frame**

EPA negotiations have been dragging on for a decade and risk losing momentum. In 2012 the deadline was extended to January 1 2016. To this end a number of ACP states have sought to conclude interim EPAs to maintain their access to the EU market. Bilal et al (2009:14) (<http://www.seatini.org>) state that “Following the rush by 35 countries to conclude interim EPAs by the end of 2007, plus Zambia in 2008, there is no sense of urgency to conclude full regional EPAs among many African ACP countries.” ACP countries feel that the EU is pressuring the signing of EPAs. Mugabe (2012:1) asserts that

....the timing of the review process of the Generalised System of Preferences (GSP) regime, which is set to be implemented in 2014, in itself also exerts undue pressure on some countries who have to sign, ratify and implement the EPA without the GSP scheme to fall back on should the EPAs not be finalised.

This demonstrates that negotiating EPAs by ACP countries under such pressure puts them in a risk of agreeing on an EPA which does not serve their developmental interests. In support, Kamidza (2005:11) (<http://www.seatini.org>) posits that “the EU is fast tracking the process with the view to ensure that EPAs negotiations are concluded before the finalisation of the Doha Development Agenda.” Thus the time the EU wants the EPA to be concluded is biased in their own strategic interests. Further, deadlines for conclusion which were set to for the year 2008 or mid-2009 were generally missed in all regions. To some extent this reflects that

apart from some regional organisations and a few countries, the EPA negotiations may no longer appear as a development priority in Africa.

#### **4.8 Liberalisation versus Protectionism**

Another challenge that has been encountered in the negotiation process is the need for ACP states to balance the need for development and the need to protect home industry in the face of market liberalisation. Jones (2009) asserts that ACP states argue opening up local markets to international competition from EU products “...will further contribute to put domestic production under pressure at a time when international export market opportunities are dwindling. In addition, the removal of custom duties from EU imports will exacerbate further problems of tightened budgetary constraints experienced by many developing and ACP countries as a result of the global crisis.” The global international crisis impact on ACP states was worsened because of liberal regulatory frameworks that restrict governments to proactively intervene in markets through bail-out and stimulus packages and subsidies. African markets are relatively small and EPAs expose them to larger risks than they ordinarily face. Their integration into the global financial system through EPAs increases their vulnerability to international shocks. To this end it can be argued that the fear that EPAs will unduly limit the policy space required by ACP countries and regions to pursue their own development strategies while there has been a challenge encountered in concluding EPAs.

#### **4.9 Adjustment Costs**

The issue of adjustment costs in terms of market opening, productive adjustments, infrastructure development and fiscal reforms has also been a factor that has been encountered in concluding EPAs. Balances of payment constraints in most African ACP countries and budgetary constraints as a result of the global economic crisis are some of the factors that reduce the capacity of states to address these adjustments costs. According to Bilal (2009:11) (<http://www.seatini.org>) “EPA main commitments cover a period up to about 15 years, and implementation will be gradual. If EPAs can help address some of the fundamentals of African ACP economies, their effects will not be felt immediately. In this sense, EPAs are no quick economic fix.” Thus while EPAs are meant to economically enhance the economies of ACP states in the long run, they initially cost money to initiate and this funding is required during a period of economic hardship of African states. To some degree, the challenge is also to convince governments that while EPAs may add to economic hardships in the short term because of adjustment costs, there are outweighing benefits in the future.

#### **4.10 New Issues under EPAs Negotiations**

Whilst contentious issues and some of the above challenges have not yet been resolved between EU and ACP states, new issues have been raised by the former which have further stalled the conclusion of EPAs. According to Maes (2012:4) “the EU has come up with newest issues like good governance in tax matters and the ‘Turkey clause’ when negotiators are still discussing issues raised in the interim EPAs such as aid for trade and tariffs.” In addition, other topical issues such as “quantitative restrictions, relations with countries that are in customs union with the EU (including Turkey, St Martin and Andora), development of benchmarks indicators and targets for monitoring the implementation of the agreements of the non-execution clause” (<http://www.agritrade.cta>) have delayed and complicated the conclusion of EPAs. The EU attaches the conditionality on good governance, arguing that it leads to development of the developing countries. However, some developing countries appear to be reluctant to follow the dictates of the EU as they feel it is an infringement of their internal policies.

##### **4.10.1 ESA’s Priorities**

The majority of ACP states in particular the ESA configuration’s economies are agro-based. With the changes in climate, the rainfall patterns have been affected which has resulted to floods, erratic rainfall and long dry spells. This has negatively affected their agriculture production to feed the locals as well as to trade to other countries. Maes (2012:13) asserts that issues such as “climate change, food, financial and economic crises have brought about new challenges and heightened the need to maintain policy space and to strengthen local and regional markets.” Thus, the effects of climate change on developing countries have changed their attention and priority over EPAs as their economies are mainly dependent on agriculture. Much attention has now been put in the Kyoto protocol as it has immediate bearing to these states as opposed to the decade long EPAs negotiations. Climate change has a major bearing on food security to developing states.

Other than climate issues, priority and focus by some of the ESA states has been changed by internal political issues. Reality has demonstrated that states elevate national issues ahead of regional or international developments. ESA member states such as Zimbabwe, Kenya, and Madagascar are focusing on political stability. Zimbabwe for example is under an Inclusive Government (IG) which involves three main political parties which are Zimbabwe African National Union Patriotic Front (ZANU PF), Movement for Democratic Change Tsvangirai led

faction MDC T and Movement for Democratic Change Mutambara led faction (MDC-M). The IG has and is focusing on the outstanding issues such as the constitution making process and elections. This in a way compromises the government's full attention trade arrangements such as the EPAs. Similarly, Kenya does have an inclusive government, Sudan still exist border conflicts and Madagascar internal politics have been crippled by the 2008 coup. The above situation makes ESA regional integration complex as well as weaken the political muscle of the ESA configuration when negotiating with the EU. It also further slows down the EPAs negotiations pace.

#### **4.10.2 Conclusion**

The principal argument forwarded by African states is that they need more policy space and flexibility on matters relating to the implementation time frame. The ACP countries are also opposed to the provisions that would limit the use of export taxes both as a matter of principle, and for the sake of preserving their policy space. The reasons listed above showed that many disagreements still remain between the ACP group and the EU, prolonging the negotiations and hindering the attainment of a conclusive agreement. These challenges are both in respect of the content of the EPA and the interests and capacity of states in the negotiating process.



## **Chapter 5: Conclusion and Recommendations**

### **5.1 Conclusion**

This study concludes that internal and external factors have severely curtailed the conclusion of EPAs between the EU and the ESA countries. Trade between the EU and member states of the ACP region has evolved significantly over the years. The historical trade cooperation between the EU and ACP states have been characterised by slave trade, colonialism, capitalism and imperialism. These past unequal cooperation are some of the external factors that have caused the delay in the conclusion of EPAs on the part of the ESA-ACP states who seem to have taken a cautious approach when negotiating with the EU. The experience of developing countries with the EU in trade agreements is a testimony that it is another trade liberalisation strategy by the EU to control the developing countries in a new wave known as neo-colonialism.

The progress of EPAs negotiations have been slowed by multiplicity of membership within the ACP states and ESA in particular. Furthermore, the ESA countries are negotiating bilateral, regional and multilateral agendas which results in a heavy trade negotiating load or agenda. For example, Zimbabwe negotiates different trade agendas with SADC, COMESA and ESA configuration. Whilst DRC also negotiates the EPAs under ESA configuration and the CEMAC. The implications of multiplicity of membership is that it strains the already scarce human and financial resources on the part of ESA states leaving them with a weak financial position in the EPAs negotiations.

Another factor that has stalled the EPAs negotiation is the prioritisation of issues by the negotiating partners the EU and ESA countries. Global dynamics such as climate change have shifted the focus and attention of ESA states. Given that most of the ESA states economies are dependent on agriculture and their food security has been affected by climate change, these countries are now prioritising climate issues over that of EPAs. In addition, ESA countries such as Zimbabwe for example is focusing on internal issues such as political stability under the inclusive government formed in 2008. Other countries also include Madagascar and Kenya who have faced some internal political shocks that needs to be resolved before focusing on the EPAs. Under the circumstances of climate change and a focus on internal stability one can note that the commitments of affected countries to the EPAs is now compromised, which effectively derails the conclusion of the agreement.

The study also identified the 2008 global economic crisis as an obstacle to the conclusion of EPAs. The study noted that the global financial crisis has contributed towards a decline in trade and investment. It has also made states to be more inward looking and shifted the focus of states from EPAs to ensuring their economies stabilise. On the EU part, the global economic crisis has shifted their full attention and financial resources from external economic cooperation with the ACP states under the EPAs for example. It also implies that states may to some extent consider the costs and benefits of further economic integration amidst the fear that the deeper the integration the more vulnerable the individual states are to changes and upsets in the system. To this end, protectionism may stand as a possible obstacle to concluding EPAs.

Another obstacle outlined in this study is the emphasis placed by Africa on regional and continental integration. EU EPA negotiations have from the very onset been taking place alongside regional and continental trade arrangements. While the EU has been trying to push for liberalism at a pace Africa has not reached amongst its own regional arrangements. Thus while the EU is emphasising Eurocentric trade policies, Africa is emphasising Pan-African approaches in the spirit of an African Renaissance. This implies that ESA countries have to either have to shift their emphasis to global partnerships or ascertain their position with the EU that domestic structures and arrangements need to be strengthened at a comfortable pace before emphasis is placed on EU-EPAs.

Besides regional competition faced by the EU, completion has also emerged from the economic rise of non-EU member states. The BRICS block has emerged as a notable trading platform offering alternative markets. Of particular note is China's involvement and engagement in Africa which has been accompanied by flexible and appropriate investments in the region.

EU-ACP EPAs have also faced the obstacle of strained bilateral ties. The case of tense diplomatic relations between Zimbabwe and the EU is an example. The implication of such relations is that negotiations are done in an environment characterised by tension and possibly the feeling of bad faith.

Internal factors have also directly or indirectly created major hurdles to the conclusion of EPAs. Technical challenges were also discussed in the study. The Standstill Clause advocated

for by the EU assumes a static view of comparative advantage that is essentially locked in. Developing countries argue that it limits their ability to determine the application of tariffs the proposal by the ACP group for a Special Agricultural Safeguard to impose tariffs that protect their industry from an influx of EU produce while the EU argues it is not necessary but maintains protectionism in agriculture was also discussed as a source of contention. The MFN clauses alongside the Enabling clause and the Turkey clause have also created stumbling blocs. Coupled with a limited institutional capacity and limited funding in some ACP states, the above challenges have resulted in protracted negotiations which some critics argue has made the EPA system somewhat irrelevant.

This study argued that the EU, through trade liberalism, has sought to maintain access to ACP countries resources and markets through trade agreements that foster the dependency of ACP member countries on the EU. Newly independent states formalised relations with the EU through economic cooperation. The EU also assisted former colonies through development trade which was attached to conditionalities that had a negative impact on developing countries' economic growth.

The study argued that the continuous involvement of the EU in the economic development of ACP states is an attempt by the former to ensure the latter develops as a reflection of EU development. To this end and consistent with the modernisation theory, the study contended that the developmental approach prescribed by the EU for ACP states is not wholly consistent with the developmental needs and capacity of ACP states.

From the establishment of the Treaty of Rome (1957), the study traced subsequent trade agreements prior to EPAs between the EU and ACP states. The Yaoundé Conventions (1963-1969), the Lome Conventions (1975-1995) and the Cotonou Agreement (2000) strengthened and increased economic cooperation between the EU and ACP states. While these agreements enhanced trade, the study revealed that they were tipped in favour of the EU. As TWCs opened up to imports from the EU, the EU maintained protectionist practises in some areas of her economy such as agriculture under CAP for example.

## **5.2 Recommendations**

Bilal (2008:44) asserts that the development that is required is “the one that pays attention to contextual variations and uncertain trajectories of change. This implies that trade and other

economic reforms must be tailor-made to the specific conditions and characteristics of the country or region where they are undertaken.” EPAs should be negotiated in accordance to the developmental needs, interests and priorities of the developing countries. This can only come if the EU is not to negotiate on the negotiating table with prefabricated arrangements designed for their own sustenance and interests. Furthermore, the ESA states need to be given more time before they can conclude on an imperfect economic arrangement with the EU.

According to <http://www.trademarks.org> “ACP governments need to pursue alternatives to EPAs such as prioritisation of deeper African regional integration, considering regional mechanisms to compensate for the loss of EU trade preferences to non LDCs within a region for example a solidarity fund as adopted by ECOWAS trade ministers in December 2011.” As EPAs seems to be a neo-colonial strategy which widens the cracks of ACP integration, ACP states can from a radical perspective delink with the EU in such economic arrangements and deepen their focus on intra regional cooperation until the EU or the ACP states propose and design EPAs that suite and meet their developmental levels.

Some of the solutions to the challenges being encountered in the conclusion of EPAs stem from within the ACP group in general and the ESA configuration in particular. For example, issues of multiplicity of membership and negotiating multiple political-economic partnerships at once. From the study, Zimbabwe is a member of SADC, COMESA and ESA. For the purpose of EPAs Zimbabwe is aligned to the ESA configuration, same with DRC which is negotiating within the ESA and the CEMAC configuration. This has an effect on its already scarce financial and human resources to actively negotiate with the EU. Attempts to come up with the Tripartite Free Trade Area (TFTA) for example can be used to harmonize trade issues in the negotiation of future trade arrangements.

ACP region should put in place funding mechanisms or budgets which are not dependent on the EU (its negotiating partner) budget as the EU funded the EPA through the EDF. This will enable the ACP region, in particular the ESA states to be free from influence of the funders. An independent ACP-ESA fund enables the grouping to have control and secrecy in terms of the strategies when negotiating with the EU. In cases such as the global economic crisis the ACP fund (on negotiations and logistics) such as the EPAs will not be affected, this does not stall the progress of the negotiations as one party (the EU) would be the most affected by the

crisis. By so doing financial dependency from the EU or the developed countries is minimized.

Dependency on the EU is also being worsened by the scarce of resources (financial) for example funding the training of negotiators and sponsoring for the negotiation processes, which is being caused overlapping of membership by ACP region. The researcher's view is that the ESA configuration needs to be disbanded then countries that were member states to it rejoin existing RECs and negotiate the EPAs from there. For example Zimbabwe can negotiate under the SADC where it cooperates in most of its socio-economic and political fronts. Such a process breeds a conducive environment for regional integration and unity among the ACP member states which is required when negotiating with a strong and united EU. In addition, TWCs can trim down their dependence by intensifying their institutional capacity which will place them at better positions when negotiating with the EU.

Successful economic cooperation can materialize when and where there is political stability. The political climate in the ESA configuration has been unstable characterized by coups in Madagascar, post election violence in the case of Zimbabwe 2008 and Kenya's 2009. Furthermore strained bilateral ties between some of the members of the ESA and the EU need to be ironed out as in the Zimbabwe and Uganda cases, this can lead to successful negotiations and conclusion of comprehensive EPAs. The normalization of bilateral relations removes elements of suspicion and mistrust in the negotiating processes which are key requirements in partnerships arrangements. Political stability is also key in strengthening the political muscle of the ACP-ESA configuration when negotiating with the EU which appears to be more politically stable.

The TWCs can as an alternative strengthen their South to South cooperation with the emerging states such as China and India whose economies are growing at a faster rate. Economic arrangements offered by these states are proving to be attractive to some of the ACP states as they are conditions are relaxed and less demanding as compared to those offered by the EU. Furthermore, South-South economic cooperation seems to suite the developmental needs and growth levels of developing states. The gains from such economic cooperation are sum-sum as opposed to the zero-sum relationship which the EU has in the past been offering to the developing countries. In addition South to South cooperation appear to strengthen and deepen regional integration of ACP states given their small developmental

gaps as well as they seem to share common history and experience. Dependency on the EU by developing countries in particular the ESA configuration can also be mitigated by an increased and strengthened south to south cooperation.

Unresolved contentious issues need to be resolved before new issues such as the Turkey clause and good governance are tabled on the negotiating table. These so called new issues seems to have stalled the conclusion of EPAs as the negotiating parties have to renegotiate the new tabled issues whilst they still have other contentious issues hanging. The researcher is of the view that the new issues need to be shelved and inserted when some of the EPAs contentious issues have been resolved. In addition the ACP region needs to be given more policy space in the EPAs negotiations given their weak institutional and financial capacity. So as the new issues have been raised by the EU so should the ACP states be given more time to adjust their policies in line with their developmental needs and priorities that enhance regional integration, capacity building and supply-side constraints.

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Interview with an official from Ministry of Trade and Commerce in Harare on 30 January 2013

## **Interview Guide Questions**

1. Why did Zimbabwe choose to negotiate the EPAs under the ESA configuration and not SADC?
2. Is there any difference between the past EU partnership with Africa and the current EPAs?
3. What are some of the challenges that Zimbabwe is facing in the ESA configuration in the conclusion of EPAs?
4. What strategies does Zimbabwe/ESA group have to tackle the challenges they are facing?
5. Does Zimbabwe have a permanent negotiating team or personnel in the negotiating of the EPAs?
6. If concluded whose interests are EPAs likely to serve and do EPAs lead to sustainable development?
7. What is the way forward for the ACP states in the conclusion of EPAs?