

**The Challenges of Economic Partnership Agreements (EPAs) for
Regional Integration and Trade Capacity Building in Southern Africa**

Conference Paper to be presented as the Biennial Conference of the
Economic Society of South Africa (ESSA):

“DEVELOPMENT PERSPECTIVES - IS AFRICA DIFFERENT?”

Durban 7-9 September 2005

Mareike Meyn
Research Fellow
Institute for World Economics and
International Management (IWIM),
University of Bremen
mmeyn@uni-bremen.de

Abstract

The high economic and political inequities between EU countries and southern African countries can lead to further polarisation in the EPA negotiations. One chance to avoid such a hub-and-spoke relationship lies in integrating a South-South framework before entering into a North-South FTA. This would offer southern African “spokes” the chance to build-up adequate negotiation capacities and limit the lopsided negotiation power of the EU. To realise such a positive outcome, a certain degree of economic integration is a prerequisite, which has not been reached by SADC or COMESA. It is questionable whether political integration in form of EPAs work in southern Africa when no economic integration has been reached so far. It is argued that EPAs have to take the capacities and negotiation constraints of southern African countries significantly more into account if they are really supposed “to work for development”.

Key Words: EPAs, economic integration, SADC, negotiation constraints and capacities, development.

Table of Contents		i
List of Abbreviations		ii
1	Introduction	1
2	The Theoretical Concept of Economic Partnership Agreements (EPAs)	2
3.1	The EU's Approach of EPAs and its Implications for Regional Integration in Southern Africa	4
3.2	What Should an Optimal EPA Look Like?	9
4	The Challenges EPAs imply for Trade Capacity Building	15
5.	Conclusions: Credibility and Commitment of the new EU Policy towards Southern Africa	19
Figure 1:	The impact of EU trade policy on regional integration in southern Africa	7
Table 1:	Agenda for action for EPA negotiations to support economic development and regional integration in southern Africa	13
References		21

List of Abbreviations

ACP	Africa, Caribbean, Pacific
AGOA	African Growth and Opportunity Act
ATF	Namibian Agricultural Trade Forum
BLNS	Botswana, Lesotho, Namibia, Swaziland
CAP	Common Agricultural Market
CET	Common External Tariff
COMESA	Common Market for Eastern and Southern Africa
CU	Customs Union
EAC	Eastern African Community
EBA	Everything But Arms
EPA	Economic Partnership Agreement
ESA	Eastern Southern Africa
EU	European Union
GSP	Generalized System of Preferences
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
LDC	Least Developed Country
MFN	Most Favoured Nation
NMA	Namibian Manufacturing Association
SACU	Southern African Customs Union
SADC	Southern African Development Community
SPS	Sanitary and Phytosanitary Standards
TDCA	Trade, Development and Co-operation Agreement
VAT	Value Added Tax
WTO	World Trade Organization

1 Introduction

The high economic and political inequities between EU countries and southern African countries can lead to further polarisation when negotiating the Economic Partnership Agreements (EPAs) with the EU. One chance to avoid such a hub-and-spoke relationship lies in integrating a South-South framework before entering into a North-South FTA. This would offer southern African “spokes” the chance to build-up adequate negotiation capacities and limit the lopsided negotiation power of the EU. To realise such a positive outcome, a certain degree of economic integration is a prerequisite. To date however, neither SADC nor COMESA has reached a binding agreement for all its members that has effectively been put into place. Furthermore, eight out of 14 SADC countries are also members of COMESA.¹ This widespread overlapping membership and the existence of two different groups of southern African countries configured into two different EPA negotiations, raises the question whether the European approach that pushes southern African countries to opt for one integration framework promotes regional integration in southern Africa or whether single countries’ different economic and political interests constrain EPA negotiations and hamper regional integration efforts. Or in other words: Can political integration in form of EPAs work in southern Africa when no economic integration has been reached so far?

Focussing on the BLNS countries (Botswana, Lesotho, Namibia and Swaziland), the most advanced members of the SADC EPA, the contradicting effects of EU trade policies on both regional integration and balanced economic development within the region, become obvious. The BLNS countries, which share a common external tariff with South Africa, are already locked-in the EU-South Africa FTA, implying that the SADC EPA has to follow to a large extent the EU-SA FTA. Furthermore, BLNS countries are strained by additional trade negotiations, a complex and overloaded negotiation agenda, the implementation of existing agreements and time pressure. So far, the countries of the SADC EPA have neither conducted a cost-benefit analysis of EPAs, nor formulated a common negotiation strategy. It is therefore argued that EPAs have to take the capacities and negotiation constraints of southern African countries significantly more into account if they are really supposed “to work for development” as stated by EU Trade Commissioner Peter Mandelson.

The paper is structured as follows. Section two discusses the concept of EPAs from a theoretical point of view, in particular its innovative approach in comparison to Cotonou and how EPAs are supposed to overcome the marginalisation of ACP countries. Section three

¹ Including Madagascar, which joins SADC from August 2005 on.

investigates the impact EPAs have on regional integration in southern Africa and discusses what an EPA should look like to become the successful development tool it is supposed to be. Thereafter, section four elaborates on the challenges EPAs imply for trade capacity in southern African countries. Finally, section five concludes the main findings of the paper and gives policy recommendations.

2 The Theoretical Concept of Economic Partnership Agreements (EPAs)

The Lomé Conventions (I-IV, 1975-2000) that granted ACP countries preferential market access to the EU have not reached their goal to integrate ACP countries into global markets and to diversify their export base. ACP's share of total EU imports has almost halved to 3.7% in 1992 and is still highly skewed towards few primary products (Davenport *et al.* 1995:5-10). Aside from internal reasons, the Lomé Conventions also expired because they were not compatible to the WTO principles of Most Favoured Nation (MFN) and non-discrimination that forbid preferential treatment to selected countries and apply favourable conditions to all trading partners. Exemptions are however allowed in the form of FTAs or custom unions (CUs) if these agreements demolish trade barriers between partner countries for “substantially all trade” within “a reasonable lengths of time” (Art. XXIV, GATT).²

The Cotonou Agreement, which entered into force in 2000, established a new trading regime between the EU and ACP countries by creating reciprocal trade relations in conformity to the WTO trade rules from 2008 on. According to the Cotonou Agreement the EU-ACP cooperation shall foster ACP countries'

- sustainable economic and social development;
- smooth and gradual integration into the world economy;
- efforts to alleviate poverty (European Commission 2000, Art. 19).

This should initially be achieved by economic and trade cooperation with the EU that is supposed to address supply-side constraints, to enhance production capacities, and to attract investment (Art. 34). The instrument for these objectives is the EPA that comprises a

² Art. XXIV, GATT is generally interpreted as embracing 90% of trade within 10 years time (Hoeller et al. 2000:95). However, this interpretation is disputed for North-South FTAs since developing countries are entitled to be granted “special and differential treatment” under the so-called “Enabling Clause” (GATT 1994, Art. XVIII). SACU is the only WTO recognised customs union in southern Africa and has gone through a WTO Trade Policy Review in 2003.

reciprocal, WTO compatible FTA between the EU and regional groupings of ACP countries (Art. 36, 37).

Theoretically, the chances of a North-South FTA lie in receipt of cheaper, high-technical inputs and consumer goods, offering the chance to promote economic diversification and leading to optimal factor allocation due to increased competition. However, this could also be achieved by ACP countries' unilateral liberalisation, which would not bear the risk that the EU substitutes more competitive imports from the rest of the world (trade diversion). On the other hand, it could be argued that, since the ACP countries are not ready to liberalise their markets unilaterally, an FTA with EU offers the chance to "lock-in" economic policies, as it would make it costly for ACP countries to reverse their policies. A reciprocal trade agreement with their main trading partner could act like an "agency of restraint" and signal willingness of ACP countries to economic reform, thus offering the chance to attract foreign direct investment (FDI) (Collier and Gunning 1999). However, it must be borne in mind that an FTA is only a potential but not sufficient condition for reaping FDI. Furthermore, ACP countries have not aspired to enter into EPAs with the EU but had to agree because they want to keep their market access. The contractual affirmation of current and future market access to the EU is the main motivation for ACP countries to negotiate EPAs. Because of their contractual character, EPAs are even attractive for southern African LDCs: Angola, DR Congo, Madagascar, Malawi, Tanzania, and Zambia prefer to enter into reciprocal FTA with the largest trading block in the world because preferential trade allowances granted under the "Everything But Arms" (EBA) initiative can be withdrawn at any time, which adds to the creation of an uncertain environment.³

Another potential benefit of EPAs is trade creation since more competitive European suppliers replace inefficient ACP suppliers, thus leading to an efficient use of resources. However, due to the different factor endowment of the EU and ACP countries, the trading partners do not stand in direct competition to each other and show a complementary trade structure. This different industrial development level implies the risk for ACP countries that trade diversion dominates. Moreover, infant industry protection may not be feasible for ACP countries if the EU has free market access.⁴ Thus, ACP countries may not have the chance to build-up own industries and set-up an adequate market chain. Another problem for ACP

³ Lesotho, as part of SACU, did not have a chance to decide for non-reciprocal trade with the EU.

⁴ The WTO allows developing countries to protect their infant industry temporarily (GATT 1994, Art. XIX and Art. XVIII). However, this uniform transition period is not judged as sufficient for developing countries (UNCTAD 2000). An FTA, which will liberalise ACP countries' import regimes vis-à-vis their main trading partner much faster and more comprehensive than the multilateral trading regime is therefore restricting ACP countries' industrial policy considerably.

countries is that they are still considerably protected and have to reduce their tariffs to a much larger extent than the comparable open EU. Furthermore, the EU is a major trading partner for ACP countries, but these countries are only of negligible economic relevance for the EU. Adjustment costs, such as industrial restructuring and revenue losses, are therefore expected to be very high for most ACP countries (European Research Office 2003). The high imbalance between the two free trading partners can lead to further polarisation between the EU and ACP; demote the South to the “spoke” that is supposed to deliver the “hub” with raw materials. One opportunity for ACP countries to avoid such a hub-and-spoke relationship is to integrate in a South-South framework before entering into a North-South FTA. This would offer ACP “spokes” the chance to build-up adequate negotiation capacities and limit the lopsided negotiation power of the EU (Kennes 2000:112). The EU sees regional integration schemes and processes as “key instrument” for ACP countries’ integration into the world economy, which shall be “encouraged and supported.” (European Commission 2000, Art. 35). South-South integration shall help small ACP countries to strengthen their competitiveness, save resources and increase their bargaining power vis-à-vis the EU.

In light of missing adequate regional bodies, mainly in Africa, the EU decided also to negotiate EPAs with countries “...*which consider themselves in a position to do so...*” (European Commission 2000, Art. 37.5). However, this freedom of choice includes consideration of the fact that (non-LDC) ACP countries would face a substantial deterioration of EU preferences if they rejected to enter into EPA negotiations.⁵ Moreover, it implies considerable challenges for those countries that are part of a South-South integration that lacks progress and still has structural and institutional problems.

3.1 The EU’s Approach of EPAs and its Implications for Regional Integration in Southern Africa

Economic Partnership Agreements (EPAs) are supposed to be asymmetrical in both, period and content, taking into account the enormous economic imbalance between the EU and the ACP countries. However, as EPAs have to be WTO compatible, they will include around 90% of total trade and allow a time frame of 10 years for liberalisation (according to the interpretation of Art. XXIV, GATT). Thus, there is only limited scope for asymmetry, and

⁵ If non-LDC ACP countries reject to negotiate an EPA with the EU they would be treated like any developing country under the General System of Preferences (GSP).

ACP countries have to cope with inherent challenges, such as loss of revenue and increased competition.

Though the BLNS countries are affected by the EU-South Africa FTA they are not part of the agreement and export to the EU under the Cotonou Agreement. They must therefore, like all ACP countries, enter into an EPA with the EU. The easiest option would have been to become an official member of the TDCA. However, since the TDCA does not include any provisions for the accession of BLNS countries, this would need to be jointly agreed by the EU and the South African government (European Research Office 2003). Though the EU signalled acceptance of this idea, the South African government was reluctant to open the agreement with the EU again since it feared pressure for further liberalisation of sensitive sectors, such as the automotive industry (Goodison 2004). Thus, the BLNS countries decided to negotiate an EPA with the EU in a SADC framework, which includes the BLNS countries, and the least developed countries (LDCs) Angola, Mozambique, and Tanzania.⁶ South Africa has the status of an observer.

The remaining five SADC countries (DR Congo, Malawi, Mauritius, Zambia, and Zimbabwe) again opted for an EPA in an “Eastern and Southern Africa” (ESA) framework, which contains most member countries of COMESA to which seven of the 14 SADC member states belong.⁷ To avoid being forced to open their market according to the EU-South Africa FTA liberalisation schedule was a major motivation for the non-LDCs Mauritius and Zimbabwe to enter into an ESA and not into a SADC EPA with the BLNS countries (Goodison 2004).

From a theoretical point of view, South-South integration must have reached at least the level of a CU in order to enter commonly into a North-South trading framework. Only if the countries that form an EPA have established a common external tariff and have thus harmonised their external trade relations, they are able to form a common position for trade in goods vis-à-vis the EU. Members of an FTA, where each country has its own external trade policy, could only negotiate as a trading block if they accept a common external tariff towards the EU, which is difficult to coordinate. To date, the members of the SADC EPA are not capable of negotiating an EPA collectively, as they lack the mandate and have not agreed on common positions. Furthermore, the low level of trade integration, the divergent economic

⁶ As discussed, the LDCs can maintain their non-reciprocal trade relations with the EU under the expanded GSP (“Everything But Arms” initiative). However, because of their contractual character, EPAs seem to be more attractive for southern African LDCs. All of them opted to enter into reciprocal FTA and hope to create a more certain trade environment.

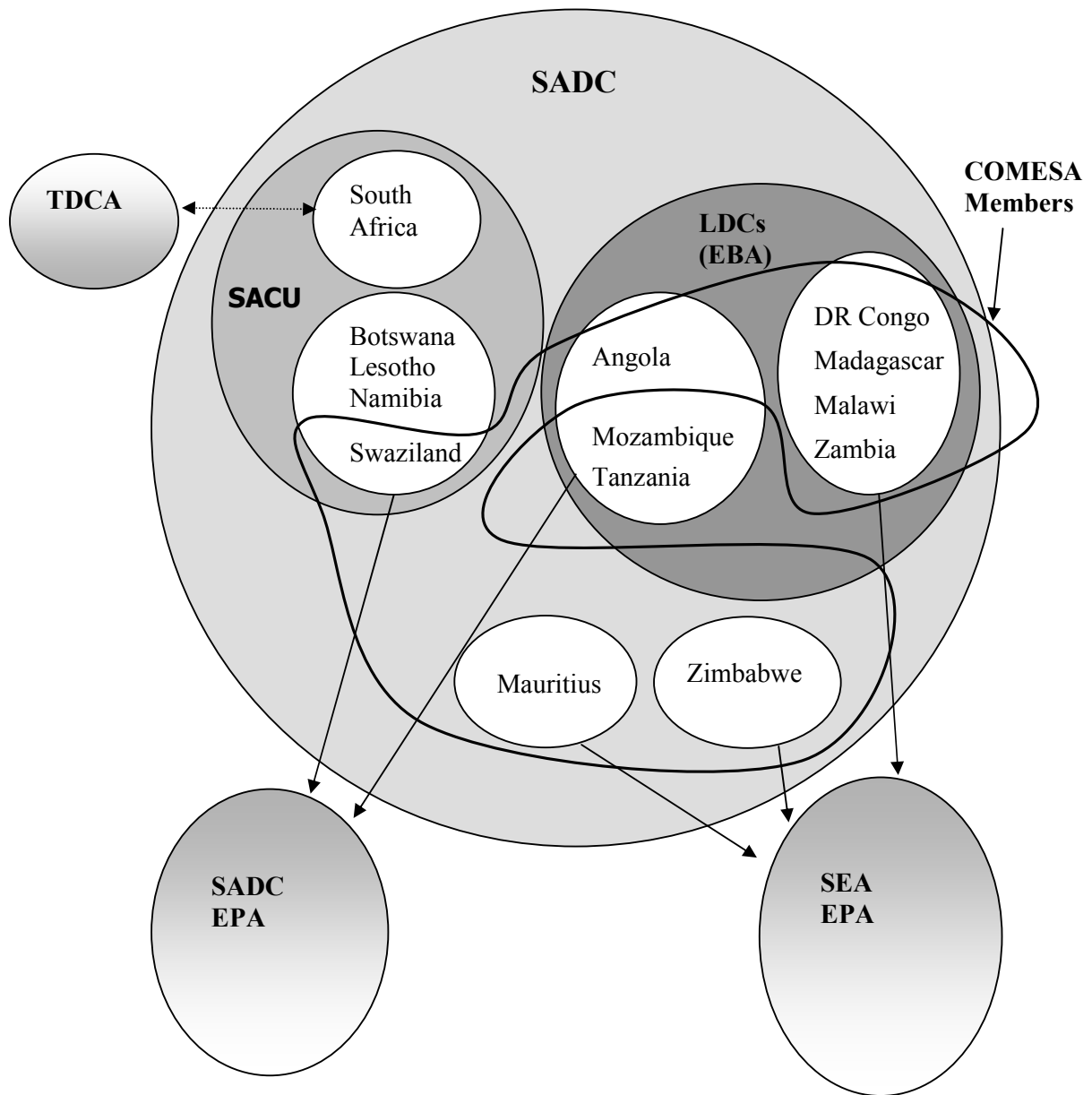
⁷ Namely Angola, DR Congo, Malawi, Madagascar, Mauritius, Zambia, Zimbabwe. With exception of Angola, DR Congo, and Swaziland these SADC countries are also members of the COMESA FTA that entered into force in 2002.

interests and the missing convergence in tariff levels as well as the perpetuation of “special and differential” treatment for LDCs complicate the formulation of a common negotiation position (Khandelwal 2004, Trades Centre 2003:43).⁸ However, if the SADC EPA differs significantly from the ESA EPA it will further complicate intra-SADC trade relations considerably, dividing the SADC countries in at least three blocks (see Figure 1):

- 1) South Africa and the BLNS countries that are locked into the liberalisation schedule of the EU-South Africa FTA and have thus liberalised their markets towards the EU by 2012;
- 2) The rest SADC EPA countries, namely Angola, Mozambique and Tanzania, that are all LDCs and thus potentially able to retain their non-reciprocal trade relations with the EU under the EBA initiative; and
- 3) The remaining SADC countries (DR Congo, Madagascar, Malawi, Mauritius, Zambia and Zimbabwe) that are entering into the ESA EPA.

Figure 1: The impact of EU trade policy on regional integration in southern Africa

⁸ Particularly for agricultural products, the high deviation of economic development within southern Africa that results in very different economic interests is problematic. Food net importing countries would for instance appreciate the import of certain (subsidised) agricultural products, as they do not have an accordant industry and hope to reap consumer benefits as well as to promote the production of locally processed value added products. The same commodities are, however, sensitive in other countries that seek to protect their agricultural sector and agro-processing industries against European competition. As neither the exclusion of single sectors nor the creation of extremely long exclusion lists would be WTO compatible, it is very difficult for the countries to find a compromise (Trades Centre 2003).



Source: Author's presentation as cited in the text.

As illustrated in Figure 1, EPA negotiations do not, as originally envisaged by the EU, reduce southern African countries' overlapping memberships but do further complicate regional integration in southern Africa, resulting in contradictory decisions that are rather motivated by political considerations than economically driven (Meyn 2004). Taking for example Tanzania that is bound in a CU with Kenya and Uganda, both countries, which opted for the ESA EPA configuration. Tanzania's decision to leave COMESA and go for a SADC EPA configuration

is not feasible, giving a proper implementation of the Eastern African Community (EAC) CU. The EU has called-upon Tanzania to choose between SADC and the EAC (The East African, 16/05/05). Considering the depth of economic integration, Tanzania's interest lies in the EAC, which accounts for the bulk of Tanzania's intra-African trade (Sitta 2005). Thus, in order to make its regionalisation strategy coherent, Tanzania could either leave the SADC EPA and join the ESA EPA or negotiate together with Kenya and Uganda an EAC EPA (which would of course imply that Kenya and Uganda had to leave the ESA EPA).⁹

In the (very likely) case that the SADC EPA agrees on different tariffs for EU imports than the ESA EPA, the inspection of origins of EU imports will not only be an enormous administrative burden but also hardly feasible, taking the imperfect supervision of rules of origin in southern Africa into account (WTO 2003:A5-312). The perpetuation of non-reciprocal trade relations between the EU and southern African LDCs is therefore only a theoretical but not a workable alternative. From an economic point of view, it would therefore be best if the countries of the SADC EPA and the ESA EPA agreed on a CET towards the EU. This could avoid smuggling, trade diversion and economic polarisation and promote intra-regional trade and regional integration in southern Africa. However, such a joint approach does not seem to be realistic, taking southern African countries' different economic interests in the region, their limited commitment to regional integration and the disparity of SADC countries' trade relations to the EU into account.

To make the overlapping and in parts contradictory regional integration strategy of southern African countries consistent, it would be necessary that 1) the SADC EPA members Angola and Swaziland drop out of COMESA; 2) DR Congo, Malawi, Mauritius, Zambia and Zimbabwe drop either out of SADC or drop out of COMESA and join the SADC EPA; and 3) the customs union members Kenya, Uganda and Tanzania negotiate an EPA in the EAC configuration. Like this, overlapping membership would be reduced and North-South and South-South integration would take place in the same regional bodies. However, to date economic and political interests have not permitted the reduction of infringing regional memberships. On the contrary, countries have even increased the confusion of "regional spaghetti" as the new membership of the COMESA/ESA member Madagascar in SADC or the membership of EAC member Tanzania in the SADC EPA shows. Since the countries of the SADC EPA and the ESA EPA are still allowed to switch their EPA configuration, it

⁹ Another option would be that Tanzania opts out of EPA negotiations and goes for the maintenance of non-reciprocal trade under the EBA initiative (an option that all ACP LDCs can choose). However, considering the fact that Tanzania is locked into a CU with the non-LDC Kenya this scenario is rather unrealistic, as it would take away Tanzania's options to negotiate and influence the EPA (by which it is affected anyway) according to its interest.

remains to be seen how the issue of overlapping membership will be addressed by EPAs. However, the time frame for changing the EPA configuration is limited. Once EPAs have been concluded and a common external tariff (CET) vis-à-vis the EU has been established, southern African countries are also locked-in a certain African integration framework - given that the CET of the ESA EPA and the SADC EPA differs. Southern African countries are therefore well-advised to evaluate their long-term trade and investment interests in the region carefully before finally deciding for one EPA configuration.

Whether BLNS countries' decision to go for a SADC EPA makes sense is also in dispute. First of all, it remains problematic how to deal with the LDCs Angola, Mozambique and Tanzania within the SADC EPA since they are, with exception of Mozambique, hardly economically integrated into the SACU region (Meyn 2004). Secondly, it is critical that South Africa is not included in EPA negotiations. Considering the fact that the new SACU Agreement moves towards deeper integration, such as the establishment of a common industrial policy, different trade regimes with the EU undermine SACU countries' efforts to integrate. Furthermore, the inclusion of South Africa into EPA negotiations could reduce the power bias the BLNS countries face when negotiating with the EU.

3.2 What should an Optimal EPA Look Like?

In this context an "optimal" EPA is defined as development tool that supports southern African countries to promote economic development. This means that countries' effective access to the EU market will be improved, that their supply-side constraints will be successfully tackled, that suitable financial and technical support to cope with fiscal implications will be provided and that EPAs are linked to the building of regional markets.

1. Improved market access

Today, Sub-Saharan African countries can export around 97% of their total EU exports duty free (Davenport *et al.* 1995:1). However, significant restrictions for products that fall under the EU Common Agricultural Policy, tariff escalation for agro-processed products and complex rules of origin that require a comparable high minimum local content restrict the access to the EU market. To compensate southern African countries for the erosion of preferences for the commodity products beef and sugar, the EU should open its agricultural market towards ACP suppliers for products that are still comparably protected, such as milk,

wheat and meat products. Furthermore, more generous rules of origin that allow countries to source inputs from the EU and its more developed regional partners,¹⁰ EU-wide harmonised standards that reflect not only consumer protection but do also take developing countries' capabilities into account as well as technical and financial support to cope with increasingly stringent standards are necessary to improve Africa's effective market access the EU and to stimulate agro-based diversification efforts (UNECA 2005, UK Commission for Africa 2005).¹¹

2. Tackle supply-side constraints

Most southern African countries face manifold supply-side to expand and diversify their exports. Since these supply-side constraints were largely neglected by the development instruments of the Lomé Conventions, the countries were not able to exploit potential benefits from EU preferences. Effective support that helps southern African countries to overcome their individual supply-side constraints are crucial to improve their export capacities. However, to build-up an effective transport and telecommunication infrastructure, to provide proper financial services, and to modernise production facilities, and to improve customs procedures are long-term development goals that can only be supported by EPAs but not solved by them. Nevertheless, EPAs should target trade-related infrastructure projects in southern African countries, thus helping to reduce the costs and to improve the attractiveness of doing business.

3. Limit reciprocity and build regional markets first

An important concern articulated by African negotiators is the limited option for infant industry protection. Since EPAs are supposed to liberalise around 90% of trade between the EU and southern African, the countries are hardly left with options to industrialise. The UK Commission for Africa (2005:279) recommends reducing the reciprocal requirements of EPAs to a minimum, thus allowing African countries to implement economic reforms in accordance to their national and regional development goals since "*Forced liberalisation will not work.*" (Ibid.) It is therefore seen as necessary to review Art. XXIV, WTO, which defines

¹⁰ The UK Commission for Africa (2005:291) proposes that African countries should be allowed to source globally and that industrialised countries should require a minimum of only 10% value added in Africa. Research findings from the Institute for Development Studies (IDS) confirm that such a generous regulation would help to boost African exports (Stevens 2005). However, the implications of generous rules of origin on the development of domestic value addition of production processes should also be considered, as the experience of AGOA shows.

¹¹ In this respect, the UK Commission for Africa (2005:278) has called for a "development test" of standards, which should investigate the impact existing and new standards on African countries.

the requirements of reciprocal trade agreements as well as Art. XVIII, WTO (Special and Differential Treatment), and to make both articles more precise, effective and operational so that they better suit the development needs of African countries. It is further recommended that developed countries provide technical and financial support to African countries to remove internal trade barriers, to promote intra-regional trade and to build regional capacities for trade before implementing North-South FTAs (Ibid.:262).

4. Create effective safeguard-measures

It is critically highlighted that southern African countries do hardly have the capacities to implement effective safeguard measures in order to protect their industries from serious injury caused by “unfair competition”, such as subsidised EU agricultural exports (Botha 2005). Due to the CAP reform, EU prices for agricultural products, such as wheat, beef and chicken are declining and EU food exports have become internationally competitive, which had already severe effects on agricultural production in certain African states (Goodison 2005, Wellmer 2005:15-6).¹²

Considering these circumstances it is proposed that EPAs should exclude *a priori* sectors that are regarded as highly sensitive as well as products that are subject to EU export subsidies (Botha 2005, Steven and Kennan 2005). However, to date the EU’s mandate on safeguards and anti-dumping does not take African countries’ concerns in this respect into account. The Cotonou Agreement does even foresee the implementation of safeguard measures only by the EU but not by ACP countries (European Commission 2000, Annex V, Art. 8).

5. Consider the revenue implications of EPAs and assist with the restructuring of industries

The immediate costs arising from EPAs are expected to be considerable for many African countries and have resulted in a strong opposition against EPAs. Though it is to date insecure how EPAs concretely look like, they are expected to imply severe revenue losses for most African countries since they are going to liberalise their import regime towards a major trading partner. These revenue losses are expected to range between 1% for Uganda and Tanzania to 10-12% for Mauritius and Rwanda (Khandelwal 2004:32).¹³ It is rather unlikely

¹² Thus, the EU intervention price for wheat shrank in the period 1992-2002 by 55%. Nevertheless, the production increased from 229 million tons to 265.5 million tons in 2004. EU chicken exports increased by 121% in the period 1996-2002 (EU DG Agriculture 2004:14 as cited in Wellmer 2005:15-6).

¹³ Stevens and Kennan (2005) argue that increased imports as a result of liberalisation might compensate for revenue losses. On the other hand, it is also likely that trade diversion, i.e. the replacement of third country

that these losses can be compensated by taxes. Most countries are not able to increase corporate taxes and income taxes accordingly since their tax base is too small. The substitution of tariff revenues by VAT is also difficult. Apart from the negative impact on domestic consumption on poverty alleviation, VAT is also much more complex to collect than tariff revenues and requires a sophisticated communication systems between companies and domestic authorities (Wellmer 2005:22).

To cope with increased competition from EU imports and to be able to restructure their industries, southern African countries need technical assistance. Very few companies in southern Africa have the capacity and capability to understand the potential implications of the ongoing negotiations for their business (European Research Office 2002:15-6). It would be fair if the EU released financial technical assistance for southern African countries to cope with the fiscal implications of EPAs, to assess the restructuring needs for industries and to assess the training needs for managements.¹⁴

5. Limit the negotiation agenda to trade in goods and build negotiation capacities

Southern African countries are constrained by limited human capacities to negotiate EPAs, which has to be done simultaneously with multilateral trade obligations, regional trade negotiations and the implementation of existing regional trade agreements. Moreover, the countries face additional administrative costs of creating effective regional bodies to negotiate EPAs.

Another problem is the inclusion of services and the “Singapore Issues” (competition policy, investment, trade facilitation and government procurement) into EPA negotiations. These issues are still disputed within the WTO and southern African countries refuse to include them into EPA negotiations. Since EPAs would be WTO-compatible when only covering trade in goods, there is no need to include trade in services and the Singapore Issues.

Table 1 summarises the steps recommended be taken by the EU, the southern African national states, and the regional body to promote the developmental character of EPAs.

Table 1: Agenda for action for EPA negotiations to support economic development and regional integration in southern Africa

imports by EU imports, accelerate revenue losses. These dynamic processes make it in fact impossible to calculate the scale of revenue losses for African countries exactly.

¹⁴ To date the EU granted € 30 million to the countries of the ESA configuration in order to improve their institutional capacities and € 70 million to all SADC countries (including those of the ESA EPA) to support the SADC regional indicative programme (Liebig *et al.* 2004, Nielson 2004).

EPA Issue	Action EU	Action Southern African Nation State	Action Regional Body
Market Access	<ul style="list-style-type: none"> ➤ Harmonisation of southern African countries' market access by granting all countries the same market access LDCs enjoy ➤ Efforts to reduce protection and negative external effects of the CAP 	<ul style="list-style-type: none"> ➤ Evaluation of current and potential export products, their barriers to trade, and internal constraints of expanded exports 	<ul style="list-style-type: none"> ➤ Reduction of intra-regional tariffs and non-tariff barriers to trade
Rules of Origin	<ul style="list-style-type: none"> ➤ Formulation of more generous rules of origin ➤ Allowance of full cumulation with ACP, EU, and South Africa 	<ul style="list-style-type: none"> ➤ Overcoming of protectionist demands of national interests groups 	<ul style="list-style-type: none"> ➤ Implementation of more generous rules of origin to promote intra-regional trade
Sanitary and Phytosanitary Standards (SPS)	<ul style="list-style-type: none"> ➤ Formulation of uniform SPS measures in all EU member countries according to international standards ➤ Provision of funds to assist southern African countries to comply with SPS measures ➤ Securing country specific and not EPA specific check-up of imports ➤ Establishment of an independent authority that controls the rightful application of SPS 	<ul style="list-style-type: none"> ➤ Evaluation of problems to comply with SPS demands ➤ Evaluation of technical assistance needed 	<ul style="list-style-type: none"> ➤ Formulation of a common negotiation position vis-à-vis the EU
Administrative Arrangements	<ul style="list-style-type: none"> ➤ Formulation of uniform administrative requirements in cooperation with southern African countries ➤ Granting support to implement administrative requirements 	<ul style="list-style-type: none"> ➤ Evaluation of administrative barriers to enter the EU market and constraints to identify the origin of imported goods ➤ Formulation of required assistance 	<ul style="list-style-type: none"> ➤ Creation of a CET towards the EU to minimise trade diversion ➤ Harmonisation of trade related policies
Import safeguard measures	<ul style="list-style-type: none"> ➤ Exclusion of products that are regarded as highly sensitive by African countries or are subject to EU export subsidies ➤ Implementation of transparent and uniform safeguard measures in all EU member countries ➤ Assistance to enable southern African countries to apply safeguard measures effectively 	<ul style="list-style-type: none"> ➤ Determination of infant industries /products that need protection ➤ Determination of agricultural products/agro-processed products that are subject to high EU export subsidies 	<ul style="list-style-type: none"> ➤ Mutual consent on product lists aimed to be granted infant-industry protection / to be excluded from the FTA
EPA Issue	Action EU	Action Southern African Nation State	Action Regional Body
Customs Losses / Industrial	<ul style="list-style-type: none"> ➤ Technical assistance to conclude impact studies 	<ul style="list-style-type: none"> ➤ Establishment of a national trade forum 	<ul style="list-style-type: none"> ➤ Establishment of a functioning

Restructuring	<p>about EPAs' effects on customs losses and industrial restructuring efforts</p> <ul style="list-style-type: none"> ➤ Financial support to diminish negative social impacts of revenue losses ➤ Provision of technical support to assess the restructuring needs for industries, the training needs for managers and to identify new trading opportunities ➤ Provision of technical support to implement alternative income sources 	<p>to inform companies about challenges and to consider their concerns</p> <ul style="list-style-type: none"> ➤ Increased efforts to expand the tax basis and to improve the collection of taxes 	<p>regional trade forum to promote cross-national exchange of experience</p>
EPA Negotiations	<ul style="list-style-type: none"> ➤ Limit negotiations to trade in goods and reconsider the EPA time schedule ➤ Review Art. IVXX and Art. XVIII WTO and make them more suitable for developing countries ➤ Build trade capacities to cope with regional and multilateral trade negotiations and to evaluate the EPA negotiation agenda ➤ Grant support in trade-related areas, such as standardisation and competition and investment policy 	<ul style="list-style-type: none"> ➤ Establish effective national consultation processes ➤ Handing over of competences to a supra-national negotiation body 	<ul style="list-style-type: none"> ➤ Harmonise national positions and create an effective regional negotiation mechanism ➤ Moving towards deeper regional integration to avoid a hub-and-spoke trade relationship and to limit the negotiation power bias

Source: Author's presentation as cited in the text.

Though the EU underlines that EPAs are above all development tools, supposed to integrate ACP countries into regional and international markets, there is the fear that trade liberalisation is used as substitute for development policy. Another concern is that different development needs of southern African countries are not sufficiently respected since the SADC EPA and the ESA EPA comprise both, developing and least developed countries (LDCs). Though the LDCs keep their improved market access under the EBA initiative they will be treated like developing countries on the import side when agreeing within the existing EPA formations on a CET towards the EU. LDCs decision to switch out of EPAs and to maintain non-reciprocal trade relations under the EBA initiative is also not feasible since southern African countries are not in a position to warrant the rules of origin. EU exports to developing African

countries, which are traded in the region, are therefore likely to be not identified as EU originated by LDCs and thus not declared accordingly (ECA *et al.* 2005:12).

Also with respect to regional integration in southern Africa, the European approach is problematic. Though the EU states that “...ACP regions will open their markets first of all among themselves, building larger regional markets in accordance with their own political objectives and agenda.” (European Commission 2005), the EU pursues an approach of “open regionalism” where South-South integration and North-South integration go hand in hand. However, to negotiate a North-South FTA with the EU as a region requires a certain level of integration, e.g. with respect to countries’ external tariff structure and their strategy on how to deal with trade-related aspects. To date, most southern African countries have not even established a national position on all aspects to be negotiated in EPAs so that regional EPA negotiations with the EU do rather reflect positions of single national stakeholders than those of the region. Without according support for capacity building, more time to form common regional strategies and flexible approaches that also take the development needs of the least developed countries into account, EPAs risk to contribute to a further economic marginalisation of African countries.

4 The Challenges EPAs Imply for Trade Capacity Building

For southern African countries, it is crucial to establish an international trade forum when negotiating EPAs like South Africa did when negotiating the EU-South Africa FTA. Like this, the private sector would be (indirectly) involved in discussions and could influence the agenda. This would also offer private sector support institutions the option to formulate comprehensive requirements for technical assistance.

However, southern African countries are constrained by limited human capacities and the fact that EPA negotiations go simultaneously with multilateral trade obligations (WTO Doha Round), regional trade negotiations and the implementation of existing trade agreements. The BLNS countries have recently concluded FTA negotiations with the EFTA countries and MERCOSUR and are currently involved in the following trade negotiations:

1. The SACU-USA FTA

Started in June 2003 and was supposed to be finalised by the end of 2004. Since all SACU countries are beneficiary of the African Growth and Opportunity Act“ (AGOA), which is

particularly important for Lesotho and Swaziland, SACU is interested in the maintenance of its preferences vis-à-vis the USA. However, since the USA push forward to include the Singapore Issues, negotiations are currently stuck (INSAT 2005).

2. The SADC FTA

The SADC Trade Protocol was signed in 2000 by 11 member countries and aims to liberalise 85% of intra-SADC trade by 2008; the remaining 15% of trade is regarded as sensitive and supposed to be liberalised by 2012.¹⁵ The SACU members front-loaded their offer, i.e. they made a single offer to the rest of SADC to reduce tariffs to zero by 2005 (except for sensitive products). However, the implementation of the SADC FTA is still in its infancy and insecure to be fulfilled by 2012 (Kalenga 2004).

3. The implementation of the SACU Agreement 2002

The new SACU Agreement 2002 was signed in June 2004 and replaces the 1969 Agreement that was highly dominated by South Africa. With the ratification of the new SACU Agreement, member states have reformed the CU considerably. The democratised SACU Agreement emphasises member countries' commitment to work towards deeper regional integration and their willingness to establish common institutions that rule in the interest of all member countries and speak with one voice towards third parties. However, for a proper internal functioning, all new created institutions, namely the Secretariat, the Customs Union Commission, the democratised Tariff Board have to be announced and properly equipped and staffed, which has not been the case yet. Furthermore, the tasks and responsibilities of the single institutions still need to be clearly defined.¹⁶ To date it is only the Secretariat, based in Windhoek, which has been established but still needs to be staffed.¹⁷ The success or failure of the new SACU Agreement depends therefore to a large extent on the improvement of countries' trade-related capacities (Erasmus 2005, McCarthy and Hansohm 2005).

In addition to FTA negotiations with the USA, the implementation of the SADC FTA and the implementation of the SACU Agreement, SACU explores options to negotiate FTAs with China, India, Singapore, Nigeria and Kenya (Tralac news 24/04/2005). So far, all these trade

¹⁵ Angola and the DR Congo will not join the SADC FTA.

¹⁶ Regarding the establishment of the Tribunal, Erasmus (2004:2) points out that the rules and procedures still have to be developed. Furthermore, the nature of its jurisdiction has not been clarified yet.

¹⁷ The General Secretary, Mrs. Connie Moreni, the former Permanent Secretary of the Botswana Ministry of Trade, is supposed to hold this post until 2009 (Laletsang 2003).

negotiations are led by South Africa, while the BLNS are only insufficiently involved and prepared.

The lack of capacity and training needs in the BLNS countries comprise more or less all trade-related fields, from customs clearance over the evaluation of trade flows to the formulation of a trade interest strategy.

An official from the Department of Customs and Excise in Botswana summarises the training needs in the field of customs clearance:¹⁸ *“There is a huge need to train our customs. They need computer literacy and the automatisisation process has to be improved. Moreover, the attitude has to change: the customs are often more interested in the collection of duties than in the smoothening of trade flows. ... We need more knowledgeable custom officials and modern equipment.”*

Additionally, there is the need in all BLNS countries to train the customs to apply infant industry protection correctly. The new SACU Agreement, which provides for the facilitation, simplification and harmonisation of trade documentation and customs procedure (SACU 2002, Art. 23), has to be implemented, which requires improved knowledge and cooperation commitment of customs officials.¹⁹

Another relevant lack of capacity is judged to be the training of trade experts. In 2003 Botswana had two persons and Swaziland one person that represented the country in regional and international trade negotiations (SACU-USA, SACU-EFTA, SADC, EPA...) plus a handful experts that dealt with these topics. Namibia also lacked of qualified staff to negotiate and evaluate the manifold trade agreements the country is involved in. The EU has started a € 3 million support programme (2004-2007) to improve the policy formulation, coordination and execution of Namibia's trade policy. However, the key problem for the BLNS countries is to build-up domestic trade negotiators. A high official from the Ministry of Trade and Industry in Namibia states: *“A person who is representing Namibia in trade negotiation must be able to perform in law and trade issues and link his knowledge to the social dimensions of these issues, which have to be discussed with the civil society. These people are very rare.”*

In addition to the lack of negotiators and local researchers who are familiar with trade negotiations, the BLNS countries lack of a critical civil society, providing valuable inputs to the debate. In Lesotho and Swaziland all efforts in this respect come from foreign NGOs and expatriates. Botswana and Namibia have domestic research institutions, which dealt with the

¹⁸ The interviews were conducted personally from September to December 2003 in Botswana, Namibia, South Africa and Swaziland and form part of the forthcoming PhD thesis of the author.

¹⁹ A start was made with a joint seminar for customs from Botswana, Namibia and South Africa in 2003 (Valashia 2003).

impact of the EU-South Africa FTA. However, the information provided circulated only insufficiently within SACU. Furthermore, BLNS parliamentarians are only insufficiently involved in FTA negotiations since the economic sub-committee is very weak and the sub-committee of foreign affairs is not involved in trade negotiations. Thus, trade negotiators receive neither from the private sector nor from parliament or the civil society substantial inputs. Namibia is the only BLNS country where private sector support institutions (Namibian Agricultural Trade Forum (ATF) and Namibian Manufacturing Association (NMA)) have worked on the impact of North-South FTAs on the Namibian economy and informed their members accordingly. The ATF and NMA took further the lead when SADC EPA negotiations were launched on 8 July, 2004 and initiated “A declaration of concerned stakeholders”, which was published in national newspapers.

Another concern of EPAs is their all-embracing approach, which also includes services and the “Singapore Issues” (competition policy, investment, trade facilitation and government procurement). Since the EU has not been successful to push through these issues in the WTO yet, it tries to implement them on a bilateral basis (Goodison 2005, Stevens 2003). For southern African countries this implies – in light of the enormous power imbalances - that they do not have the chance to develop their own trade-related policies but have to accept the regulations of the EU. Taking investment as example: if investment is included into EPAs on a “non-discriminatory basis”, southern African countries would lose their options to protect national industries and to promote investment policies that encourage upstream and downstream benefit. As the experience of South East Asian countries showed, domestic policy incentives, which imply a discrimination against foreign companies in the strict sense of WTO regulations, can be very successful development tools to promote trade and investment.²⁰

To avoid the overextension of southern African countries in manifold trade negotiations as well as the impression that EPAs serve above all the interests of the EU, the EU should have a strong self-interest in supporting southern African countries to build capacities in trade related areas and to upgrade their institutional capacities.

²⁰ The same applies to government procurement, which can be an important development tool for developing countries when granting government contracts to emerging domestic companies in order to stimulate industrial development.

5 Conclusions: Credibility and Commitment of the new EU Policy towards Southern Africa

Considering the massive development disparities between the EU and southern African countries well as their internal and external constraints to enter the European market, it is very questionable that an FTA has such a deep effect that it alters economic structures in southern African countries and improves their export performance. A North-South FTA can help African consumers and producers to benefit from cheaper imports by lowering countries' external tariffs. However, whether trade liberalisation in itself is beneficial for African countries as suggested by the European Commission (2005) is doubtful. Thus, trade liberalisation does not help African countries to improve their capacity to trade since their manifold supply- and demand-side constraints are not tackled. It also must be doubted that a North-South FTA in form of EPAs results in increased investment, technological spillovers and increased economic and political reputation because of "locked in" trade reforms. In fact, southern African countries have not aspired to enter into EPAs with the EU but did only agree because they want to keep their market access.

The non-complementary trade structure and the high development disparities between the EU and southern African countries can lead to high trade imbalances, which implies the risk of further polarisation. One opportunity for southern African countries to avoid such a hub-and-spoke relationship is to integrate in a South-South framework before entering into a North-South FTA. The EU sees regional integration schemes and processes as "key instrument" for ACP countries' integration into the world economy, which should help them to strengthen their competitiveness, to save resources and to increase their bargaining. However, to let such a positive scenario come true, a certain degree of economic integration as well as the establishment of regional institutions that are in a position to act as a common negotiation body would be a prerequisite (Kennes 2000:120-2). It is therefore necessary to build-up regional capacities, to implement appropriate development measures and to focus on assistance to improve the competitiveness and diversification efforts of southern African countries in order to promote intra-regional integration. The EU concept of "open regionalism", promoting that South-South and North-South integration go hand in hand, is not feasible in the southern African context but has further undermined regional integration efforts. Thus, the decision of the SADC countries Malawi, Mauritius, Zambia and Zimbabwe to negotiate an EPA in an Eastern Southern Africa framework does not necessarily mirror their long-term economic and strategic interests within the region but rather their fear being

locked into the liberalisation schedule of the EU-South Africa FTA when negotiating in a SADC EPA framework.

The impact of EPAs on the SACU countries and regional integration within SACU are not fully predictable yet. The BLNS countries are locked-in the EU-South Africa Free Trade Agreement and are therefore already confronted with the challenges of free trade with a major trading partner, such as revenue losses and increased competition. Whether they can improve their effective access to the EU market and adequately accommodate their concerns, such as the effective implementation of safeguard measures, budget support and technical assistance to identify new income source, or whether the SADC EPA will be a retro-fitting of the EU-South Africa FTA remains to be seen.²¹ What is however clear, is that from a regional integration point of view, it would be best if South Africa joins the BLNS countries so that SACU establishes a common trade regime towards its major trading partner.

²¹ Since the BLNS countries have enjoyed superior access to the EU market for most products than South Africa for three decades, it is unlikely that the SADC EPA follows the EU-South Africa FTA with respect to market access. The question is therefore rather whether the countries of the SADC EPA will be able to improve the conditions of market access they enjoy under the Cotonou Agreement, e.g. with respect to the rules of origin or the tariff levels for processed agricultural products.

References

- Botha, Lambert (2005): *Guidelines for the Negotiations of the SADC EPA: Appropriate Legal Provisions dealing with Safeguard Measures in the proposed Economic Partnership Agreements*. Study for the project “Trade Advisor at the SADC Secretariat” funded by GTZ, Eschborn.
- Collier, Paul / Gunning, Jan, W. (1999): *Restraint, Cooperation and Conditionality in African Trade Policy*. In: Oyejide, A. / Elbadawi, I. / Collier, P. (Eds.): *Regional integration and trade liberalization in Sub-Saharan Africa*. Volume 4, pp. 74-99, Basingstoke *et al.*: Macmillan Press.
- Davenport, Michael / Hewitt, Adrian / Koning, Antonique (1995): *Europe’s preferred partners? The Lomé countries in world trade*. Overseas Development Institute, ODI Special Report, London: Chameleon Press Ltd.
- ECA (Economic Commission for Africa) / AfDB (African Development Bank) / UNDP (United Nations Development Programme) / SADC (Southern African Development Community (2005): *The Ad-Hoc Group Meeting and Workshop on Economic Partnership Agreements and WTO Issues for Southern African Countries. Final Report and Recommendations*. ECA/SA/WS/EPA/2005, April.
- Erasmus, Gerhard (2005): *The Consequences of Regional Integration in Southern Africa of Overlapping Trade Arrangements with Third Parties*. Paper presented at the NEPRU workshop on “Monitoring Regional Integration in Southern Africa”, Windhoek, June 11-12.
- Erasmus, Gerhard (2004): *The New SACU Structures Get Underway*. (online): http://www.tralac.org/scripts/content_print.php?id=2943, accessed 28/09/2004.
- European Commission (2005): *Economic Partnership Agreements: putting a rigorous priority on development*. Memo, 20 January 2005, European Commission: Brussels.
- European Commission (2000): *ACP-EU Partnership Agreement signed in Cotonou on 23rd June, 2000*. Supplement to the Courier, September 2000, Brussels.
- Goodison, Paul (2005): *Making EPAs work for Development. The Regional Integration and Agricultural Dimension*. Presentation held at the Trade Mondays Seminar Series of the Danish Institute for International Studies, 07 March 2005, Copenhagen.
- Goodison, Paul (2004): *Economic Partnership Agreements with the EU: an independent assessment*. Presentation held at the Namibian Agricultural Boards, 11 June 2004, Windhoek.
- INSAT (Inside Southern African Trade) (2005): Newsletter from the Southern Africa Global Competitiveness Hub, Issue 01, May. www.satradehub.org
- Kalenga, Paul (2004): *Implementation of the SADC Trade Protocol: Some Reflections*. (online): <http://www.tralc/scripts/content.php?id=3045>, accessed 03/11/2004.
- Kennes, Walter (2000): *Small Developing Countries and Global Markets. Competing in the Big League*. MacMillan Press Ltd., Houndsmill *et al.*
- Khandelwal, Padamja (2004): *COMESA and SADC: Prospects and Challenges for Regional Trade Integration*. IMF WP/04/227, IMF: Washington D.C.

- Kritzinger-van Niekerk, L. / Moreira, E. (2002): *Regional Integration in Southern Africa: Overview of Recent Developments*, World Bank Discussion Paper, Washington D.C.: World Bank.
- Laletsang, K. (2003): Assistant Director (Foreign Trade) of the Department of Trade and Consumer Affairs, Ministry Commerce of the Republic of Botswana. Interview with Laletsang, 06 October 2003, Gaborone.
- Liebig, Stefan / Niemann, Arne / von Uexküll, Erik / Vogt, Florian: *Putting Liberalization on the right track – the case of supply side constraints in the EU-ESA negotiations for an Economic Partnership Agreement*. European Analysis Research Paper Series, No. 1, January (online): <http://www.europeananalysis.org.uk>, accessed 03/03/2005.
- McCarthy, Colin / Hansohm, Dirk (2005): *Common Industrial Policies for SACU Member States* Paper presented at the NEPRU workshop on “Monitoring Regional Integration in Southern Africa”, Windhoek, June 11-12.
- Meyn, Mareike (2004): *Are Economic Partnership Agreements likely to Promote or Constrain Regional Integration in Southern Africa? Options, Limits and Challenges Botswana, Mauritius and Mozambique are Facing*. NEPRU Working Paper No. 96, July 2004, Windhoek.
- Nielson, Poul (2004): Opening of SADC/EU negotiations for the Economic Partnership Agreement, Windhoek, 8th July 2004. EU Press Release, 09/07/04.
- SACU (2002): *The Southern African Customs Union Agreement – Draft Final between the Governments of the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia, the Republic of South Africa and the Kingdom of Swaziland*. (online): http://www.tralac.org/documents/sacu_2002.htm, accessed 05/07/2002.
- Sitta, Samuel (2005): *Quitting Comesa: Implications for Tanzania*. SADC Barometer, Issue 8, SADCs future, March 2005. SAIIA: Johannesburg.
- Stevens, Christopher / Kennan, Jane (2005): *Preparing for Economic Partnership Agreements*. Institute for Development Studies Briefing Paper, March, Sussex: IDS.
- The East African (16/05/05), Stanley Kamana: *Now EU Advises Tanzania to Choose EAC Or SADC*. (online): <http://allafrica.com/stories/200505180677.html>, accessed 23/05/05.
- Trades Centre (Trade and Development Study Centre) (2003): *Study of the Compatibility of Trade Policies in the Context of Current Regional Economic Integration Processes: the Case of SADC*. Prepared by Tekere, Moses and Ndlela, Daniel, Harare: Trades Centre.
- UK Commission for Africa: *Report on TRIPS and FTAs. Chapter 8. More Trade and Fairer Trade* (online): <http://www.commissiononafrica.org/english/report/thereport/15chap8.pdf>, accessed 29/03/05.
- UNECA (United Nations Economic Commission for Africa) (2005): *Economics and Welfare Impacts of the EU-Africa Economic Partnership Agreements* (online): http://www.uneca.org/eca_programmes/trade_and_regional_integration/documents/Karingi.pdf, accessed 02/04/2005.
- Valashia, Phodiso Philiso (2003): Customs Administrator I (International Customs Matters) Department of Customs and Excise. Interview with Valashia. Gaborone, 07 October.

Wellmer, Gottfried (2005): *Tragen wirtschaftliche Partnerschaftsabkommen (EPAs) zur Beseitigung der Armut bei? Die Handelspolitik der Europäischen Union mit den AKP-Staaten am Beispiel der Entwicklungsgemeinschaft des Südlichen Afrikas (SADC)*. Bielefeld: KOSA e.V. / InWent (Eds.).

WTO (2003) (Ed.): *Trade Policy Review. Southern African Customs Union*. Doc.WT/TPR/G/114, Geneva.