

Low Down on EPAs

Issue 8: April-June 2007

Welcome to the latest update from Traidcraft on all things new in the world of Economic Partnership Agreements. In this issue:

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EC negotiators criticised for dirty tactics

In May, five UK NGOs – Traidcraft, Tearfund, Christian Aid, CAFOD and ActionAid – released a report entitled *Partnership Under Pressure: An Assessment of the European Commission's conduct in the EPA negotiations*, which catalogues a raft of dirty tactics being used by EC negotiators to get African, Caribbean and Pacific (ACP) regions to accept anti-development proposals. The report contains multiple examples of EU pressure and many quotes from the ACP protesting at this manner of conducting trade negotiations. The report can be downloaded from: www.epa2007.org

In addition to the examples featuring in this report, the complaints about the EC negotiators' conduct keep coming:

- o "The European Union negotiators should pay heed to Common African Positions, rather than actively encouraging and pressing the negotiating groups into contrary positions."
- o "The European Commission seems bent on ignoring its obligations under the Cotonou Agreement to ensure the continuation of the favourable treatment ... and not disrupt poverty-alleviating trade."
- o "The European Commission negotiators don't seem to share the same understanding as the African negotiations, on how development in Africa will be achieved. ... European negotiators have taken positions that in many cases don't quite reflect the political pronouncements of the European Council, the member states and the parliamentarians."

(all above from African Union Commission brief on EPAs, 26 May 2007)

- o 'It is common knowledge, and colleagues have informed me that the approach of the Commission has often been forceful and unconciliatory in its approach to the negotiations.' (David Martin MEP, March 2007)
- o "We observe with dismay that African governments are being bullied by the EU, and they continue to ignore technical advice (reviews) emerging from African think-tanks that they are not ready to sign EPA by December 2007. This undermines the credibility of existing impact assessment studies that have shown that EPAs will have a negative impact on poverty eradication initiatives and on processes like regional integration, harmonization of national and regional fiscal policies and other related processes directed at domestic demand driven growth." (ESA CSO Statement to the 11th Regional Negotiating Forum, Nairobi 14 – 16th May 2007)

In such a context the onus remains on EU member states *not* to turn a blind eye to the negotiators' conduct and to call on the European Commission to fundamentally change its approach. Campaigners will continue to stress that the ACP cannot be expected to sign up to bad deals under this kind of pressure. Furthermore, there is no need to rush into EPAs given that a credible and more pro-development alternative has now been developed (see article on Alternatives below).

State of Play

Time is short

All six of the ACP regions have now committed to continue negotiating, with a view to concluding EPAs before the end-2007 deadline. This is in the context of the EU failing to offer any genuine alternative, other than the threat of the re-imposition of tariffs on ACP exports to European markets should regions fail to conclude EPAs on time (see Low Down on EPAs issue 7).

Yet major issues remain unresolved in each of the regions. The ACP – while negotiating in good faith - have made clear that conclusion of EPAs is dependent upon satisfactory agreements on (1) the degree of market opening the ACP are expected to undertake, (2) the EU's commitments on additional development assistance; and (3) the text of the agreements (ACP-EC Joint Council of Ministers, 25 May 2007, Brussels).

Meanwhile the EC has been proposing template draft EPAs to all of the ACP regions, in a way that is pre-empting the ACP from setting their own agenda. The ACP is now in the difficult and pressured position of having to come up with counter proposals in an extremely short time, or accept the EC's texts. This pressure is exacerbated by the EC's threat to raise tariffs on ACP exports if a deal is not completed by the end of this year.

Moreover, with six months remaining before the deadline, there is insufficient time for draft texts to be thoroughly examined or discussed by impartial experts, at national government level and by relevant stakeholders, including especially farmers' organisations, trade unions and the business sector.

The EC's double talk on flexibility

The EC has provided reassurances that EPAs will be very flexible, that long transition periods for liberalisation will be the norm, and that the ACP will not be forced to negotiate on issues that they do not deem appropriate for their development. But, speeches are one thing and the reality of the negotiations another.

Reports suggesting that the EC has shifted its position recently towards a more flexible and pro-development stance seems more about rhetoric than actual substance.

o **Reciprocity**

Reassurances that the EC is adopting a more flexible stance in this area seem based upon limited evidence. Despite recent EC speeches mentioning 25-year transition periods the EC's proposed EPA texts show no evidence of such generosity. Proposed EPAs for the Southern African (SADC) and West African (ECOWAS) regions – drafted by the EC – indicate extremely limited flexibility for transition periods beyond a maximum of 12 years.

o **The EU's market access offer**

In April, the EC announced its offer of full duty-free quota-free access to EU markets for the ACP. This was heralded as a major gesture from the EU. However, the EC's 'offer' was merely the belated announcement of what it had already promised. Even then it still contained exemptions for products in which the ACP is particularly competitive and/or the EU is particularly sensitive – i.e. rice, sugar and key products from South Africa. DG Trade may be competent in spinning the partial fulfilment of old promises as new flexibility, yet member states should approach such 'new offers' with greater caution.

o **Flexibility on Singapore Issues**

In response to widespread criticism of their aggressive tactics in this area, the EC has recently appeared to soften its line on the obligations that would be expected of the ACP up front. However, reports from ACP regions and examination of EC negotiators' written proposals suggest that the EC is not dropping its insistence that the ACP commit up front to liberalise these areas, whether now or in the fairly near future. Moreover, according to some reports, the promise of development assistance is also being tied to

acceptance of these issues. Suggestions from some EU member state governments that Singapore Issues are 'off the table' seem highly premature.

The European Council's conclusions fail to inspire confidence

If the EC's flexibility is dubious, the recent European Council's conclusions on EPAs (GAERC conclusions of 15 May 2007) also give major cause for concern:

- o **Reciprocity**
The European Council has backtracked on recent claims in Mandelson's speeches that ACP countries would be allowed 25-year transition periods in which to open up their markets. Instead the Council conclusions merely state that '[F]lexibility *may* be needed for sensitive products' with no mention of the 25 years.
- o **Regional integration**
On regional integration there is a similar double talk in the 15 May Council conclusions. The paragraph on regional integration begins with nice words... "The Council reiterates that EPAs should primarily build upon, foster and support ACP regional integration process". Yet in the very same paragraph the opposite is then stated: "The Council encourages ACP states to carry out the necessary reforms at the regional level so as to improve the basis for successful EPAs". This immediately contradicts the above by stressing that regional integration should be subservient to EPAs rather than the other way around!
- o **Singapore Issues**
Again, in the case of services and Singapore Issues (investment, competition and government procurement – otherwise known as 'trade-related' or 'new generation' issues) the Council conclusions begin with the nice words "the Council fully respects the right of all ACP States and regions to determine the best policies for their development." – again sounds good! But these words are again turned around as the statement goes onto say "the Council considers that EPAs should include trade in services, investment and other trade-related areas." These are areas in which the ACP have stated time and time again, that they do not want to negotiate. Moreover, this preference on the part of the Council for the ACP to include trade in services, investment and other trade-related areas has more weight than the mere expression of opinion. As Rob Davies, Deputy Minister of Trade, South Africa has stated, the EC is linking aid promises to acceptance of these issues: "Why is new development assistance under EPAs being linked to agreement on 'new generation' issues (i.e. services, investment and other trade-related issues)?" (Rob Davies, April 2007)

A credible Alternative exists, but is there the political will?

"When the chair of the ACP Ministerial Council writes to the EC a letter requesting alternatives and we are told that we have not requested alternatives, we start to wonder what form of communication we should use and if there is a communication failure." (Francis Mangeni of the African Union, March 2007 London)

Time and time again the ACP have requested alternatives to EPAs to be put on the table, in conformity with Article 37(6) of the Cotonou Agreement, which commits the EU to provide ACP non-LDCs with an arrangement "which is equivalent to their existing situation" should they not be a position to sign an EPA. Yet, the EC has consistently refused to seriously explore such alternatives, arguing that they don't exist and that the ACP have not asked for them. Neither is true.

Previous issues of the Low Down on EPAs cite multiple examples of the ACP asking for alternatives to EPAs to be put on the table. In calling upon the "the European Union and the European Commission to ensure that irrespective of the outcome of the negotiations, no ACP State is left worse off", ACP Ministers once again have called for alternatives to be provided should any country or region be unable to conclude an EPA (ACP Council of Ministers, 24th May 2007, Brussels).

When pushed Commissioner Mandelson and his DG Trade staff argue that the only alternative is the Generalised System of Preferences (GSP), which would leave key exporters much worse off. However, the EC is being disingenuous in this matter. The GSP is not the only alternative.

Several pieces of recent research point to the GSP+ as a viable alternative to EPAs. The GSP+ would offer far more generous market access than the GSP, and most ACP countries could well meet the eligibility criteria for GSP+. Detailed research and analysis from ODI (*The costs to the ACP of Exporting to the EU under the GSP*, Chris Stevens, Overseas Development Institute, 2007), Oxfam International and Third World Network Africa (*A Matter of Political Will*, Briefing Note, April 2007) and the United Nations Economic Commission for Africa (UNECA) (*Are EPAs a First Best Optimum for ACP countries?* Journal of World Trade 40[6], Romain Perez, 2006) demonstrates that GSP+ would provide an almost equivalent level of market access for current exports to that provided under Cotonou, with very few exceptions. Kenya for example, would have duty-free, quota-free access for 99.6 per cent of current exports (excluding sugar and bananas) under GSP+, compared with only 37.6 per cent under the standard GSP scheme. With the necessary political will the EC could offer GSP+ to ACP countries prior to the Cotonou waiver expiry, offering them a real alternative to EPAs and providing exporters and investors in key export sectors the certainty they need.

Moreover there is a legal obligation on the EC to provide an alternative. A legal opinion from the Commonwealth Secretariat recently concluded that the Cotonou commitment to provide the ACP with other equivalent options is legally binding. The Commonwealth Secretariat's lawyers have concluded that "the obligations under the Cotonou Agreement remain valid, subject to review or denunciation until 2020, including the undertaking that imports of goods originating from ACP non-LDCs are entitled to benefit from preferential treatment equivalent to the current regime".

The Commission has thus far refused to explore this option with developing countries. Campaigners will continue to press them to do so.

Campaign Update

Don't Lock Africa into Poverty (19 April)

This was a great success as a global day of action, with activities in more than 30 countries and a joint statement from dozens of NGOs and networks.

- In London, 800 campaigners assembled for speeches and a rally, then visited the German embassy and all 26 EU embassies to deliver a policy letter and 'key to trade justice'. We had interest from Slovenia and are waiting for position statements from other countries. Not much press coverage, but the UK government did restate position not to force liberalisation.
- In Europe, demonstrations targeting the German embassy generated some fantastic pictures and some media coverage.
- Around the world, activities included meetings with government, demonstrations, workshops, media work and debates.

More information on all this at www.epa2007.org

Other mobilisations

- Brussels- based campaigners held a small demonstration outside the EU-ACP Council of Ministers meeting on 25 May.
- There was also a march at the G8 alternative summit on 2 June in Rostock, Germany, as well as a series of seminars on EPAs.

EU Campaigner meeting in Utrecht, end of April

Looked at what we have achieved as a European coalition in the last 6 months, and what our strategy should be to the end of the year. The meeting endorsed a series of actions:

1. Follow up joint NGO letter to Heidi-Marie Wiecek-Zeul before the May GAERC.

This was in response to the reply we got from the German development minister to our first joint letter - sent on 10 May. For details see:

http://www.eu2007.de/en/News/Press_Releases/May/0515BMZRAA.html

2. Joint press release for the May joint EU-ACP Council of Ministers.
3. Joint letter to Portuguese Prime Minister for the start of their EU presidency
This is currently going around for sign-up - please contact Laura Lorenzo Lacalle of World Rural Forum in Spain (llorenzo@ruralforum.net) before 25 June.
4. Pan-European popular action to Portuguese government.
This is an email action to follow a similar email action to Merkel, but can be adapted for print and viral/web use. The text is currently being commented on by EU NGOs, and the picture to go with it will be circulated next week. Please contact davidt@traidcraft.co.uk if you are not on the list and wish to comment before it is finalised (22 June)
5. 'Stop EPA Day 2007' mobilisation.
Focus on national level rather than EU. This is not a mass mobilisation but aimed at getting national governments and/or MPs involved in ratification or challenging EPAs before they are signed. We would like it to be replicated in EU and ACP countries like 19 April. Beginning to advertise it, but final concept is still to be decided.
6. Other joint press work at key moments.
It was agreed to continue looking for good moments to do joint press work. Co-ordinated by regular international teleconferences, please email Martin Gordon [MGordon@christian-aid.org] if you would like to participate.

New policy reports

- Partnership Under Pressure – released 23 May by Tearfund, Traidcraft, Christian Aid, ActionAid and CAFOD. Details the dirty tactics of EC during negotiations and why this will result in bad development outcomes.
- EPAs: Building or shattering African regional integration? Report by Traidcraft (UK), SEATINI (Uganda) and EcoNews (Kenya) destroys arguments that EPAs will be good for regional integration.

Both reports are available at www.epa2007.org

Key dates coming up

- 24-27 June: Joint Parliamentary Assembly in Weisbaden, Germany. Demonstration, talks and meetings planned. See www.epa2007.org
- 23-24 July: GAERC, Brussels
- 21-22 September: Informal development ministerial, Lisbon
- 27 September: Stop EPA day
- 15-16 October: GAERC, Luxembourg
- 18-19 October: informal heads of state meeting, Lisbon
- 19-20 November: GAERC, Brussels
- 10-11 December: GAERC, Brussels
- 13-14 December: European Council meeting, Brussels
- December: EU Africa summit under Portuguese presidency

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