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Horse Trading on EU-African Economic Partnership Agreements

Dirk Kohnert ¹

Abstract: EU- Africa Economic Partnership Agreements (EPAs) are on the brink. In July 2014 the Head of States of ECOWAS endorsed the negotiated compromise EPA after prolonged negotiations. However, last-minute objections of the heavy-weight Nigeria which wants to protect its infant industries as well as promising trade relations with new global players still could prevent the deal. Whether the ECOWAS EPA in its current form would really create a win-win situation for both partners as asserted by the EU is open to question. Scholarly evaluation of the EPAs reveal double-talk and significant barriers to a sustainable development of African economies. The growing preparedness of African states to challenge EU mercantile interest has been effectively backed by agitation of civil society organisations.

Keywords: international trade, liberalization, West Africa, ECOWAS, EU, EPA, development, regional integration, civic agency

JEL Classifications: F13, F54, F63, H71, L51, N17, N47, N77, O24, O55, Z1

Introduction

In view of the global run on African resources and the quest for promising new African markets the EU is at pains to conclude Economic Partnership Agreements (EPAs) with African states. Negotiations within the framework of the Cotonou Agreement, a cornerstone of ACP-EU Development Cooperation, drag on since 2002. The EPAs are meant not just to liberalize trade but also to promote economic growth in Africa. Officially, they aim at creating a win-win situation in a partnership of equals, i.e. development orientation, promotion of inclusive growth and regional integration with due attention to WTO compatible regulations. According to the EU 'Roadmap 2014 to 2017' (EU 2014) all this would be realized by exemplary EPAs until 2017. The major issues at stake have been especially pronounced in the ongoing negotiations on West African EPAs. Contentious issues were regions, including time frames for liberalization, rules of origin, most favoured nations (MFN) clause, export taxes, trade distorting domestic and export subsidies, quantitative restrictions, development of benchmarks, indicators and targets for monitoring the implementation of the agreements and non-execution clause (ACP 2014:1). Many Africans suspect the EU of double talk and of promoting selfish export interest at the expense of inclusive growth in African countries. The authors of a recent study commissioned by the European Parliament acknowledge that

¹ The author acknowledges valuable comments of an anonymous reviewer.

several alternatives to the EPAs have been proposed already which could be WTO-compatible and which the EU already provides to some other countries (EP 2014: i, 6)².

The ongoing controversy on EPAs with the Economic Community of West African States (ECOWAS)¹ will serve as example to highlight and summarize in the light of recent developments the issues at stake, giving prominence to the critical scholarly standpoint of the avant-garde of new trade policy economics.

Long-lasting trade negotiations between the EU and West African countries on ECOWAS (EPAs) are on the brink. The EU plays a policy of stick and carrots. Brussels threatens to cancel the project if its imposed dead-line of 1 October 2014 will not be honoured. Otherwise the unilateral trade preferences enjoyed by Europe's former African colonies would be cancelled and the less favourable Generalised System of Preferences (GSP) regulations re-imposed. The EU invokes the World Trade Organization (WTO) which urged to replace preferential trade deals with their former colonies, i.e. African, Caribbean and Pacific (ACP) countries. But evidently not all controversial provisions of the EPA were linked to WTO demands, like the most favoured nation clause and trade related intellectual property sections, stipulated unilaterally by the EU to the detriment of global trade perspectives of its African partners. On the other hand the EU conceded seemingly attractive regulations of market entry and extensive adjustment packages to the tune of € 6.5 bn at the end of prolonged EPA-negotiations (EC 2014). However, this would not necessarily be new money granted specifically for EPA related adjustments.

In February 2014 the contracting parties came short with concluding a deal, negotiated after long lasting delaying resistance of the African partners. However, Nigeria upheld last-minute objections. Finally, on 10 July 2014 the Head of States of ECOWAS endorsed the negotiated compromise EPA after prolonged negotiations at its 45. ordinary session in Accra. Shortly afterwards (22 July) the signing of the SADC-EPA of the Southern African region followed suite, initialing the second African EPA within one month. Whether the treaties will be also ratified by lingering states like Nigeria, which is by far the largest economy in Africa, remains to be seen. Notably West Africa still risks having its regional integration efforts jeopardized in view of competing Anglophone and Francophone blocks within ECOWAs and conflicting interest of least developed countries (LDCs) and non LDCs. Upcoming controversial presidential elections in Nigeria in February 14, 2015 make an approval of Nigeria's parliament unlikely. Internal resistance of business and civil society to EPAs in their present form is mounting, which threatens the likelihood of re-election of the president whose position has been weakened already under the threat of the growing terrorism of Boko Haram.

ECOWAS-EPAs

The heterogeneity of ECOWAS with corresponding conflicting interests contributed to the difficulties. Different national political elites adopted different approaches in the EPA

² "Options could include: improving the EU's Generalised System of Preferences (GSP) schemes by, for instance, giving all countries in 'LDC customs unions' Everything But Arms (EBA) treatment, or improving the EU's GSP+ scheme. Alternatively, the EU could demand a waiver from WTO members for specific developing country regions, as the US has successfully done."(EU 2014: i, 6)

negotiation process over time. Nigeria, Africa's Number one, is by far the biggest ECOWAS member, with more than half of the population and with a GDP of US \$ 510bn (according to the overdue statistical readjustment in April 2014) more than two-thirds of regional aggregate GDP. Therefore, two decades ago, the Francophone West African Economic and Monetary Union (WAEMU/UEMOA) was created in 2000 within the ECOWAS to counterbalance the heavyweight of Anglophone Nigeria and Ghana, last but not least to uphold the political and economic influence of France in its former colonies (Kohnert 2005). So called transit economies of small costal countries like Togo and Benin, heavily dependent on re-export trade and smuggling to bordering Nigeria do not necessarily share the same trade interest like their neighbours. Resource rich Nigeria that tries to protect its nascent industry by protectionist trade policy (Rommel 2012:22), again has other priorities than poor land locked countries Burkina Faso, Mali and Niger. Per capita GDP (PPP) in the region ranges from US\$396 (Liberia) to US\$3,650 (Cape Verde), etc. In addition, the divide between LDCs and non-LDCs within ECOWAS is growing. A differentiated EU trade policy for poor and middle income countries contributed to the growing rift. Ghana and Ivory Coast, two non-LDCs, made it clear already that it is not necessary in their interest to harmonise the view of all ECOWAS members. As for Nigeria, it by now exports most of its products (notably crude oil & gas) duty free to Europe. Its EU exports became less important anyway in view of mounting exports to India and China. The same holds for cotton exports of Benin and Togo.

All in all, ECOWAS countries are more vulnerable and dependent on external – predominantly European - trading partners than the EU. Just an estimated 10 to 15 per cent of registered aggregate ECOWAS trade is intra-regional and in addition it is dominated by Nigeria and Ghana. However, for smaller member countries like Benin, Burkina Faso, Senegal and Togo, regional trade is more important with respectively 36, 55, 46 and 59 per cent (Uexkull 2012:2-3).

Certainly, 11 out of 15 ECOWAS countries, i.e. all its Least Developed Countries (LDCs), enjoy already full market access to the EU under the Everything but Arms (EBA) initiative since 2001ⁱⁱ. The latter grants LDCs free access to European markets without being forced to open their own markets to EU imports. Therefore, these LDCs might think that they have little to lose if the EPAs would fail. The EU, however, made it clear that EBA is a unilateral arrangement granted by the EU which may be opened to LDCs outside the ACPⁱⁱⁱ. This, so it was said, could create fierce competition for major export products of West African countries on their hitherto protected EU markets, like cocoa, coffee, sugar, and bananas (Bilal 2014)^{iv}.

What could cause additional headache is that LDCs which are currently enjoying EBA benefits, would lose these advantages under the regime of an ECOWAS customs union (to be introduced in January 2015) if member countries like Ghana or Ivory Coast should opt for bilateral EPAs.. The projected customs union would replace the imperfect trade liberalisation process within West Africa under the ECOWAS Trade Liberalisation Scheme (ETLS). Up to now, there is anything but free trade within ECOWAS. The envisaged custom union combined with bilateral EPAs could, at least theoretically, result in free access of EU exports to the whole region(Rommel 2012:17,23). First, because individual countries could not decide independently on the common external trade policy of the customs union and second, because rigid border controls are unrealistic in view of predominant informal transnational trade in West Africa. All in all, the EU says, the LDCs would be well advised to sign the EPAs which would not only regulate trade in goods but also that in services and investment. Thus,

it would enhance prospects for economic growth in the region in creating competitive advantage vis à vis other emerging economies.

This EU induced EBA / EPA conundrum erodes the coherence of ECOWAS members and threatens regional integration further (Bilal 2007:204). It thus counteracts decades of EU aid policy meant to promote regional integration in Africa. However, one could reasonably argue that ironically the long lasting consultations had had also positive effects. But more often than not these positive results were not intended and took effect rather indirectly, e.g. in improving negotiation capacity of West Africa governments and even more of Civil Society Organisations (CSOs), enhancing awareness on issues of free trade and development, and in introducing a common agricultural policy (ECOWAP) as well as a common external tariff (CET) (Olawale 2009). The decision of ECOWAS in October 2013 to introduce a customs union by January 2015 could be interpreted as an outcome of these effects. It demonstrated after decades of haggling a new political solidarity of ECOWAS leaders despite persistent fears of the continuing dominance of Nigeria.

Political vs. scholarly assessment of EPAs

The negotiated ECOWAS-EPA compromise would guarantee African member states quota-free access to the EU market whereas the EU receives in return access to 75 per cent of a promising market of some 300 m consumers during a transitional period of 20 years. Brussels incessantly underlines that the EPA would create a win-win situation, although its African partners would gain most by signing the agreement, not least because of the accompanying development package. The adjustment assistance of € 6.5 bn is meant to compensate for losses in tariff revenues and to co-finance infrastructure investments of the 16 member countries in the next five years. However, the question of tariffs becomes increasingly subordinated to contests about non-tariff measures and how they are implemented. Concerning EU exports to West Africa for example, the removal of supplementary levies and the issue of import licences and import bans was a major contested issue where the EU demands were well beyond WTO requirements.

The fourth EU-Africa summit in Brussels in April 2014 nevertheless largely shunned the subject. However, negotiations probably continued behind closed doors. But this again points to a fundamental flaw in the EPA negotiation process the lack of rights of co-determination and of democratic agency of all stakeholders involved. Agenda setting by Brussels left it with full-bodied declarations on partnership of equals, development orientation, promotion of inclusive growth and regional integration with due attention to WTO compatible regulations. According to the EU 'Roadmap 2014 to 2017' (EU 2014) all this would be realized by exemplary EPAs until 2017.

However, double talk by the EU in this respect is well known (Kohnert 2008). This is not just the opinion of possibly biased opponents of the 'diabolic EPA deal' (Kunateh 2014) like the Association of Ghana Industries (AGI) and of African CSOs. Recent scholarly analyses of the subject reveal remarkable congruence in the following points:

- (1) EU assistance for regional integration in Africa displays startling dissonance between declared development orientation on the one hand and selfish export interest of EU

member states on the other. Apparently, discrepancies exist not only between pretence and practice of EU aid (including the 'Aid for Trade' agenda) but also between divergent discourses of opposed directorates, namely DG Trade vs. DG development, as well as underlying conflicting interests of EU member states (Holden 2014; Langan 2014; Young & Peterson 2013).

- (2) There is an increasingly effective disposition of African states to challenge the EU in a prolonged discourse on the basis of normative negotiation strategies. Empowered by a globalised world and international social networking, African governments take Brussels at its words, i.e. to deliver on its promises concerning development orientation and partnership of equals (Hurt et al 2013; Langan 2014).
- (3) Painstaking case studies of civil society agency in West Africa show how and why CSOs gained unpredicted influence on the implementation of inclusive, sustainable and participatory trade politics. These analyses provide a welcome corrective to conventional wisdom disregarding grass-root movements as locally restricted and irrelevant. On the contrary they even influenced the trade agenda of transnational power elites significantly (Trommer 2014).
- (4) Apparently the EU and other major actors of the Post-Washington consensus did not honour sufficiently lessons learned of failed neo-liberal structural adjustment reforms of the 1980s and 1990s in Africa. For example, budget aid, meant to promote inclusive growth according to OECD guidelines for 'country ownership', was used against official promises to force intractable African states into liberalisation programs of the second generation. Case studies from Tunisia, Ghana and Uganda demonstrate that EU budget aid was used strategically to enforce liberalisation demands on the expense of the poor and premature trade opening (Langan 2014a).
- (5) Potential gains of reciprocal elimination of tariffs and non-tariff trade barriers could not compensate welfare losses in view of enduring low African labour productivity. Resulting negative terms of trade effects for African economies would eat up most of the potential gains of liberalised trade. Short and medium term aid packages included in the EPAs in order to counteract these losses fall short of the mark. West Africa's gains from tariff elimination would mainly come (if at all) from long-term endowment effects and improved resource allocation (Rakotoariso et al 2014).
- (6) The reform of the Generalised System of Preferences (GSP), a cornerstone of EU trade and development strategy, which is aimed officially to refocus assistance to the 'neediest' countries, apparently serves in practice foremost to give leeway for free-trade negotiations on a global scale. The developmental trade agenda of the EU and major members states is increasingly subordinated to commercial imperatives (Siles-Brügge, 2014).
- (7) Current EU-US negotiations on a Transatlantic Trade and Investment Partnership (TTIP) will have unprecedented but hitherto neglected ramifications on EU-African trade relations. The same applies to the recent renewal of the African Growth and Opportunity Act (AGOA) between the US and Sub-Saharan economies. Africa, which currently takes just two per cent of global trade, urgently requires better access to

markets on a global scale and not just to EU markets. West African states that share Atlantic seaways with the EU and the United States as well as the problematic legacy of economic and political relationship with its former colonial masters will be especially affected. ECOWAS will lose ground by the TTIP agreements if it does not become involved and oppose possible negative effects pro-actively (Mutamba 2014).

Conclusion:

In view of the global run on African resources and the quest for promising new African markets the EU is at pains to conclude Economic Partnership Programs (EPAs) with African states. Officially EPAs claim creating a win-win situation in a partnership of equals. However, many Africans suspect the EU of double talk and of promoting selfish export interest at the expense of inclusive growth in African countries. Taking the proposed ECOWAS EPAs as an example, analyses reveal surprising contradictions on multiple levels. First, apparent political tensions in the long-lasting negotiation process are due to a significant disparity between discourse and practice of EU trade and aid policy. Second, this divergence has been reinforced by diverging and often hidden interest between EU directorates (DG trade vs. DG development) and underlying self-centred mercantile and political concerns of individual EU member states. Third, the growing preparedness of African governments to challenge the EU on trade and development issues is not only due to African power elites trying to consolidate its economic base. To a significant extent their delaying resistance against unfair EPAs has been provoked by long lasting proactive agitation of civic organisations and NGOs inside and outside of Africa.

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ⁱ Including the 15 ECOWAS members, Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo, plus Mauritania, which withdrew in 2000 to join the Arab Maghreb Union.

ⁱⁱ Of the four non-LDC members, Ghana and Côte d'Ivoire signed 'interim EPAs' (which, however, never were ratified) in order not to lose their privileged market access. Cape Verde obtained the GSP+ status in 2011, granted unilaterally by the EU to developing countries committed to good governance and respect of human rights, while Nigeria fell back to less favourable EU market access under the Generalized System of Preferences (GSP) (Uexkull 2012:2).

ⁱⁱⁱ As stated by the [EU-Delegation to Sierra Leone in its online contribution: The EU - ECOWAS Economic Partnership Agreement, accessed: 18 June 2014](#).

^{iv} These statements are difficult to follow literally because one of the major aims of EBA from the outset was to extend preferences that were granted until 2000 to ACP states only, to all LDCs, i.e. currently 49 LDCs worldwide. An aim which was fulfilled already after a transitional period for the most sensitive sectors, bananas, rice and sugar in 2009 (Young & Peterson 2013:506). What was probably meant by the EU was to extend these preferences not only to all LDCs but also to 'lower-middle income economies', like Ghana, Cote d'Ivoire, Cape Verde, but possibly also Guatemala, Guyana, Honduras and Indonesia. At least a statement of the European Commission (EC) points in this direction, namely that as of 1 January 2014 a new GSP would apply in the EU, strengthening the EBA by "focussing preferences on those that need them most (lower-income economies and LDCs), the new GSP will have fewer beneficiaries. This will reduce competitive pressure on LDCs and make the preferences for LDCs more meaningful—providing much more opportunity to export". ([EC 2014: Everything But Arms \(EBA\) – Who benefits?](#), online, accessed: 18 June 2014).