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Designing a monitoring instrument for Economic Partnership Agreements:

Methodological issues

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Towards a Monitoring System for the ACP-EU Economic Partnership Agreements (EPAs)

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a joint project by the German Development Institute (DIE) and the European Centre for Development Policy Management (ECDPM)

The German Development Institute (DIE) and the European Centre for Development Policy Management (ECDPM) will jointly elaborate options to monitor the implementation and impacts of EPAs, in a project partly funded by the German Ministry for Development Cooperation (BMZ). More specifically, the project aims at:

- developing a flexible set of methods to monitor the implementation of EPAs and the impacts of key policies and measures related to EPAs with regards to development goals;
- identifying other key factors that will affect the achievement of the EPA objectives; and
- exploring options for the procedural integration of an EPA monitoring system in the EPA implementation process (design, implementation, analysis and use).

The project will adopt a highly participatory approach, encouraging various ACP and EU stakeholders (negotiators, officials, policy makers, experts, and civil society and private sector actors) to provide input into this project. In a pilot phase, national participatory workshops with potential users of the monitoring system in Southern and Eastern Africa will also be organised. The objectives are to identify the key policies and sectors to be monitored and to help developing appropriate mechanisms to assess the implementation and impact of EPA provisions. This will include the identification of an appropriate monitoring process, causal links, indicators as well as sources of data and information.

If you would like to share your views on possible monitoring systems for EPAs and for more information on this joint DIE-ECDPM project, please contact:

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Contents

Acknowledgements	ii
Abbreviations	ii
Executive Summary	iii
1 The importance of monitoring the negotiation and implementation of EPAs	1
2 Context, objectives and methodology of the Study	2
3 ‘What to monitor’?	4
3.1 A possible approach for defining the content of an EPA monitoring instrument.....	4
3.1.1 The objectives of EPAs as indicative broad monitoring areas	4
3.1.2 From ‘Broad monitoring areas’ to ‘specific goals of EPA’	9
3.1.3 Three categories of specific goals of EPAs: the importance of the EPA process and institutional quality.....	11
3.1.4 The final steps in designing a monitoring instrument for EPAs: information gathering and measurement	14
3.2 ‘One size’ does not ‘fit all’	19
3.3 ‘What to monitor first’?	23
4 ‘How to monitor’?	25
4.1 Rigidity of a monitoring instrument with static quantitative indicators: monitoring as process.....	25
4.2 Difficulties of the empirical analysis.....	26
4.3 ‘What you monitor is what you get’.....	27
5 A possible solution: Development Benchmarks for monitoring EPAs	28
6 A practical way forward	29
Annex I	34

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Abbreviations

ACP	African, Caribbean and Pacific (group of countries)
BMA	Broad monitoring area
CPA	Cotonou Partnership Agreement
EDF	European Development Fund
EPA	Economic Partnership Agreement
EU	European Union
FTA	Free trade agreement
ILO	International Labour Organisation
IPR	Intellectual property right
LDC	Least-developed country
MA	Market access
MFN	Most-favoured nation principle
NSA	Non-state actors
PMDT	Processing, marketing, distribution and transportation
RI	Regional integration
RoO	Rules of Origin
RTPF	Regional Preparatory Task Force
SDT	Special and differential treatment
SG	Specific goal
SPS	Sanitary and phytosanitary measures
TBT	Technical barriers to trade
WTO	World Trade Organization

Executive Summary

The African, Caribbean and Pacific (ACP) states and the European Union (EU) countries have agreed to negotiate new WTO-compatible Economic Partnership Agreements (EPAs) that should not be an end in itself, but be first and foremost instruments for development, as provided for by the Cotonou Partnership Agreement (CPA). While these new free trade arrangements offer new development opportunities, they also create serious challenges to the ACP. To ensure that the development dimension of EPAs is fulfilled, it is therefore of prime importance to closely monitor both the negotiation and implementation of these new partnership agreements.

A monitoring instrument for EPA negotiations and implementation has been suggested by many actors in both the ACP and the EU, with the aim of assessing the progress of EPAs against the goals set out in the CPA and the development objectives of the ACP countries and regions.

The purpose of this Study is to provide an overview and assessment of the methodological issues encountered in the design of a monitoring instrument for EPAs. A sound and transparent methodology is required for a monitoring exercise related to the wide range of complex issues and processes surrounding the EPA negotiations and implementation. The analysis presented here aims at informing the policy debate and helping increase the understanding by the different participants in the negotiations, as well as clarifying the choice of alternative options that ACP and EU countries may have, for the establishment of an EPA monitoring instrument. Since the monitoring exercise should enhance transparency and provide the basis for informed decisions within the EPA process, this Study should help interested ACP and EU stakeholders in identifying actions needed in order to timely develop their own position on the possible establishment of an EPA monitoring instrument.

Methodological challenges for designing monitoring instruments for the preparation, negotiation and/or implementation of EPAs are divided into two categories: (i) *'what to monitor'*, which relates to the identification (and possible agreement between the parties) of the specific objectives to be monitored, including their prioritization; and (ii) *'how to monitor'*, which addresses problems related to the appropriate approach for analysis and assessment of EPAs (such as quantitative *versus* qualitative assessment, objectivity, lack of appropriate information, consultation and participation, etc.). Complementary issues relate to the issues of *who* should be conducting the monitoring exercise and *how* its results should feed into the EPA negotiation and/or implementation processes.

Monitoring may take place during the EPA negotiation process or during the implementation phase of EPAs. Based on the provisions of the CPA and the position adopted by the EPA negotiators in their respective mandates, the Study identifies broad monitoring areas (BMA). They relate to the objectives of poverty alleviation, social and environmental sustainability and the strengthening regional integration, as well as the requirement to account for the level of development and specific needs of ACP countries and regions, in terms of flexibility in market access, development support and negotiation process concerns. Each broad monitoring area leads to the identification of specific goals, comprising issues such as the coherence between EPA and the scope of regional integration, improved and asymmetric market access for ACP products, effective safeguards mechanisms, simplified rules of origin, appropriate policy space, development support and special and differential treatment.

An important methodological aspect in the identification of specific goals for EPAs relates to the consideration not only of the economic and developmental outcomes of EPAs but also their performance in terms of negotiation and implementation processes as well as the related capacity-building and institutional strengthening needs of ACP countries. Indeed, irrespective of the format

adopted, a monitoring mechanism should pay attention not only to the substance of an EPA (i.e. its impact), but also assess the process (i.e. preparation, negotiations, EPA-induced reforms, adjustments, ownership, participatory and consultative approach). The Study outlines a possible approach for designing an EPA monitoring instrument by developing a matrix of indicative Broad Monitoring Areas, Specific Goals, indicators and information sources, illustrated in Table 1. It also provides general guidelines on *how to monitor*, highlighting the challenges of striking the appropriate balance between static and process-related indicators, as well as between quantitative and qualitative indicators, taking into consideration the availability of adequate information. In this context, the reliance on development benchmarks might offer an interesting complementary approach.

Finally, the Study offers some recommendations on the practical way towards the establishment of a monitoring mechanism for EPAs. A suitable approach to monitoring should rest on careful assessments based on:

- a specific identification of the objectives of an EPA,
- a good understanding of the policy environment prevailing in each regional EPA,
- the identification of possible causal linkages between the EPA and the domestic environment, at the economic, institutional, infrastructure, productive capacity and societal levels,
- the determination of transparent and objective criteria to assess an EPA and its impacts,
- the use of both quantitative and qualitative indicators,
- the monitoring of not only (static) impacts, but also (dynamic) processes,
- a consultative and participatory process, involving various parties and stakeholders to an EPA,
- a regular and wide dissemination of the results of the monitoring exercise, and
- a regular assessment and critical review of the monitoring approach.

In setting a monitoring mechanism for EPAs, several strategic questions must be addressed:

- what is the focus of the EPA monitoring?
- what is the purpose of a monitoring mechanism?
- who should be involved in monitoring EPAs?
- what format and legal status should the mechanism have?
- what are the key relevant indicators in view of the objectives pursued?

The Study strongly recommends that these issues should be addressed following an initial broad consultative process, involving ACP national, regional and all-ACP stakeholders, EU member states and institutions, civil society representatives and independent experts on the possible objectives, scope, nature, content, target, process, format and timing of a possible monitoring mechanism. Such a participatory approach should help stimulate innovative thinking, create synergies and whenever possible build consensus. On this basis only can a monitoring mechanism for EPAs be designed, perhaps inspired by the methodological considerations outline in this Study.

1 The importance of monitoring the negotiation and implementation of EPAs

As reflected in the provisions of the Cotonou Partnership Agreement (CPA), the countries of sub-Saharan Africa, the Caribbean and the Pacific (ACP states) and the European Union (EU) countries have agreed to negotiate new WTO-compatible Economic Partnership Agreements (EPAs) that should not be an end in itself, but be first and foremost instruments for development. While these new free trade arrangements offer new development opportunities, they also create serious challenges to the ACP. To ensure that the development dimension of EPAs is fulfilled, it is therefore of prime importance to closely monitor both the negotiation and implementation of these new partnership agreements. Thorough attention is required on the appropriate preparation and negotiation of EPAs. The formal Review of EPAs, initiated in July 2006 and to be completed by December 2006, offers such a window of opportunity, as envisaged by Article 37.4 of the CPA. In addition, there is also the need to evaluate whether the development objectives agreed for an EPA are achievable and what will be the actual impact of EPA-induced reforms.

A monitoring instrument for EPA negotiations and implementation has been suggested by many actors in both the ACP and the EU, with the aim of assessing the progress of EPAs against the goals set out in the CPA. The ACP states have repeatedly called for the establishment of a monitoring mechanism, and have "called on the Commission to agree jointly with the ACP on the modalities for the monitoring mechanism it has proposed to ensure that EPAs deliver on development" (ACP Council of Ministers, 2005). EU Member States have also committed themselves to closely monitor EPAs so they help achieve development objectives and to "establish and implement an improved monitoring mechanism against development objectives within the EPA process" (Council of the European Union, 2005).

The rationale for establishing a monitoring instrument is reinforced by the heated debate surrounding EPAs. The prospect of EPAs has raised serious concerns related to various issues: their impact on poverty, on the ACP regional integration process, on the unity of the ACP Group, as well as the merits of reciprocal market opening, the capacity of ACP to negotiate and implement EPAs and the linkages and coherence with the ongoing Doha Round at the WTO. The tensions currently revolving around EPAs arise from their potential to be powerful tools for development, their possible negative impact and uncertainties about their actual content. Many stakeholders from ACP countries and some EU member states, as well as a large coalition of southern and northern non-governmental organisations (NGOs) under the umbrella of the 'Stop EPA Campaign', claim that the current EPA negotiations do not (sufficiently) include those elements that are required for economic development and export growth to actually occur.

In this context, there is a clear need to ensure that EPAs will effectively contribute to the development objectives of the ACP countries and regions. A transparent monitoring process may play a useful role in this respect, to keep the focus on the ultimate objective of the EPAs (i.e. development, and not just trade) and to help identifying possible remedies should EPAs deviate from their primary intended purposes.

Monitoring may take place at two levels:

- (i) **during the negotiation process:** to ensure that ACP countries are sufficiently prepared to negotiate an EPA and that the design of an EPA meets the objectives set out in the CPA, notably in terms of development;¹ and

¹ In terms of preparatory period of the EPA negotiations, the CPA notably stipulates that

- "All the necessary measures shall be taken so as to ensure that the negotiations are successfully concluded within the preparatory period" (CPA Art.37.2), and in particular

- (ii) **during the implementation phase**, to ensure that the ACP have the capacity to implement the EPA and benefit from it, i.e. to abide to their commitments and to have the capacity to take advantage of the new opportunities, notably in terms of market access and building on their regional market, created by the EPA; this requires notably that appropriate accompanying measures are set in place, that effective and timely EPA-related assistance is provided and that adequate remedy measures are adopted when needed to mitigate any negative unexpected effect of an EPA.

To this end, many ACP stakeholders consider the establishment of a monitoring framework as a most valuable opportunity to address some of the major difficulties they are facing in EPAs, both in terms of *content* and *process*.

It is important therefore to emphasize that a monitoring instrument can be an instrument to monitor not simply the *content* and impact of EPA through analysis of empirical models (ex ante) and indicators (ex post), but also the performance of the *process* with a view of improving ownership and transparency of EPA negotiations and implementation. Irrespective of the format adopted, a monitoring mechanism should pay attention not only to the substance of an EPA (i.e. its impact), but also assess the process (i.e. preparation, negotiations, EPA-induced reforms, adjustments, ownership, participatory and consultative approach).

2 Context, objectives and methodology of the Study

Since the start of the negotiations on EPAs in 2002, the EU and the ACP countries agree that the overall objectives of EPAs shall be the sustainable development of ACP countries, their smooth and gradual integration into the global economy and the eradication of poverty. They further concur that the specific objectives of EPAs shall be to promote sustained growth; increase the production and supply capacity of the ACP countries; foster the structural transformation of the ACP economies and their diversification; and support regional integration. Concerns about the development dimension of EPAs and criticism that EPAs may contribute to the economic marginalisation of ACP states have grown in the intervening period.

Until recently, no practical moves nor thorough discussion among interested stakeholders have taken place towards establishing a mechanism that would monitor the EPA process and ensure that the trade and development aspects of EPAs are being integrated in EPA negotiations. The monitoring instrument advocated in several occasions by both the

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- “The preparatory period shall also be used for capacity-building in the public and private sectors of ACP countries, including measures to enhance competitiveness, for strengthening of regional organisations and for support to regional trade integration initiatives, where appropriate with assistance to budgetary adjustment and fiscal reform, as well as for infrastructure upgrading and development, and for investment promotion” (CPA Art. 37.3), and

In terms of the design of an EPA, the CPA stresses among others that:

- “Negotiations [...] will be [...] into account taking into account regional integration process within the ACP” (CPA Art.37.5), and
- “Negotiations shall take account of the level of development and the socio-economic impact of trade measures on ACP countries, and their capacity to adapt and adjust their economies to the liberalisation process” (CPA Art.37.7),

notwithstanding trade objectives identified for the EPA negotiations, notably regarding the establishment of “the timetable for the progressive removal of barriers to trade between the Parties, in accordance with the relevant WTO rules”, the improved market access for the ACP countries to the EU, the review of the rules of origin, WTO-compatible flexibility “in establishing the duration of a sufficient transitional period, the final product coverage, taking into account sensitive sectors, and the degree of asymmetry in terms of timetable for tariff dismantlement”, as mentioned in CPA Art.37.7.

European Council and the ACP Council of Ministers so far has not been established.

The purpose of this Study is to provide an overview and assessment of the methodological issues encountered in the design of a monitoring instrument for EPAs. A sound and transparent methodology is required for a monitoring exercise related to the wide range of complex issues and processes surrounding the EPA negotiations and implementation. The analysis presented here aims at informing the policy debate and helping increase the understanding by the different participants in the negotiations, as well as clarifying the choice of alternative options that ACP and EU countries may have, for the establishment of an EPA monitoring exercise. Since the monitoring instrument should enhance transparency and provide the basis of informed decisions within the EPA process, this Study should help interested ACP and EU stakeholders in identifying actions needed in order to timely develop their own position on the possible establishment of an EPA monitoring instrument.

It is important as well to specify what this Study is not about. This Study covers only methodological issues and options for a possible monitoring exercise on EPAs. It is not an attempt to identify the precise mechanism, content and substance of an actual monitoring instrument. The specific choice of issues to be monitored and the criteria for assessing the (potential) impacts of EPAs and whether they (can) achieve their ultimate development objectives should better be determined by the concerned stakeholders, preferably by consensus between the parties to the negotiations. Instead, this preliminary Study raises some general methodological issues. It does not attempt to offer a single framework for monitoring EPAs in a pre-determined institutional format, as these will crucially depend on the specific goals and priorities pursued through an EPA, which may differ substantially between countries and regions, depending on their particular development strategies and negotiating positions. While (methodological) concerns might be similar, a *one-size-fits-all approach* is unlikely to prevail. The Study does not attempt either to assess the merits of the EPA preparation and negotiation process so far. Gathering information for the monitoring exercise, selecting the specific indicators to assess the extent to which the objectives pursued have been achieved, and answering to the questions on the possible improvements required for EPA negotiations is left to the current formal 2006 EPA Review foreseen in the Cotonou Partnership Agreement (CPA Art. 37.4) and parallel monitoring processes of EPAs by interested stakeholders.

The methodology adopted to conduct this Study rests on extensive informal consultations, specific interviews, and regular exchanges of information with a wide range of ACP and EU stakeholders, including negotiators, Government representatives, and members of the Civil Society, private sector, research and academic institutions.

The relevance of a monitoring instrument for EPAs should not lead to underestimate the problems surrounding its establishment. Methodological difficulties for designing monitoring instruments for the preparation, negotiation and/or implementation of EPAs can be divided into two categories:

- **'what to monitor'**, which relates to the identification (and possible agreement between the parties) of the specific objectives and results to be monitored, including their prioritization (addressed in Section 3 of this Study); and
- **'how to monitor'**, which addresses problems related to the appropriate approach and tools for analysis and assessment of EPAs (such as quantitative *versus* qualitative assessment; objectivity; lack of appropriate information; consultation and participation, etc).

Complementary issues relate to the question of *who* should be conducting the monitoring exercise and *how* its results should feed into the EPA negotiation and/or implementation processes. Section 6 offers a practical way forward, briefly covering these issues as well as those related to the format, institutional aspects and status of a possible monitoring instrument. It concludes by suggesting practical steps towards establishing a monitoring mechanism for EPAs.

3 'What to monitor'?

3.1 A possible approach for defining the content of an EPA monitoring instrument

3.1.1 The objectives of EPAs as indicative broad monitoring areas

All parties involved in the negotiations as well as stakeholders observing the process agree that EPAs must first and foremost be development-oriented trade arrangements. Developmental objectives of the new partnership agreement are not only stated in the CPA, but have also been restated numerous times by the EU (its institutions and member states), the ACP regions and countries, and various actors from civil society. In the context of the overall development strategy of ACP countries and the objectives defined in the CPA, EPAs should build on and strengthen regional integration initiatives, facilitate the integration of the ACP countries into the world economy and stimulate economic development and growth, with a view to contributing to sustainable development and poverty alleviation in the ACP.

As recognized by both negotiating parties, certain basic conditions must be in place in order for free trade agreements to lead to economic development and export growth. ACP countries must be able to both face the possible costs and grasp the potential benefits of liberalization. Therefore, provisions included in the new EPAs or adjustment measures and reforms accompanying EPAs' implementation will extend beyond trade rules, to cover also trade related issues, capacity building needs and institutional weaknesses, as well as the strengthening of participation of a wide range of actors in trade and development decision-making processes.

For EPAs to fulfil effectively the overall developmental goal, involved actors will have to monitor that a number of conditions are simultaneously put in place. However, monitoring is not an abstract concept which takes place in a vacuum. It has to be rooted in the realities of the policy realm to be monitored and linked to its objectives. Hence, to set up an EPA monitoring mechanism, the ultimate goals of an EPA have first to be identified, to be complemented by the more specific objectives, policy reform ambitions and required accompanying measures as identified by the actors of an EPA. In other words, to define a monitoring instrument for EPAs, a set of objectives to be monitored has to be identified first for each EPA. Ultimately, this set of objectives pursued by an EPA can only be determined by the involved stakeholders (or parties); hence, the need for a consultative and participatory approach to any credible EPA monitoring mechanism.

How to derive this information for an EPA monitoring mechanism? The CPA and the 'guidelines for negotiations' of the negotiating parties² provide extensive coverage of the range of objectives simultaneously pursued through EPAs, and such documents can be used to identify a number of 'broad monitoring areas' (BMA). Three overarching guiding principles can be derived from the CPA:

² See European Commission (2002) and ACP Council of Ministers (2002). The same broad objectives of EPAs are reflected also in the positions expressed by key players in the negotiations, for instance: 'EPA is not an end in itself, but a tool for development' (Miller, 2005).

'EPAs must be designed to deliver long-term development, economic growth and poverty reduction in ACP countries' (DTI-DFID, 2005).

'EPAs should no longer be conceived as trade agreements in the conventional sense where both sides are seeking mutual advantage. The EU is not pursuing an equal bargain in relation to our EPA partners. The purpose of EPAs is to promote regional integration and economic development.' (Mandelson, 2005).

- (i) **Poverty eradication.** This is the overarching goal of the CPA ('The partnership shall be centred on the objective of reducing and eventually eradicating poverty', CPA Art. 1) as well as of its individual components, including the new trading arrangements. Such developmental approach characterises the 'Economic and Trade Cooperation' pillar of the CPA constituting the framework under which EPAs are to be negotiated (according to CPA Art. 34.1):

Economic and trade cooperation shall aim at fostering the smooth and gradual integration of the ACP States into the world economy, with due regard for their political choices and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the ACP countries.

Economic development through trade integration is a major target of the new partnership agreements. In negotiating and especially implementing EPAs the parties will have to ensure, and hence monitor, that agreed commitments and accompanying policies to an EPA do contribute to poverty alleviation.

- (ii) **Social and environmental sustainability.** Considering the specific objective of 'sustainable development' and taking into account its international definition (economic, social and environmental sustainability are equally important elements of 'sustainable development'), a second 'broad monitoring area' for EPAs as entailed by the guiding principles of the 'Economic and Trade Cooperation' framework (CPA Art.34.1) should be social and environmental sustainability. Economic development is the major channel to achieve the objectives of EPAs, but in order to provide long term benefits (and incentives for implementation) the partnership agreements should also be socially (and politically) acceptable as well as prevent negative impact on the natural resources and the environment in general.
- (iii) **Strengthening of regional integration.** Within the 'principles' introduced at the beginning of the Economic and Trade Cooperation chapter of the CPA, Art. 35.2 states that

Economic and trade cooperation shall build on regional integration initiatives of ACP states, bearing in mind that regional integration is a key instrument for the integration of ACP countries into the world economy.

This is one of the key underlying concepts of the EPAs and reflects the assumption that by building on ACP regional integration (RI) processes, EPAs should contribute to the establishment of effective regional markets in the ACP, thus attracting and stimulating both domestic and foreign investment, a necessary condition for sustainable economic development³. This major policy direction is also reflected in the joint decision to undertake negotiations for regional EPAs along geographical configurations that build on existing endogenously driven RI initiatives of each ACP regions. The EU and ACP partners will have to monitor that trade and trade-related rules as well as accompanying measures within the EPA framework are consistently in line with the respective regional integration objectives and priorities of the ACP.⁴

Other key guiding principles for the EPAs can be found in the ACP-EU Economic and Trade Cooperation Chapter of the CPA. In particular, an underlying principle is that "economic and

³ The nature of the various overarching goals stated in the Cotonou Agreement is a very different one. For instance, regional integration is not an end in itself, but is usually pursued to achieve other goals, like peace, economic development, etc. Poverty reduction on the contrary is an end in itself.

⁴ This is a challenging task given the numerous overlapping memberships of regional groupings that may have contradictory integration agendas, a phenomenon commonly referred to as the 'Spaghetti bowl' of regional integration.

trade cooperation shall take account of the different needs and levels of development of the ACP countries” (CPA Art. 35.3). Accordingly, EPAs must provide the required flexibilities to cater for the heterogeneity of the ACP group of countries. It might be expected that both trade (tariff and non-tariff barriers to trade) and trade-related rules (standards, certification and other ‘behind-the-border’ measures such as trade facilitation, competition, investment, etc.) should respect this principle. In addition, appropriate accompanying measures and support to an EPA should be tailored to specific developmental needs of the ACP countries and regions. It follows that these various dimensions of the flexibility and asymmetrical treatment (according to development levels and country-specific conditions), both between the EU and ACP sides and between different ACP countries, should be monitored. A comprehensive though not exhaustive list of key areas to be monitored would include:

(i) Market access issues

- **Consideration of the level of development within the market liberalization process of the ACP.** Reciprocity of liberalisation commitments is both the cornerstone and the most challenging element of the proposed EPAs. For instance, the reduced collection of tariff duties resulting from import liberalisation will negatively affect government revenues, and increased competition from foreign (i.e. EU) producers may disrupt some domestic economic sectors. In fact, even those ACP countries that seem to embrace the reciprocity principle as one of the opportunities of an EPA lament about the EU’s lack of attention to the adjustment costs brought about by reciprocal market opening in terms of pressures on government revenues and domestic production and employment, as well as potential risks for regional integration and policy space. Considering the economic and institutional weaknesses of ACP countries and the asymmetry between EU and ACP in their ability to cope with negative impacts and exploit newly created opportunities, market liberalization in ACP countries is a key process to be assessed on a regular basis. ‘Special and differential treatment’ rules under negotiation (allowing on the part of the ACP longer timeframes for implementation, slower pace of tariff reductions across a smaller range of products, the possibility to exclude sensitive products and/or sectors or to adopt more favourable rules of origin) as well as asymmetry and flexibility during the implementation phase of EPAs should be monitored closely.
- **Market access for ACP-states into the EU.** An additional area to be monitored is the actual improvement of market access conditions for ACP exports into the EU in the shift from Cotonou tariff preferences to EPAs. In the context of the new trading arrangements, the CPA provides that no ACP country shall be worse off and ‘on the Community side trade liberalisation shall aim at improving current market access for the ACP countries’ (CPA Art. 37.7). All elements of market access (tariff preferences for ACP, thresholds triggering the imposition of safeguard measures by EU countries, rules of origin) should ensure that through EPAs advantageous opportunities (available market access conditions) translate into actual improvements for ACP exporters in accessing the European markets. Significantly, EPAs will not only cover trade in goods and agricultural products, but also in services, which for many ACP countries constitute an increasingly important sector of the economy and may be a possible engine for future economic growth. Monitoring real improvements of market access for ACP countries into the EU will have to cover services as well.
- **Development friendly treatment of trade-related issues.** The opportunities to address through EPAs -not only tariff barriers, but also non-tariff and technical barriers to trade, as well as a number of trade-related ‘behind-the-border’ measures- should reinforce the positive effects from reciprocity and regional integration. This broad coverage could provide greater, more effective market access and market integration, thus increasing the benefits from trade, and should contribute to locking in policy reforms in the ACP, thereby increasing the relevance and credibility of the regional integration processes as steps for the integration of the ACP regions into the world economy. However, for the same

reasons outlined above for the market liberalization process, development levels and institutional preparedness should be taken into account when dealing with 'behind-the-border' measures in the context of EPAs. Flexibility and asymmetrical treatment should be monitored during the negotiations and implementation stages. Commitments in this area should be in line with national development strategies and appropriate regulatory frameworks should be in place before commitments on trade-related issues are implemented by the ACP countries.

(ii) Development support

- **Addressing supply side constraints.** 'Supply-side constraints', such as poor economic infrastructure, unfavourable investment climate, weak institutions and the lack of skilled labour, prevent many developing countries from taking advantage of the new export opportunities created by trade liberalisation in developed economies. This is recognized in the Economic and Trade Cooperation chapter of the CPA⁵ and specifically in the context of EPAs:

The preparatory period shall also be used for capacity-building in the public and private sectors of ACP countries, including measures to enhance competitiveness, for strengthening of regional organisations and for support to regional trade integration initiatives, where appropriate with assistance to budgetary adjustment and fiscal reform, as well as for infrastructure upgrading and development, and for investment promotion (CPA Art 37.3).

If supply-side constraints are not overcome, ACP countries will not be able to benefit from any improvement in market access conditions. Involved stakeholders should therefore monitor that EPAs concretely address those constraints during both negotiation and implementation stages.

- **Support for economic reforms in ACP.** Several parts of the CPA clarify that the ACP-EU partnership and all its cooperation instruments, including EPAs, should constitute a coherent enabling framework of support to the ACP's own development strategies. In particular, trade strategies, including international trade negotiations, are part and parcel of a country's economic development strategy. Therefore, the EU and ACP partners will have to monitor that EPA provisions are supportive and not in contradiction to other economic reforms that ACP countries should commit and effectively engage to ensure sustainable development. Such policy coherence is crucial as without adequate policies and resources to adjust and foster the necessary economic transformation and to produce and market their goods competitively, ACP countries are unlikely to benefit fully from new free-trade arrangements with the EU.
- **Effective and immediate implementation of development aid.** Some of the elements outlined above such as strengthening regional integration and participatory processes, or addressing supply-side constraints as well as institutional weaknesses, require support in terms of development aid. This support should be determined by and synchronised with the processes of negotiating and implementing an EPA since the nature and size of development assistance should be commensurate to the adjustment process required, in line with ACP development objectives and regional priorities. Proper sequencing of liberalisation commitments and implementation with development support will be crucial. The timely and effective delivery of (trade-related) assistance should be monitored so that it can coincide with the needs and challenges faced by the ACP. For certain regions and countries, this could mean that specific components of such trade-related assistance might need to come before the implementation of trade liberalisation (for example strengthening of tax collection/administration systems where revenue shortfalls due to tariff reduction are expected to be particularly serious). The effective implementation of

⁵ CPA Art. 34.3 states that "economic and trade cooperation shall aim at enhancing the production, supply and trading capacity of the ACP countries as well as their capacity to attract investment".

EPA-related aid will also crucially depend on the absorption capacity of the ACP and the specific funding mechanisms and administrative structures adopted to manage such funds appropriately. In addition, complementarity between EPA-related support and other aid programmes and coordination between the various levels of interventions will be needed. Positive effects as well as potential failures of specific funding instruments, management structures and aid coordination mechanisms in the context of EPAs should also be monitored.

(iii) Negotiation process and participatory approach

- **Performance of negotiation and EPA decision-making.** The development of the new partnership agreements entails the negotiation and implementation of complex trade and trade-related measures (included in the EPA agreements) as well as the design and implementation of accompanying measures (parallel to EPA). These processes require input from a variety of actors and institutions at the national and regional level and bring about permanent discussions and decisions on objectives, negotiating goals, roles and resource allocation. Like in other policy areas, for trade policy to achieve its objectives the quality of the process can be as important as the substance of the policies under discussion. Policy coherence (including sequencing of implementation), local ownership of the decisions and institutional preparedness for negotiating and implementing international commitments and domestic policies are crucial for the processes related to EPAs to succeed and for involved players to fulfil their roles. This is recognized also in the context of the CPA when providing the overall framework that should guide the cooperation partners in attaining their developmental objectives:

The objectives of ACP-EU development cooperation shall be pursued through integrated strategies that incorporate economic, social, cultural, environment and institutional elements that must be locally owned. Cooperation shall thus provide a coherent enabling framework of support to the ACP's own development strategies, ensuring complementarity and interaction between the various elements.... (CPA Art. 20)

This applies also to EPAs. The quality of negotiations and other related relevant decision-making processes will have to be monitored to ensure local ownership, policy coherence, and institutional preparedness lead to successful performance of both the negotiation and the implementation of the new partnership agreements.

- **Participation of Non-State Actors.** An important part of the performance of the negotiations and EPA decision-making as outlined above relates to the participation of non-state actors (NSA)⁶. The importance that both ACP and EU give to the issue of participation is reflected throughout the text of the CPA and provisions for NSA involvement are included in all dimensions of the partnership (politics, development cooperation, trade and economic cooperation). In particular, CPA Article 2 defines participation as a 'fundamental principle' of the ACP-EU cooperation and a separate chapter on 'Actors of partnership' (CPA Art. 4-7) sets out the basic rules and principles for participation of NSA. The wide range of development actors other than governments is crucial for the transparency, ownership and effectiveness of the EPA negotiations and implementation and NSA participation should therefore be monitored specifically.

⁶ According to CPA Art. 6, non-state actors include: the private sector; economic and social partners including trade unions and organizations; and civil society in all its diversity, according to national characteristics. One major challenge to a fully participatory approach, in the case of EPAs as more in general for economic policy-making in developing countries, is the fact that a large part of potentially important producers are not well organised, because they belong to the informal sector of the economy, and therefore are hardly represented.

3.1.2 From 'Broad monitoring areas' to 'specific goals of EPA'

A monitoring instrument for EPAs should assess the degree to which the objectives pursued are met. It can be argued that in order to do so effectively the BMA outlined above are too general and difficult to be monitored concretely. For instance, in the case of '*strengthening RI*', what criteria could be used to analyse the real impact of EPAs on the pre-existing and endogenous regional integration processes among ACP neighbours? A simple answer could be to look at the scope of regional integration initiatives before and after the conclusion of the EPA negotiations. The assessment would be straightforward and most likely positive, given the principles and objectives agreed by the two parties, including that regional integration is one of the pillars of the EPA concept, and the possible subsequent inclusion in the agreements of provisions to widen the scope of regional integration beyond reduction of tariffs to cover for instance regional harmonization of behind-the-border measures. But the scope of RI will not be the only element affecting the actual strengthening or weakening of ACP RI processes. The coherence between the regional integration agenda under the EPA framework and pre-existing policies and pace of regional integration initiatives put in place independently by ACP countries for instance will be crucial. If EPAs were to lead ACP neighbours to the creation of new regional authorities for specific policy areas while the same region has not completed the establishment of an internal free trade area, they would actually weaken regional integration by spreading scarce resources over the different elements of an ambitious agenda, therefore decreasing the efforts devoted to the more realistic (and probably important) target of reduction of trade barriers between neighbours.

Similarly, the degree of fulfilment of the objective of improving '*market access for ACP-states into EU*' cannot be simply monitored through the new offer by the EU under EPAs on tariff preferences for the ACP countries. Without a reform of the rules of origin for certain products where ACP exporters find it difficult if not impossible to comply to rules of origin criteria (textile and fisheries products for example), even the offer of duty free access to the European markets would not translate into actual improvement of accessibility and increase of ACP exports to the EU. The identified BMA represent complex phenomena and more than one criterion is needed to assess the impact of EPAs on them. To avoid tautology and concluding for example that the objective of giving due '*consideration to the level of development within market liberalization process of ACP*' will be met exactly, since EPAs are not simply free trade agreements but trade and development agreements, the different dimensions of each of the broad EPA objectives should be analysed and several of the elements affecting them concretely monitored.

A possible approach in this direction would be to identify for each BMA the specific goals (SGs) that would have to be met to fulfil that broadly stated objective of EPAs. This would facilitate the analysis of the actual outcomes of an EPA and make the exercise of monitoring complex phenomena such as regional integration, poverty reduction, or the performance of negotiations themselves more meaningful. As illustrated in Table 1 below for instance, a possible set of SGs for the 'broad monitoring areas' used as examples in the previous two paragraphs could be the following:

(A) BMA: Strengthening RI

SG A1: *Appropriate level and depth of RI.* The extent to which EPAs will contribute to the creation of regional markets in the ACP regions and the deepening of their other existing integration processes will be a key factor for the actual strengthening or weakening of ACP regional integration initiatives. Will the EPA provisions offer an incentive for ACP neighbours to eliminate intra-regional tariff barriers? Will the trade created among the parties as a consequence of an EPA be larger than the trade diverted away from third parties in favour of EU exporters under an EPA? Will the creation of regional investment hubs as possibly facilitated by EPAs strengthen or weaken the overall regional integration process?

SG A2: Appropriate scope of RI. Whether EPA negotiations and implementation will have an influence on the scope of RI initiatives is also very important. Will EPAs provide an incentive as well as financial resources for the establishment of regional frameworks in the areas of public procurement, investment promotion, common monetary policies, etc.? Are such regional integration scope and agenda appropriate, i.e. endogenously determined by/in line with national development strategies? Are the related regional policy reforms, legislations and authorities in place? Are the financial and human resources in place adequate for the task?

SG A3: Coherence EPA/RI. In the context of the general concept of an EPA that should strengthen regional integration, another specific goal is the coherence between these two parallel processes. As mentioned above, the coherence between the regional integration agenda under the EPA framework and the pre-existing policies and pace of RI put in place independently by ACP will be crucial, as the former should determine the latter. Is the sequencing between EPA implementation and RI steps tailored to the needs of ACP regions? Is the fact that ACP regional groupings are encouraged to provide one single regional market access offer to the EU (after internal compromise) assisting concretely the movements towards establishing a common external tariff? Will the endogenous RI processes be developed enough before EPAs are implemented?

(B) BMA: Market access for ACP-states into the EU

SG B1: improved preferential treatment for all ACP. The EU has committed to improve the current market access conditions for the ACP countries through EPAs including by offering them better tariff preferences.

SG B2: ACP exporters are able to comply with EU trade regulations. The inability of most ACP producers to comply with the complex and strict EU rules on standards and product specifications (such as food safety, sanitary and phytosanitary –SPS- measures and technical barriers to trade - TBT) is one of the major reasons why in the past the ACP countries have not benefited fully from tariff preferences granted by the EU. Addressing this inability through EPAs would constitute a concrete improvement of market access conditions for the ACP.

SG B3: Rules of origin are development-friendly, simple and transparent. For certain products it is difficult if not impossible for ACP exporters to comply with the stringent rules of origin set by the EU. ACP countries claim that the actual improvement of market accessibility and increase of ACP exports to the EU through EPAs could only be brought about if a substantial reform of the rules of origin accompanied the concession of duty free access to the EU markets.

SG B4: Favourable market access conditions for services of ACP interest. As the services sector is increasingly important for ACP countries, EPAs also aim at improving accessibility to the European markets for ACP service providers. In particular, the liberalisation by the EU of the temporary movement of natural persons from ACP countries (GATS Mode 4) in certain service sectors would offer great opportunities to the ACP in terms of for example employment generation, skills upgrading and foreign exchange remittances.

(C) BMA: Consideration of the level of development within market liberalization process of ACP

SG C1: Asymmetry in liberalisation of imports is granted. The very different levels of development between the ACP and EU sides and therefore their different degrees of preparedness to benefit from liberalization and cope with the related adjustment costs are widely acknowledged. It is somehow given for granted that EPAs will envisage

asymmetry in the import liberalization commitments. The details of such asymmetry however are unknown and will have to be monitored, in particular in terms of: the share of imports from EU into ACP countries to be liberalized (*SG C1a: product coverage*); the time frame (*SG C1b: implementation period*); and the number of sensitive products excluded from liberalisation (*SG C1c: exclusion baskets*).

SG C2: Effective safeguard mechanisms in place. Given the structural economic weaknesses of ACP countries, the importance of import duties for government revenue generation and the scarce resources to face adjustment costs, ACP countries would benefit if EPAs included mechanisms to temporarily suspend liberalization for those sectors where this is seriously harming domestic industries, affecting local employment or creating balance of payments shocks.

SG C3: Policy space. In addition to asymmetry and the possibility of temporarily suspend liberalisation, ACP governments also claim that due consideration of the level of development within EPA liberalization process would allow them to maintain some flexibility to pursue in the future interventionist policies stimulating the competitiveness of their industries and the endogenous sustainable development of their economies. This policy space relates to future strategic choices, should ACP countries want to shelter certain newly developing sectors from any significant EU competition.

SG C4: Other special and differential treatment provisions. A final possible specific goal in the context of the broad objective of including a strong developmental dimension in EPA liberalization process for the ACP relates to granting to them additional special and differential treatment provisions. These would include the flexibility required to take into account different development levels and economic conditions among countries within the same ACP region, allowing for instance special measures for small islands states or landlocked countries.

The selection of 'specific goals' under those monitoring topics (BMA) is offered here by way of example and cannot be considered exhaustive.⁷ This Study covers methodological issues and options for a possible monitoring exercise on EPAs and is not an attempt to indicate the exact content and substance of an actual monitoring instrument. The specific goals and priorities pursued through an EPA may differ substantially between countries and regions, depending on their particular development strategies. A one-size-fits-all approach is unlikely to exist, and national/regional specific elements of different BMAs could lead to the identification of a very large number of relevant SGs.

3.1.3 Three categories of specific goals of EPAs: the importance of the EPA process and institutional quality

An important methodological aspect in the identification of SGs for EPAs relates to the consideration not only of the economic and developmental outcomes of EPAs but also their performance in terms of negotiation and implementation processes as well as the related capacity-building and institutional strengthening needs of ACP countries. It was already emphasized that for an international agreement to produce positive outcomes the negotiations process should be transparent and fully owned by all relevant actors; and that without adequate capacity and institutions (in the broadest sense) in place, even well intended EPA provisions could result in undesired outcomes. This is confirmed by the literature on trade policy making and case studies of trade negotiations conducted by ACP

⁷ For example, introducing differential treatment of ACP countries within the same EPA grouping to achieve the specific goal C4 above would result in extra costs of administering border controls due to varying tariffs as well as need to enforce rules of origin (potentially even within future customs unions). These would constitute additional types of EPA-induced changes and adjustment costs worthwhile monitoring.

countries. It is therefore important to identify SGs for EPAs related to the following three categories:

- (i) Economic & developmental outcomes;
- (ii) Institutional preparedness & improvement; and
- (iii) the EPA Process.

As the trade negotiations involving ACP countries increase in scope and in number, it becomes increasingly difficult for these countries to meet the challenges of multiple negotiations. Lacking in both level of expertise and participatory processes, many ACP countries fail to effectively participate in trade discussions and consequently to defend adequately their interests in the negotiations (Bilal and Szepesi, 2004). There is widespread consensus that policy coherence between different elements of an international agreement, local ownership of the decisions and institutional preparedness for negotiating and implementing international commitments and domestic policies are crucial. For the processes related to EPAs to succeed and for involved players to fulfil their roles, trade capacity building is needed for the ACP countries (and regions) throughout the whole EPA negotiation and implementation periods. The process itself should be monitored closely to ensure transparency and effectiveness in the identification of common positions and strategic interests as well as in the implementation of the negotiation outcomes.

Significantly, even adequate support for a good performance of EPAs as an effective negotiation and implementation process may not be sufficient to reap the benefits in terms of the economic and developmental outcomes of EPAs. The level of institutional quality will also determine to what extent the ACP countries will benefit (if at all). Busse, Borrmann and Neuhaus (2005) and Borrmann and Busse (2006) have elaborated on the various linkages between trade openness, institutional quality and income levels in developing countries. Using regulatory quality indicators and good governance indicators⁸, they conclude that many African countries⁹ have such low scores that they are unlikely to benefit from increased trade, regardless of the origin of this increased trade (WTO, EPA, etc.). Institutional quality and development is therefore a prerequisite for the EPAs to succeed in their objectives.

Szepesi (2004) offers a discussion on mutually reinforcing conditions which strengthen this much-needed institutional development. Firstly, institutional development is a long-term and evolutionary process. Successful institutional development builds on local conditions. Case studies suggest that replacing existing institutions and building up institutions from scratch does not work; incremental changes are more likely to yield results. Also, institutional development is dependent on support from the political leadership, a sense of ownership by both government and non-state actors (NSA) and a high degree of inclusiveness involving all stakeholders. In the context of EPA negotiations, the support programmes the EU funds have several features that may reduce their overall impact. First of all, the programmes have a similar timeframe as the EPA negotiations and hence focus on the short(er) term rather than the long term. Secondly, since the EPA process is still predominantly driven by the EC rather than by the ACP, the EPA support programmes lack sufficient local ownership or political support. Also, these programmes usually focus on the regional level, but it could be argued that the national level is more appropriate to undertake institutional reform.

The importance of capacity and institutions at regional and national level is also acknowledged by the EC:

⁸ During the last decade institutional quality has received an increasing amount of attention and many indicators have been developed to serve as proxies of institutional quality. One of the more famous set of indicators of governance has been developed and is annually updated by Kaufmann, Kraay and Mastruzzi (2005), while the World Bank's Doing Business dataset is a prominent set of indicators of regulatory quality, which is also updated on an annual basis.

⁹ See Busse *et al.* (2005) for first a detailed discussion on West Africa, and Borrmann and Busse (2006) for an extension of the institutional analysis to the ACP in general.

“Capacity constraints remain a challenge. Negotiating a development-oriented EPA is a new experience and ACP regions have to adapt to this scenario. EPA negotiations go well beyond the traditional focus on ACP market access to include the elements of a regulatory framework conducive to private sector development. The technical and institutional capacity of regional and national institutions and NSA are essential ingredients for successful EPAs.” (European Commission, 2005, p.30)

Similarly, the EC recognizes that there is an EPA process beyond the trade and trade-related negotiations, linked to the importance of broader accompanying measures and policy coherence that is necessary for successful implementation and should be in line with the overall national development strategy of ACP countries:

Accompanying measures that are necessary for successful implementation of EPAs but not directly part of the negotiations are known as the ‘EPA process’. However, there is a still wider concept at the heart of both the negotiations and the EPA process. This is the EPA development dimension, which includes the concept of policy coherence. For EPAs to deliver their expected benefits, they should not be limited to basic questions of market access or project financing but also be part of a coherent development policy in each ACP state. (European Commission, 2005, p.5)

The issues listed above constitute a strong case to include the improvement of transparency and ownership of the EPA process itself as well as institutional development within the priorities of the EPA negotiations. More specifically, it may be argued that both the capacity of various stakeholders to contribute to the process and the institutional quality in ACP countries need to be monitored closely for the EPAs to be successfully concluded and implemented. A monitoring instrument on EPAs should take fully into account the three categories (Economic&developmental outcomes; Institutional preparedness&improvement; the EPA Process) when identifying SGs to be assessed.

In the case of the BMA ‘*Support for economic reforms in ACP*’ for instance those three categories would suggest to consider at least the following specific goals for a meaningful evaluation of the actual contribution of EPAs to economic reforms in ACP countries:

- **Economic & developmental outcomes.** *SG 1: implementation of EPA provisions shall not weaken other economic reforms undertaken by ACP Governments.* It is going to be important to monitor that in the implementation phases, reforms introduced in the framework of EPAs do not produce outcomes that disagree with other economic policies the national government has endogenously determined. An important example relates to the likely customs revenue loss as a consequence of the EPA reduction of tariffs on European imports. For the ACP countries where import duties represent a large share of total government revenues, the costs of overcoming the customs revenue loss should be mitigated directly or indirectly through EU support as part of the EPA process, to avoid governments strengthening public financial management or undertaking public sector reform to lack the necessary funds to implement those crucial changes.
- **Institutional preparedness & improvement.** *SG 2: regulatory frameworks are established before liberalization.* For certain economic sectors, for example natural monopolies or the provision of various services, opening up to competition without appropriate regulatory frameworks could lead to abuses of market dominance, market share concentrations and fraud. Especially where economic and regulatory institutions are weak (like they often are in developing countries), this could offset the expected benefits from liberalization in terms of more competition and better allocation of economic resources. In order to support effectively economic reforms in the ACP states in certain instances EPA liberalization commitments should be implemented after the relevant regulatory frameworks are in place. For those specific sectors the EPA process should target as priority the institutional capacity and development for local actors to be

able to design and administer non-discriminatory, transparent, and equitable regulatory frameworks.

- **EPA Process.** *SG 3: the package of EPA-related economic reforms is coherent with the overall national trade & development strategy and its implementation is closely integrated with existing participatory decision-making processes.* EPAs should constitute an enabling framework of support to the ACP's own development strategies. Policy coherence and wide participation of the actors, which are regularly involved in economic activities and decision-making at national/regional level, to the EPA process will be crucial to implement the necessary economic transformations for producing and marketing competitively on international markets. Effective support to endogenous ACP economic reforms will materialize also through national and regional coordination mechanisms enhancing the policy coherence, transparency and ownership of the EPA process itself. Finally, the willingness and ability of ACP Governments to enforce the identified reforms and comply with their EPA-related commitments will be crucial for integrating EPAs into the overall national trade & development strategy and will also have to be monitored. The successful contribution of EPAs to economic reforms in ACP countries can be achieved only if the ACP actors are effectively committed to make all the EPA-induced changes work for development (from institutional capacity building activities over to regional integration issues to implementation of tariff cuts, etc.).

3.1.4 The final steps in designing a monitoring instrument for EPAs: information gathering and measurement

Once the SGs of EPAs are identified the remaining task for the design of a monitoring instrument for EPA negotiations and implementation would be the actual analysis of the degree of fulfilment of such SGs. A simple option could envisage assessing the degree of achievement through quantitative or qualitative investigation, depending on the nature of each SG. In this case, issues regarding measurement and information gathering arise. Those conducting the monitoring exercise on EPAs would have to define quantitative indicators when proxies and statistical information can be used to assess the proximity to the specific goal or identify key questions for involved stakeholders and qualitative indicators when information is not available in the form of numbers or statistics. For most of the SGs, there could be a mix of both quantitative and qualitative indicators, with the SGs belonging to the 'Economic & developmental outcomes' category more likely to be measurable through numbers or statistics than those related to 'Institutional preparedness & improvement' or the 'EPA Process'.

Considering the specific goals outlined in previous subsections for example, the '*Appropriate level and depth of RI*' could be analysed by looking at the progress made by members of an ACP regional configuration in eliminating intra-regional tariff barriers. Information sources could be each of the members' schedules of applied tariff rates to assess the levels of trade barriers as well as their national and regional trade policy legal texts for the time frames and implementation details. Since regional integration is a complex phenomenon that in this case would be accompanied by the establishment of a free trade area with a large and competitive market like the EU, it would probably be important for the assessment of this specific goal to utilize alongside legal and policy documents statistical indicators measuring the volumes of trade actually created between ACP neighbours and the trade diverted in favour of EU exporters benefiting from ACP tariff reduction under EPA.

An example where the final EPA legal text would provide exact numbers allowing for a straightforward quantification of progress made towards the objectives of the new partnership agreement relates to the specific goal of '*Asymmetry in liberalisation of imports*'. The share of imports from EU into ACP countries to be liberalized (*SG C1a: product coverage*), the time frame (*SG C1b: implementation period*), and the number of sensitive products excluded from

liberalisation (*SG C1c: exclusion baskets*) will be detailed in the agreement (or one of his annexes) and the actual degree of asymmetry granted to ACP and the way it is implemented could be monitored easily.

In other instances the commitments agreed between the parties as well as their formulation in the legal text or subsequent implementing regulations at national/regional level will not be sufficient, and more quantitative indicators on their actual effects should be utilized for monitoring the concrete results of EPAs. To assess whether EPAs are effectively contributing to improved market access into the EU for the ACP, the SGs '*ACP exporters are able to comply with EU Trade regulations*' or '*Rules of Origin are development-friendly, simple and transparent*' should be monitored by looking beyond the new rules agreed as part of EPAs on TBT and SPS or the reformed formal criteria defining 'originating products' (relaxing for instance the percentage of non-originating materials authorised in ACP-originating exports to the EU). These rules are the new opportunities offered by EPAs, but the reality of doing business and exporting to European markets is a complex one and therefore an EPA monitoring exercise should also analyse to what extent such opportunities are translated into concrete improvements in access to the markets. Examples of quantitative indicators in this case could be the increased level of compliance to EU trade regulations within ACP countries (increased number of laboratories, certification, standardisation authorities) but also the number of consignments from ACP accepted by European customs at EU borders with fully compliant 'certificates of origin' or 'EU safety standards' certificates.

For other SGs, hardly any quantification may be possible. This is especially true for the goals concerning ownership, transparency and policy coherence within the EPA Process as well as the quality and capacity of ACP institutions. In these cases, monitoring the degree of achievement will be more about auditing specific institutional structures or analyzing the perceptions and satisfaction of involved actors through consultations and surveys. An example could be the SG that '*the EPA-related economic reforms package is coherent with the overall national trade&development strategy and its implementation is closely integrated with existing participatory decision-making processes*'. Whether EPAs fulfil this cannot be summarized by a number, and other national policy documents as well as domestic processes will have to be considered.

Depending on the quantitative and qualitative indicators selected or the key questions identified to be answered through policy documents and regulations or consultation with stakeholders, the information required for the EPA monitoring exercise may be readily available or not. Information may be contained as already mentioned in the text of the EPA agreement itself or in other policy and legal documents or otherwise easily obtained from existing evaluations or reports. The former could be the case of national legislations for details on ACP tariff lines or 'Eurostat' and 'Taxation and Customs Union European Commission (EC) Directorate General (DG) websites' for European customs regulations; the latter the case of regional organisations annual reports and financial statements to assess adequacy of financial and human resources in place for regional integration. In other instances the information may not be immediately available, but information sources and methodology for measurement are straightforward. When volumes of trade are to be monitored for example, like in the case of intra-regional trade created or diverted as a result of EPAs, national sources or international statistical databases can be used to compute a number of export and imports indicators.

In other cases, the methodology for both collecting the information and interpreting it may be less certain. Multi-stakeholder dialogues, national and regional consultations, perception surveys, institutional and financial auditing, workshops with affected industry representatives, interviews with regional organisations' secretariat staff, regional negotiators and national government officials, as well as case-studies, are all possible options. The design of an EPA monitoring instrument may be affected by these considerations on availability of information and methodological complexities. On the one hand, it could be extremely costly and time-

consuming to gather all the necessary information required to monitor adequately the identified specific goals, especially if measurement and consultation have to be conducted at national level for all ACP countries. On the other, selecting few indicators only for the sake of simplicity and on the basis of immediate availability of information would probably result in an inconclusive assessment of the actual outcomes of EPAs.

Given the ambitious goals set by the ACP and EU countries and the opportunities offered by EPA as a tool for development, it is important to carefully design a monitor mechanism. The process outlined in Section 3.1 is one of the options for establishing a monitoring instrument for EPAs: from Broad Monitoring Areas to Specific Goals, from quantitative and qualitative indicators to information gathering and measurement. Such a process could be summarized through a table, compiling all the information and analyses as explained in subsections 3.1.1 to 3.1.4. Table 1 only presents BMA, SGs, categories, indicators and discussion on information availability for the examples used in this section.

Table 1. A possible approach for designing an EPA monitoring instrument: matrix of indicative Broad Monitoring Areas, Specific Goals, indicators and information sources - PART 1

BMA	SGs	Category	Quantitative Indicators	When Info available ^a : where to source it	When Info not available: options on how to obtain this information	Qualitative Indicators/ Questions	When Info available ^a : where to source it	When Info not-available ^b : options on how to obtain this information
Strengthening regional integration	1. Appropriate level/depth RI	Economic & developmental outcomes	#intra-regional tariffs eliminated (FTA)		# ACP applied tariff lines # ACP national/regional trade policy legal texts	# creation of regional investment hubs?		interviews/workshop with affected industry representatives
						#degree of implementation of CET	# national customs regulations	
	2. Appropriate scope RI	Institutional preparedness & improvement	#intra-regional trade created - diverted		# national imp/export data # UNU-Cris database	# Policy reforms underway/achieved for regional frameworks (public procurement, common monetary policies etc.)	# RECs legal texts and Annual reports	# national legislations implementing RI
			# adequacy of financial resources and financial mechanisms in place # number of staff at RECs secretariats	# RECs annual reports # Financial statements		# RI scope/agenda endogenously determined by/in line with national development strategies # Regional legislations and authorities in place # Competency levels of staff (CB, training programmes in place etc.)	# RECs legal texts (constitutions); # Annual reports	# audits to be carried out in concerned RECs # Review of RECs institutions, mission and mandate # interviews with RECs secretariat staff and national gov officials
3. Coherence EPA/RI	EPA Process	# differences between national exclusion baskets (no EPA liberalization) # number of tariff lines with diverging protection levels between neighbors	# liberalize schedules in EPA legal text	# IDS MA database & simulation	# EPA negotiations agenda determined by endogenous RI agenda # Regional markets (CU, CET) integrated before EPA is implemented RPTFs supporting regional projects	# RI mandates/implementation schedules # EPA legal texts	# RPTFs' recommendations	
4. ...								
MA of ACP into EU	1. improved preferential treatment for all ACP	Economic & developmental outcomes	# share of ACP export into EU # increased level of compliance to EU trade regulations (increased number of laboratories, certification authorities etc.)	Eurostat; Taxation and Customs Union DG ; EPA legal text	national statistics;			
	2. ACP exporters are able to comply with EU Trade regulations (TBT; SPS, etc.)	Institutional preparedness & improvement				Flexibility in equivalences accorded by the EU to similar ACP SPS, food security measures		
	3. Rules of Origin are development-friendly, simple and transparent	Economic & developmental outcomes	flexibility in % of non-originating materials authorised in ACP originating final products; # number of consignments from ACP accepted by European customs with fully compliant 'certificates of origin'			investment decisions are affected by RoO		interviews / workshop with relevant industry representatives
	4. Favourable MA conditions for services of ACP interest (example: Mode 4)	Economic & developmental outcomes	Number of ACP services skilled labour work permits accorded in EU			recognition of qualifications and education standards		
5. ...								

Table 1. A possible approach for designing an EPA monitoring instrument: matrix of indicative Broad Monitoring Areas, Specific Goals, indicators and information sources - PART 2

BMAs	SGs	Category	Quantitative Indicators	<i>When Info available^a : where to source it</i>	<i>When Info not-available^b : options on how to obtain this information</i>	Qualitative Indicators/ Questions	<i>When Info available^a : where to source it</i>	<i>When Info not-available^b : options on how to obtain this information</i>
Consideration of level of development within market liberalization process of ACP	1. Asymmetry in liberalisation of imports is granted: 1a. product coverage 1b. implementation period 1c. exclusion baskets	Economic&developmental outcomes		EPA legal texts	# ACP applied tariff lines # ACP national/regional trade policy legal texts			
	2. effective safeguard mechanisms in place	Institutional preparedness&improvement		EPA legal texts	national implementing legislation	Satisfactory level of information/sensitisation campaign within ACP governments/PS		Existence of sensitisation programmes?
	3. policy space	EPA Process				flexibility of EPA commitments	EPA legal texts	interviews with relevant government officials
	4. other special and differential treatment provisions	EPA Process				CEI/tariffs harmonised with consideration of level of economic development of all countries concerned within one region	EPA legal texts	
	5. ...							
Support for economic reforms in ACP	1. implementation of EPA provisions shall not weaken other economic reforms undertaken by ACP Governments	Economic&developmental outcomes	#Costs of overcoming customs revenue loss mitigated (through EU support) # Welfare spending indicators (check if consequential decrease)		ACP financial statements; WDI; NIP/RIP;			#interviews with relevant government officials; #perception surveys
	2. regulatory frameworks are established before liberalization	Institutional preparedness&improvement	market share concentration		national statistics	#non-discriminatory, transparent, and equitable regulatory frameworks in place #abuses of dominant position and frauds #institutional capacity and development programmes in place		#national legislation; #case studies
	3. the package of EPA-related economic reforms is coherent with overall trade&dev strategy and integrated with existing decision making processes	EPA Process				national and regional coordination mechanisms enhancing the policy coherence, transparency and ownership of the EPA process		#interviews with RECs secretariat staff and national gov officials; #national and regional consultations,
	4. ...							

Notes: a. information is defined as 'available' when it is in the EPA legal text, in public documents to be found on websites, or in documents that should be readily available to member states of regional groupings like financial statements or annual reports; b. information is defined as 'not available' when documents are not public, information is public but a specific request to the source will have to be made to obtain it, or when information is yet to be collected (through interviews, workshops, and so forth).

The remaining part of the Study will address methodological difficulties arising from what could be considered a rigid approach for monitoring EPAs, in terms of both identification of substance - what to monitor (in Sections 3.2 and 3.3) and measurement - how to monitor (in Section 4). The conclusion this Study draws from the discussion is not that such difficulties will prevent any monitoring instrument/effort; rather that such an exercise is a complex one and that for both substantial (what to monitor) and methodological reasons (how to monitor), an EPA monitoring instrument should be flexible and adapted to local circumstance. Ideally it should be designed and owned by all relevant ACP stakeholders (an approach in that direction is described in Section 5).

3.2 'One size' does not 'fit all'

There is growing consensus among development economists and policy makers on the fact that a unique and replicable economic development and growth strategy for all countries does not exist. History shows that all countries that did industrialize and experience economic growth have followed their peculiar path, through largely endogenously determined strategies. This is well documented in the recent economic literature¹⁰. In general, standardized policy tools do not necessarily work for all countries or sectors of intervention, and the example of trade and development strategies undertaken by East Asian countries, and in particular China, in the second half of the 20th century, is often used to show that (Rodrik 2004). China has chosen a very different approach to economic reforms and trade and industrial development from the conventional recipe that many other developing countries followed or were advised to follow. The results were decades of 'economic miracle' in China and of stagnation in many of those countries that did not follow an endogenously determined strategy and a trade and development approach to economic growth tailored to local circumstances.

The example of China, but also Vietnam or the East Asia Tigers before them, emphasizes that successful development processes, including the way countries approach international trade and negotiations, are very much country-specific and 'one size' recipe does not 'fit all' (Rodrik 2004). The same holds for EPA and is confirmed by the strong request of ACP negotiators to recognize specific needs of each ACP member and to include special and differential treatment provisions in the new arrangements, to take into account different development levels and economic conditions even among countries within the same ACP region, for instance allowing special measures for small islands states or landlocked countries.

A one-size-fits-all approach is unlikely to exist also for the identification of specific goals of EPAs. Different ACP regions and countries have different priorities and what they seek from a new partnership with the EU may be very different from other regions, sometimes even from their ACP neighbours. Results from trade policymaking and processes like EPA are likely to depend on the particular development strategy a country adopts, and assessing those results will depend on the region or country-specific needs and objectives originally identified. A monitoring exercise on EPAs evaluating the degree of fulfilment of the objectives pursued should therefore have strong region and country-specific dimensions. This may constitute a first major problem for the establishment of an EPA monitoring instrument, in terms of agreeing between various stakeholders on its content and substance ('what to monitor') but also for the possibility to design a unique standardized framework for all ACP regions and countries that would make monitoring results for different individual EPAs comparable ('how to monitor').

The 'Broad monitoring areas' (BMAs) presented in section 3.1 are indicative of the overarching objectives of EPAs agreed by the negotiating parties, as they emanate directly from the CPA

¹⁰ See for instance Rodrik (2004).

signed by ACP and EU countries. However, the interpretation of such broad goals could be different for different actors involved in EPA negotiations. When moving (as presented above) from broad monitoring areas to 'specific goals of EPA'(SGs), in particular, the ACP and EU sides differ, which would lead to possible different substance and focus of an EPA monitoring exercise.

Analyzing and comparing the EC Mandate¹¹ and the all-ACP guidelines¹² for the negotiations and the specific EPA objectives included therein demonstrate that there are a lot of divergences between the two parties on specific goals of EPAs¹³. Arriving at a joint assessment of the degree of achievement of the objectives of EPAs could hence prove problematic and the possibility of agreeing on the content of a monitoring exercise suitable to both EU and ACP actors remains questionable. Table 2 shows that despite the broad stated goals being the same it could be very difficult to establish a unique framework for an EPA monitoring instrument for different ACP regions and countries (for the sake of simplicity Table 2 only presents diverging and shared SGs for the BMA on regional integration already discussed in Section 3.1).¹⁴

The broad monitoring area 'strengthening regional integration' is an interesting example of a general objective shared by ACP and EU that is interpreted differently in terms of specific goals pursued through the EPA negotiations. Regional integration is one of the underlying fundamental concepts of the EPAs and the two sides agree that by building on and supporting existing ACP regional integration processes, EPAs should contribute to the establishment of effective regional markets in the ACP. However, the ACP governments maintain that both the RI agenda in the EPA framework as well as the sequencing of implementation of EPA and RI should be determined by the endogenous and pre-existing regional processes. EPAs should respect the variable geometries adopted by individual ACP regions and the intra-regional flexibility already granted to specific countries within existing regional integration processes (least-developed countries, small island states, landlocked countries). The EU's focus is different as Europeans use their own history of deep integration (in all areas, including Rules, Services, Intellectual Property, Singapore Issues), one of the best known and successful examples of RI, as a model also for ACP countries. The regional integration agenda under EPAs should be ambitious and comprehensive and in certain areas alignment of all ACP members should be encouraged swiftly, such as for the adoption of a common external tariff (before implementation of the EPA tariff reduction). In addition, there is a push from the EU for the different elements of the ACP-EU relations, including the whole economic cooperation as well as aid¹⁵, to be increasingly aligned to regional integration dimensions. This does not fit the position of several ACP countries that would like to maintain more flexibility and policy space without any external pressure on endogenous regional integration processes¹⁶.

¹¹ European Commission. (2002).

¹² ACP Council of Ministers. (2002).

¹³ For an independent comparison of EU and ACP mandates see ERO (2002a).

¹⁴ Annex I provides a more complete, although not exhaustive, overview of the BMAs and SGs of the ACP and the EU, as expressed in their respective mandates.

¹⁵ For example the EC has indicated that programming of the 10th European Development Fund (EDF) will be tightly linked to the geographical configurations chosen for EPAs instead of the traditional ACP regional groupings that were beneficiaries of previous EDFs.

¹⁶ The European Parliament 2006 'notes that EPA negotiations have led in some cases to the creation of new regional economic groupings, encompassing countries of markedly different development levels, causing difficulties in ACP countries and contributing to overlapping regional economic communities' (European Parliament, 2006).

Table 2. Diverging specific goals of EPAs

BMA	Category	ACP SGs	EC SGs	Shared SGs
Strengthening regional integration	EPA Process	Negotiation process must reflect the special and differential facilities accorded to less developed countries within ACP regional integration structures	build ACP-EC economic and trade cooperation on regional integration initiatives existing within the ACP countries	special consideration for regional integration initiatives
			special reference to commitment to support regional integration processes and to foster regional integration as key instrument for the integration of ACP countries into world economy	identify appropriate tools to support RI processes
		RI agenda in the EPA framework as well as the sequencing of implementation of EPA and RI should be determined by the endogenous and pre-existing regional processes	special reference to commitment to strengthen economic and trade cooperation and to create a new trading dynamic in order to facilitate transition of ACP countries to a liberalised global economy	
			tariff dismantling will take into account the impact of trade liberalisation measures on regional integration within the ACP	
		variable speed of trade liberalisation, where compatible with the integration objectives of the ACP regions concerned, considering the different intensities of integration that may exist within the region and in line with the region's internal integration		
	Institutional preparedness and improvement	consolidation of ACP regional integration processes	strengthen regional organisations and support regional trade integration initiatives with assistance to budgetary measures and fiscal reform where appropriate	strengthening of regional integration initiatives between the ACP States
		Structural transformation of ACP economies as a precondition to achievement of EPAs		EPAs to reinforce regional integration inter alia by assisting in the regional harmonisation of trade-enhancing rules
		EPAs as a supporting (not undermining) instrument to ACP regional integration processes and initiatives/principle of sequencing		tools to support RI processes
		IPR regime that does not exclude collective or regional arrangements for ownership or use of intellectual property		
	Economic and developmental outcomes		RI agenda under EPAs should be ambitious and comprehensive and in certain areas alignment of all ACP members should be encouraged swiftly, such as for the adoption of a CET	strengthening of regional integration initiatives between the ACP States; in the context of RI processes, ACP States will not give to other ACP States less favourable treatment than they give the EU

Divergences between ACP and EU, formally recognized also in a joint report on Phase I¹⁷, would grow if different negotiating guidelines of different ACP regions and national/regional positions developing over time were to be looked at. In this case, differences in specific goals would also emerge among ACP countries themselves. Concerning the Singapore issue for instance, it is now clear that the Caribbean ACP countries are willing to negotiate these (at certain conditions), the SADC region is firmly opposed, while the ECOWAS regional grouping has not decided yet whether their EPA should include them. The specific goals under the BMA '*Development friendly treatment of trade-related issues*' would therefore certainly differ between these three ACP regions.

Similarly, different EU actors (the Commission, Member States and Parliament) may interpret differently the objectives included in the original EC Mandate, and pursue through EPAs different specific goals. Keeping with the logic of the monitoring exercise outlined in Section 2.1, the three EU institutions for example would disagree on the SGs to be selected for a possible EPA monitoring instrument in terms of the broad objectives of '*considering the level of development within market liberalization process of ACP*', '*improving market access for ACP-states into the EU*', or '*development friendly treatment of trade-related issues*'. The UK government would respectively put emphasis on:

- all different aspects of the special and differential treatment to be granted to ACP (asymmetrical *product coverage*, *implementation period* and *exclusion baskets* for ACP liberalization, but also *other special and differential treatment provisions*, i.e. *SG C1a –b-c* and *SG C4* above);
- the importance of liberalizing rules of origin for real improvement of market access into EU (*SG B3: Rules of Origin are development-friendly, simple and transparent*);
- the inclusion of investment, competition and government procurement in the negotiations only when explicitly requested by ACP regions.

These positions were put forward in 2005:

"Each ACP regional group should make its own decisions on the timing, pace, sequencing, and product coverage of market opening in line with individual countries' national development plans and poverty reduction strategies. Regional groups should have the flexibility to move towards more open markets along a non-linear path if necessary. [...] The EU should therefore offer all ACP regional groups a period of 20 years or more for market opening, on an unconditional basis. [...] The EU should further simplify and liberalise rules of origin under EPAs. [...] Investment, competition and government procurement should be removed from the negotiations, unless specifically requested by an ACP regional negotiating group." (DTI-DfID 2005)

The European Parliament would take a similar stance on some of these issues, as outlined in a recently adopted report on EPAs by the Chair of the Development Committee. In others however, according to the report, the Parliament is even closer to the ACP positions than the UK, which in the monitoring instrument logic would lead to include as EPA specific goals policy space (*SG C3: Policy space*) as well as additional flexibility for the market liberalization process of the ACP countries, even linked to the achievement of development thresholds:

"Stresses that the outcome of the EPA negotiations should provide protection for ACP producers' domestic and regional markets and allow ACP countries the necessary policy space to pursue their own development strategies; Calls for any market opening to be carried out within the framework of EPAs to be made contingent upon the achievement of specific development targets and the provision of adequate resources to address all of the additional costs involved" (European Parliament, 2006)

¹⁷ ACP-EC EPA negotiations Joint Report on the all-ACP – EC phase of EPA negotiations.

DG Trade negotiators take instead a very different stance from that suggested by the EU Parliament or the UK. The European Commission would not identify as priorities and EPAs specific goals (to be included in a possible monitoring exercise) a reform of the rules of origin to make them more *'development-friendly, simple and transparent'* or all aspects of asymmetrical ACP market opening (product coverage, the time frame, exclusion baskets) as its mandate is more vague (and related to compatibility with other international agreements): "changes to rules of origin requested by ACP shall be assessed against definition contained in Protocol I of Annex V of CPA" ; "application of a flexible and CPA/WTO compatible transitional period for the ACP". Similarly, differences exist in the EPA objectives in terms of trade-related areas since the EC mandate includes as specific goal the negotiation under EPAs of some elements of investment and government procurement liberalization: "regulatory framework for further opening of capital market beyond direct investment with revision clause"; "progressive liberalisation of procurement markets on the basis of the non-discrimination principle and with regards to levels of development".

The arguments above lead to conclude that since 'one size' does not 'fit all' and divergences in EPA specific goals emerge both between and within the ACP and EU sides, the number of potentially relevant SGs is very large. Any list of 'specific goals' (SG) selected for a possible EPA monitoring exercise will not be exhaustive and in any case will be unsuitable to be used for all the different EPAs. Since the goals pursued through EPAs are regional as well as country-specific in nature and different stakeholders have very different priorities, more discussions between all actors involved in EPAs and substantial research on 'what to monitor' exactly are required before a credible EPA monitoring instrument can be established.

3.3 'What to monitor first'?

Previous sections highlighted the importance of establishing a monitoring instrument for EPA and the difficulties that such an exercise would encounter. Especially when moving from broad shared objectives (BMA) to specific goals and possible quantitative and qualitative indicators different countries and regions as well as different actors within the same country/region/institution may select a completely different set of areas to be monitored. In any case the complexity of EPA negotiations and its ambitious goals lead to a potentially very large number of such monitoring areas. A straightforward solution to this problem would be the prioritization of the objectives to be assessed, which in the monitoring logic discussed here would result in a selection of a limited number of the most relevant specific goals (SGs).

However, prioritization would encounter similar difficulties as described above, since the criteria to be used for identifying only a few of the most relevant SGs would vary between regions and countries reflecting the local situation and the different interests each government is pursuing through EPAs. In view of ensuring that negotiations, agreements and implementation are in line with ACP national and regional development strategies, prioritization for example could be led by few key strategic objectives that the government has set in terms of engaging international trade partners within an overall national trade policy framework. Another option could be for the ACP technical negotiators to design a limited set of monitoring areas to match the specific priority outcomes they are targeting during EPA negotiations as mandated by their governments. These approaches would result in a prioritization largely dependent on who exactly is going to conduct the monitoring exercise and for whom.

Leaving for Section 6 issues related to institutional aspects as well as users and beneficiaries of the monitoring instrument, and still in search for a more general approach, another option for prioritization could be related to the sequencing of the different components of the EPA process.

Since the development dimension of EPAs entails the negotiation/implementation of trade(-related) rules, the establishment of accompanying measures and policies and the delivery of development support, issues of sequencing among these arise. A careful sequencing of trade liberalization, implementation of other EPA measures, regional integration, domestic reforms and development support delivery should be devised and any monitoring exercise should factor this into account. Prioritization would then imply monitoring first that within the EPA process the basic necessary conditions are in place for the next phases of implementation (of EPAs and related reforms) to be successful.

One option in this direction could be to consider the importance of strengthening institutions and capacity in ACP countries as well as the quality of the process of negotiation and implementation as those necessary conditions. It was already emphasized that for an international agreement to produce positive outcomes the negotiation process should be transparent and fully owned by involved actors; and that without adequate capacity and institutions (in the broadest sense) in place, even positive EPA provisions could result in negative outcomes. This is backed by specific literature and case studies of trade negotiations conducted by ACP countries, and also by 'best practices' in the trade and development field and trade policy making assistance to developing countries. The *Trade & Poverty Programmes* of the UK Department for International Development (DfID) across the developing world for instance always include a *Trade Institutional Review* as a starting point, including:

- (1) Assessment of the Government institutions;
- (2) Key capacity issues in the Government sector;
- (3) Assessment of private sector organisations;
- (4) Assessment of academic research institutes and civil society organisations;
- (5) Assessment of intra-governmental and partnership consultation mechanisms.

This kind of indications emerging from successful cases of intervention to improve trade policy making processes can be useful for an EPA monitoring exercise. An interpretation of this argument on the centrality of institutions and processes could lead to prioritize the SGs for a possible monitoring instrument according to the three categories outlined in Section 3.1.3: EPA Process; Institutional preparedness and improvement; Economic and developmental outcomes. These may capture the temporal dimension of the goals to be achieved by EPAs taking into account that economic and developmental benefits from trade agreements will hardly materialize unless the process of negotiations is appropriate and institutions and capacity are strong enough. By way of illustration, the example of DfID could be interpreted as a more specific indication in that direction, where prioritization could follow the order of institutional layers to be reviewed, as presented above, before EPA-related reforms are put in place. If brought to its extreme, this argument could suggest that SGs on processes and institutional preparedness are more important and urgent than economic and trade objectives of EPAs per se and that monitoring should only focus on those, given that time and resources for the establishment of such an instrument are limited.

The opposite argument could also be valid. As it happens in the case of DfID, capacity and institutional assessments and needs analysis on the different processes of negotiation come before the implementation of an assistance programme. Similarly, it could be argued that considering there is a deadline for conclusion of EPAs by 2008 and that time is of essence for including in EPAs beneficial provisions for ACP, the focus should now be on the economic and trade content of EPAs. If a prioritization has to be made, the key economic and trade objectives should therefore be monitored first; long term institutional and capacity development goals should be pursued in parallel but are not EPA specific and hence not to be included in an EPA monitoring mechanism. Making a distinction between short-term and long-term, priority monitoring would relate to meeting the needs and conditions for concluding successfully the negotiations; while long-

term interventions (and monitoring) will be concerned with reforming the overall processes, networks and institutions for improving trade policy formulation and implementation.

If defining accurately the content of a possible EPA monitoring instrument is difficult, 'what to monitor first' is not a straightforward question either. Prioritizing does not seem to offer an easy solution to the many problems identified for designing a monitoring instrument with specific goals and quantitative/qualitative indicators. However, regardless of the final range of objectives to be monitored and whether there will be a unique instrument or one for each ACP country, prioritization of issues to be monitored will be necessary to some extent. It will be important to consult as widely as possible with all involved stakeholders and that flexibility will be a feature of the monitoring instrument so that it can always be adapted to the changing local conditions for the EPA beneficiaries. Targeting a fixed number of SGs for prioritization or chose only the ones that are easily measurable would not contribute in this direction.

4 'How to monitor'?

The first part of the Study dealt with the problems of exact identification (and agreement between the ACP and EU sides) of the specific objectives to be monitored (including prioritization of them). The following turns to methodological difficulties in terms of analytical weaknesses, quantitative and qualitative assessment, objectivity, and lack of appropriate and relevant information that may be encountered in the design of an EPA monitoring instrument.

4.1 Rigidity of a monitoring instrument with static quantitative indicators: monitoring as process

The importance of policy coherence between different elements of an international agreement, local ownership of the decisions and institutional preparedness for negotiating and implementing international commitments and domestic policies suggests that an EPA monitoring instrument should be a consultative process, not a statistical exercise. The option outlined in Section 3.1 for the design of such instrument, from BMAs to SGs, from quantitative and qualitative indicators to information gathering, could be considered a static and rigid approach to monitoring if its purpose was to attach some numbers to those indicators for a snap-shot assessment of EPAs. Trying to quantify the performance of EPAs exclusively through a matrix of indicators related to SGs derived from BMA such as Table 1 is unlikely to capture the complexity of the issues surrounding EPAs.

First of all, the monitoring exercise should become operational through a flexible instrument that can be adapted over time to the evolution of EPA negotiations and implementation. The impact of EPAs will be crucially affected by two components: the national and regional development strategies that ACP Governments implement and trade and other reforms depending on the exact content of the EPA agreement. Both are unknown at present. The object of the monitoring instrument will then have to be adapted while different phases of the EPA process develop, taking into account also the long term horizon of its impact in terms of social, economic and institutional dynamic effects.

In addition, credibility, transparency, and ownership are fundamental ingredients for the success of any monitoring exercise. The monitoring instrument cannot be conceived as a 'black box' constructed around a limited number of indicators, where to insert quantitative input to get clear-cut results such as 'EPAs are on track' or rather 'should be reviewed'. Monitoring should be a constructive and consultative process to ensure transparency and ownership of the results.

Credibility of the exercise will require providing the opportunity to involved stakeholders to assess those outcomes and developments and address any negative trend or impact emerging from the monitoring of EPAs.

Finally, the importance of qualitative investigation cannot be overlooked. Only by considering trade-related matters, accompanying policies and measures, long-term adjustment costs, and dynamic economic effects (including for example economies of scale, efficiency from competition, investment climate, technological transfer, agglomeration) can a monitoring instrument provide an effective assessment of EPAs rather than a partial and static snap-shot. Most of these possible outcomes of EPA negotiations and implementation cannot be captured by quantitative indicators and data for their measurement would not be available anyway. Moreover, qualitative assessment through consultations, interviews, audits and case-studies would be more appropriate given the need to consider not only the economic and developmental outcomes of EPAs but also their performance in terms of negotiation and implementation processes as well as the related capacity-building and institutional strengthening needs of ACP countries.

Given the ambitious goals set by the ACP and EU countries and the opportunities offered by EPA as a tool for development, it is important to carefully design a monitor mechanism. Such assessment should not be limited to quantitative indicators measured at one point in time but develop as a credible, transparent, and owned process with long-term horizon and a tailored methodology integrating qualitative and quantitative analyses.

4.2 Difficulties of the empirical analysis

The wide scope of EPAs, its long term horizon, and the complexity of issues involved create problems in terms of data availability, timeframe for the analysis and identification of the most appropriate indicator to monitor a particular objective. Abstracting here from the difficulties of selecting a set of goals to be monitored out of all possibly relevant ones (see the discussion in Section 3), uncertainty on the validity of the indicators selected would still arise from the fact that they are proxies for the respective specific goals and only constitute part of the picture; the choice of different variables to measure achievement of the same specific goal may lead to different results. There is no 'state of the art' for each SG to check actual results with, so assessing the degree of fulfilment of that particular objective of EPA will always be subject to different interpretations and controversy.

Even assuming a number of SGs was agreed by all actors involved and the selection of indicators was methodologically appropriate, the information needed for measurement of the selected indicators may be not readily available or too costly to be acquired. Difficulties would be amplified when moving from monitoring of economic impact to social impact, as issues related to poverty, inequality, food security or environmental sustainability are even more difficult to analyse, both theoretically and empirically.¹⁸

Even when the information is available for a variable used to proxy a particular objective of EPAs, different data sources may report different values for the same indicator and different definitions of the same variable could bring to different results. In the case of loss of tariff revenues due to

¹⁸ More in general, there is increasing recognition in 'monitoring & evaluation' literature and practice that sustainable development does not depend solely on achieving tangible results but also on numerous intangible features, like leadership, relationships and legitimacy (see for instance Engel et al. 2006) which are even more difficult to measure.

liberalisation for example, particularly relevant for assessing the impact of EPAs, the definition of tariffs (e.g., bound or applied tariff rate) and the way tariff revenues are estimated (e.g., whether the effective rate of collection is taken into account) tend to affect significantly the estimation of the expected losses¹⁹.

Finally, when trying to monitor the impact of EPA, it is important to take into account that monitored areas and the related indicators are simultaneously affected by other factors that do not necessarily depend on EPA provisions. Implementation of international trade agreements develops within an extremely dynamic environment and one should be careful in drawing conclusions on causal relationships. It would be natural for instance to appreciate the outcomes of EPAs in terms of few, long term and explicitly targeted macroeconomic results, such as the expansion and diversification of external trade, the position of the current balance of payments, and the increase of investment in ACP countries. But macro-economic statistics do not allow definitive conclusions on the impact of a trade agreement because (i) it cannot be ruled out that a negative development of the macro aggregates would have been still worse without the new arrangements, and (ii) so many variables are at work that tracing the impact from micro level to macro-economic aggregates is virtually impossible. Analysis of impact of EPAs should therefore been approached through national and sectoral level assessment for monitoring for example poverty alleviation, sustainability or impact on local producers at the level of the productive sector, in which case however data constraints and other methodological limitations emerge.

4.3 'What you monitor is what you get'

As seen in previous sections, given the large number of potential specific goals and the complexity of issues at stake, it is impossible to evaluate all different aspects of EPA. An exhaustive monitoring is not possible. Various areas however are crucial and should be monitored, leading to either positive or negative results with regards to the developmental outcomes of EPAs. The selection of what to monitor is likely to influence the results of the monitoring exercise. For example, monitoring whether EPA eliminates trade barriers will result in a positive assessment, assuming ACP will implement trade liberalization; on the contrary monitoring whether EPAs are part of an endogenously determined national trade policy strategy will yield most likely negative assessment, since many ACP governments do not have an explicit trade policy strategy.

A comprehensive monitoring is thus preferable as the monitoring of individual areas can lead to diverse, sometimes conflicting, results. In this case, the overall final assessment on the degree of fulfilment of EPA objectives will depend on the respective importance and weights given to each monitored area. Significantly, this weighing exercise, independently from the scientific status/objectivity of the indicators selected, is not value-free and would be based on assumptions. Is job creation more important, for example, than efficiency of local producers as outcome of EPA? In order to monitor social impact, should 'poverty' be considered an absolute or relative concept? Shall it be measured by the urban or the rural population income?

The choice of the different relative importance of the areas to be monitored, based on values and assumptions, would necessarily decrease any presumed objectivity of an EPA monitoring instrument. Therefore, for a successful design of such an instrument it will be crucial to make such underlying assumptions explicit as well as to adopt a clear and transparent methodology.

On the one hand, difficulties of clear measurements against set objectives could be used as a way

¹⁹ For a discussion of available studies that have attempted to provide a quantitative assessment of the economic impact of EPAs, including on revenue losses, see section 4.1 of Bilal and Rampa (2006).

out to indicate that the potential impact of an EPA is presently not foreseeable so no monitoring is possible. A negative consequence of this could be that if undesired impacts cannot be proved there would be no justification to change implementation course when detrimental to ACP. On the other hand, using simplistic indicators as consequence of the complexity of comprehensively monitoring EPAs (following the philosophy of the 'Ockham's Razor') could lead to the opposite problem: looking at general objectives and broad measures to evaluate impact of EPAs, which is likely to lead to shallow/unsubstantiated conclusions and questionable results of an EPA monitoring instruments. Given that monitoring EPAs will be extremely useful for negotiations and implementation, identification of accompanying measures, accountability, and public opinion awareness, systemic methodological problems should be made explicit while undertaking the assessment exercise, and not discourage efforts for monitoring EPAs or on the contrary leading to a simplistic monitoring exercise.

5 A possible solution: Development Benchmarks for monitoring EPAs

A 'development benchmarks' approach could represent a possible way to address the difficulties discussed for an EPA monitoring instrument in terms of exact identification of (and agreement between the two parties on) specific objectives to be monitored and methodology for analysis/assessment.

Establishing benchmarks on sustainable development through a wide consultative process, a concept put forward for the first time by the ACP-EU Joint Parliamentary Assembly in 2002 and recently reiterated by various ACP Council Declarations, would ensure clarity on the assumptions and values underlying the monitoring exercise and on the specific methodology adopted. Credibility, transparency as well as ownership of the monitoring exercise would be maximized, assisting those concerned about the uncertain development content of EPAs (by offering concrete options to ensure that such content materializes) and those, like the EC, who believe the development content of EPAs is already there (by having a set of benchmarks for comparison, they could facilitate their efforts to show that indeed current EPAs fulfil development expectations).

In addition, using development 'benchmarks' to assess the conduct and outcome of EPA negotiations and to ensure that trade liberalisation works in favour of sustainable development would provide an important analytical tool for ACP negotiators. It would also strengthen the capacity on the ACP side to undertake comprehensive consultative processes to prepare for the negotiations. This would certainly facilitate and improve the broader discussions on the economic, development and institutional impact of EPAs.

Setting development objectives (to be agreed upon by ACP and EU stakeholders) and comparing expectations for EPAs with the actual provisions in the agreement could constitute an ACP-wide methodology but with regional and country specific identification and prioritization of specific goals to be evaluated. Regional and national specificity as well as the nature of the consultative process would also facilitate the solution of problems related to availability of information, including on dynamic social, economic and institutional effects of EPAs.

Ultimately, it is for ACP Governments and stakeholders to decide what a good EPA is (in a development sense) and to do this based on overall national and regional development objectives and strategies. This is why a benchmarking exercise is complex but important. This approach could become a tool for bridging the divergence of positions in interpreting the 'development dimension of EPAs' and moving the discussions on the content of EPAs forward (without

jeopardising final judgments on whether an EPA is good or bad for ACP countries). The 'benchmarks' approach could become a process to design a monitoring instrument as outlined in Section 3.1 with particular focus on overcoming the difficulties in terms of national and regional specificities, need for ownership and transparency, as well as comprehensiveness of the exercise.

As illustration of the 'benchmarks' concept, it is useful to consider the three dimensional perspective recently put forward by researchers and civil society organizations interested in such a process²⁰. Three sets of development benchmarks should be developed to cover the particularly important aspects of the new partnership agreements: market access, policy space and development resources.

Development benchmarks on 'Market Access and Fair Trade' will be concerned with the asymmetry of liberalization commitments, improved market access (including rules of origin and residual tariffs), as well as solutions to the serious problems ACP producers face to comply with European sanitary and phytosanitary measures and technical barriers to trade. 'Policy Space' benchmarks would ensure those flexibilities in trade rules and trade related disciplines that ACP countries may need in order to implement policies which would promote competitiveness and equity. Development benchmarks on 'EU resources for Development Support' would complement the other two sets through effective access to net financial inflows (resource transfers) from the EU that would contribute to covering the costs of overcoming supply-side constraints, institutional adjustment, technical assistance and capacity building.

Other dimensions could of course be analysed, for example regional integration and environmental and social sustainability (treated above as crosscutting). From a methodological point of view, it is important to distinguish two separate moments of the 'development benchmarks' process:

- (i) devising an appropriate set of sustainable development benchmarks ;
- (ii) assessing the progress of the EPAs in the region under study against the identified development benchmarks.

Defining the complete set of benchmarks capturing national and regional specific features and EPA-related objectives, as well as carrying out the regular assessment of the EPA process should be the responsibilities of all involved local ACP stakeholders, including government agencies, non-governmental institutions and private sectors

6 A practical way forward

There is no 'quick fix' to monitoring EPA negotiations and implementation. It might be tempting to establish a monitoring mechanism as soon as possible, based on general guiding principle and specific indicators. Yet, the discussion on methodology and approach presented above clearly stresses that a suitable approach to monitoring should rest on careful assessments based on:

- a specific identification of the objectives of an EPA,
- a good understanding of the policy environment prevailing in each regional EPA,
- the identification of possible causal linkages between the EPA and the domestic environment, at the economic, institutional, infrastructure, productive capacity and societal levels,
- the determination of transparent and objective criteria to assess an EPA and its impacts,
- the use of both quantitative and qualitative indicators,
- the monitoring of not only (static) impacts, but also (dynamic) processes,

²⁰ ICTSD and Aprodev (2005).

- a consultative and participatory process, involving various parties and stakeholders to an EPA,
- a regular and wide dissemination of the results of the monitoring exercise, and
- a regular reassessment and critical review of the monitoring approach.

Besides, it might be tempting to focus on the identification of relevant indicators to assess whether EPAs meet their objectives. Yet, the development of a monitoring mechanism cannot be reduced to the appropriate setting of criteria. Several considerations could precede the determination of indicators.

First, the focus of the monitoring should be decided. Is it the negotiation process, the negotiation outcome (i.e. the agreement itself) or the implementation of an EPA (and accompanying measures) that should be monitored? The current formal 2006 EPA Review focuses, as stipulated by CPA Art.37.4, on monitoring, at a given point of time, the EPA negotiation process only. Should the EPA Review lead to the setting up of a continuing monitoring instrument for the EPA negotiations, until their conclusion? Or should the attention focus instead (or in addition) to the implementation period of an EPA, in particular during its transition period?

Second, the purpose of the monitoring exercise has to be spelt out. Why to monitor EPA? The monitoring exercise can serve several, non-exclusive, objectives:

- feed into the policy process, by:
 - identifying possible remedies and/or accompanying measures to address undesired adverse effects of the implementation of an EPA, and
 - providing the basis for a review or revision of an EPA;
- strategic information and communication purposes, such as
 - lobbying, PR and advocacy campaign (in favour or against EPAs), based on the outcome of the monitoring
 - accountability to local stakeholders in signatory countries and awareness raising
- compliance purposes, to verify whether the parties comply with the terms of the agreement and whether the side (development-related) commitments are met.

The mechanism for EPA monitoring and the criteria adopted will crucially depend on the focus and objectives of the monitoring exercise.

Third, a choice must also be made on the level of transparency and involvement of various interested actors in the monitoring exercise. Who should be involved in monitoring EPAs? Here too, several options can be envisaged. The EPA monitoring may be carried out either:

- by few independent experts (or institutions), based on their best professional ability, in a non-partisan manner so as to ensure methodological credibility,
- by one party to the agreement, based on the relevant set of criteria as identified by that party,
- in a joint manner by all parties to an EPA, which will require the EU and concerned ACP countries and region to reach a consensus on the desired monitoring objectives, mechanism and indicators,
- by specific concerned stakeholders (e.g. private sector, civil society representatives, think tanks, governmental institutions) which have a vested interest in the monitoring exercise, to ensure that EPAs deliver on specific outcomes.

For the credibility of the monitoring exercise, it is essential that the actors of the EPA monitoring process and their goals be clearly identified. As a matter of principle, it is strongly recommended to follow a participatory approach and/or consultative process in carrying out the monitoring of an EPA, so as to involve concerned stakeholders and increase the ownership of the monitoring process. These are essential elements in particular if the monitoring exercise is to feed into the policy process as outline above.

Fourth, the format of the monitoring mechanism has to be determined. In particular, two dimensions have to be carefully considered: the institutional setting and the legal basis of the monitoring mechanism. An EPA monitoring mechanism can be set up as an independent 'observatory' of the EPA process, as a side exercise driven by one of the parties or interested stakeholders to the EPA (see discussion above on who should monitor EPAs) or as a process formally linked to the EPA legal commitments (either binding or best endeavour commitments).

It is only after addressing these issues that monitoring indicators can be adequately identified.

In this context, and taken into account all the methodological caveats identified in this Study, what is the best way forward to setting up a monitoring mechanism for EPAs? While several approaches can be envisaged, the following recommendations can be derived from this Study.

It is of prime importance to start by initiating a broad consultative process, involving ACP national, regional and all-ACP stakeholders, EU member states and institutions (notably the European Commission and the European Parliament), civil society representatives and independent experts on the possible objectives, scope, nature, content, target, process, format and timing of a possible monitoring mechanism. The purpose of this initial phase is to test the interest and opportunities for consensus among the parties and relevant stakeholders on the contours of an EPA monitoring exercise.²¹ Such a consultation may serve:

- to build consensus should the key actors find common grounds on EPA monitoring, or
- to identify areas of concerns or divergence among key stakeholders, as well as domains of convergence among all or a sub-group of stakeholders;
- to generate new ideas and approaches to monitoring, by stimulating the debate,
- to raise the credibility of the EPA monitoring mechanism to be set in place.

Based on this consultation, key strategic options must be decided upon, regarding the focus, the content, the actors and the format of monitoring, as outlined above. For this purpose, a small working team on strategic monitoring might be set up. It is only then that specific indicators can be selected to ensure the best possible process and outcome of the monitoring exercise. In doing so, a careful balance must be found between quantitative and qualitative indicators.

Monitoring EPAs will be a complex and challenging exercise, as these are no standard trading arrangements and their objectives centre on development rather than narrow trade criteria. Yet, to be of any help, the monitoring mechanism must remain transparent and thus relatively simple. To strike the right balance between accuracy and simplicity, a broad consultation and participatory approach are essential elements which will help identify priority issues and ensure greater ownership among concerned parties and stakeholders.

There is no short cut to such a consultative process for the establishment of a monitoring mechanism. The methodological way forward to identify key indicators is illustrated in Table 1. This should serve more as a basis for discussion than as a priority list of criteria. Undoubtedly, more work and analysis is required for the setting of a credible EPA monitoring mechanism. This Study has hopefully contributed to indicate the direction to follow.

²¹ Based on its extensive network and experience, ECDPM could facilitate such a consultation process, upon specific request.

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Annex I

BMA	Category	ACP SGs	EC SGs	Shared SGs
Strengthening regional integration,	EPA Process	Negotiation process must reflect the special and differential facilities accorded to less developed countries within ACP regional integration structures	build ACP-EC economic and trade cooperation on regional integration initiatives existing within the ACP countries	special consideration for regional integration initiatives
			special reference to commitment to support regional integration processes and to foster regional integration as key instrument for the integration of ACP countries into world economy	identify appropriate tools to support RI processes
		RI agenda in the EPA framework as well as the sequencing of implementation of EPA and RI should be determined by the endogenous and pre-existing regional processes	special reference to commitment to strengthen economic and trade cooperation and to create a new trading dynamic in order to facilitate transition of ACP countries to a liberalised global economy	
			tariff dismantling will take into account the impact of trade liberalisation measures on regional integration within the ACP	
		variable speed of trade liberalisation, where compatible with the integration objectives of the ACP regions concerned, considering the different intensities of integration that may exist within the region and in line with the region's internal integration process		
	Institutional preparedness and improvement	consolidation of ACP regional integration processes	strengthen regional organisations and support regional trade integration initiatives with assistance to budgetary measures and fiscal reform where appropriate	strengthening of regional integration initiatives between the ACP States
		Structural transformation of ACP economies as a precondition to achievement of EPAs		EPAs to reinforce regional integration inter alia by assisting in the regional harmonisation of trade-enhancing rules
		EPAs as a supporting (not undermining) instrument to ACP regional integration processes and initiatives/principle of sequencing IPR regime that does not exclude collective or regional arrangements for ownership or use of intellectual property		tools to support RI processes
	Economic and developmental outcomes		RI agenda under EPAs should be ambitious and comprehensive and in certain areas alignment of all ACP members should be encouraged swiftly, such as for the adoption of a CET	strengthening of regional integration initiatives between the ACP States
				in the context of RI processes, ACP States will not give to other ACP States less favourable treatment than they give the EU
Performance of negotiation / EPA decision-making	EPA Process	Approach: Link trade, development, investment and poverty eradication	Special reference to commitments, fundamental and essential elements of the CPA - promote and expedite economic, cultural and social development and thereby contribute to peace and security and promote stable and democratic political environment, respect for human rights, labour rights, democratic principles and rule of law, good governance.	Conduct of the negotiations at two levels, Ministerial and Ambassadorial
		Approach: guiding principle of unity and solidarity in ACP approach to EPA negotiations		Dedicated sessions to allow for detailed consideration of specific issues
		Approach: Conclusion of an all ACP-EU agreement with legally binding commitments during Phase I, dedicated to the negotiation of issues cutting across the interests of all ACP countries	Approach: Phase I is only for clarification. no need to conclude an all-ACP-EU Agreement.	Approach: Conduct of the negotiations in two phases. Phase I: principles and objectives of EPAs and issues of common interest to all ACP countries. Phase II : issues specific to ACP countries and regions
		consistency in development strategies and coherence of ACP positions in various negotiations	due consideration for political choices and development priorities of ACP countries and thereby promote sustainable development and contribute to poverty eradication	
		Inclusive and transparent negotiation procedures	special reference to the commitments to ensure that CPA and EPA are mutually reinforcing	
		RPTFs: a task force of ACP-EC experts should be established at the all-ACP-EC level in order to ensure that the development dimension is incorporated in the EPA process	RPTFs: should be established to ensure coherence, on a regional basis, between EPAs and development support provided in the framework of the CPA	
	Institutional preparedness and improvement	Consideration of ACP States development strategies	capacity building in the public and private sectors of ACP to enhance their ability to define and implement appropriate regional and multilateral trade strategies and policies	
		Build or develop capacity to negotiate and undertake independent analysis of the implications of developments at the international/inter-regional/regional/national levels		
		in-depth studies at regional and national levels to determine the impact of trade liberalisation on ACP economies, the type and costs of adjustments and measures to take in order to benefit from EPAs		
		adequate transitional and asymmetrical arrangements to allow for implementation of EPAs by ACP		
		creation of a level-playing field in terms of capacities to negotiate (including levelling the costs of the negotiation process)		
	Economic and developmental outcomes	development-oriented EPAs	foster smooth and gradual integration of ACP countries into the world economy with due regard to political choices and development priorities and thereby promoting sustainable development and contributing to poverty eradication in ACP States	
		support for promotion of trade, trade governance...		foster closer economic integration between the parties
			EPAs that are consistent with the objectives and principles of CPA, in particular part III: Cooperation Strategies; Title II: Economic and trade cooperation	
		Establishment of FTAs based on development objectives		

BMA	Category	ACP SGs	EC SGs	Shared SGs
MA of ACP into EC.	EPA Process	Review of the Commodity Protocols	Fix specific arrangements for further tariff dismantling	EPA negotiations on MA should build on and improve the Lomé acquis and take into account the principle of SDT
		Address obstacles to exports of ACP goods and services to the EU	review Sugar Protocol in context of export interests of ACP countries and impact on regional integration promote development through regional economic integration and adequate policies	
		Address export subsidies and domestic support	examine the potential impact of export refund mechanisms on the process of trade liberalisation on a case-by-case basis	
		Address concerns of LDCs, SIDS, landlocked, net-food importing, heavily indebted non-LDCs, small eco, single commodity producers	trade liberalisation plans and schedule of the ACP shall be part of the EPAs	
		prevent and eliminate unnecessary technical barriers to trade	MFN duties as point of reference for basic duties to be reduced and to be defined in a list attached to EPAs	
			inclusion of a standard national treatment provision to ensure that parties' products receive treatment no less favourable than that accorded to like products of national origin	
			no new duties/quantitative restriction or increase of existing duties/quantitative restriction after the beginning of negotiations	
			changes to ROO requested by ACP assessed against definition contained in Protocol I of Annex V of CPA	
			distinct treatment for audiovisual services	
		reconfirm commitments made under art. 42 of CPA (maritime transport)		
	Institutional preparedness and improvement	Strengthen the capacity, efficiency and competitiveness of ACP countries in supply of services (labour, business, distribution, financial, tourism, cultural and construction and related engineering services, air transport and communications,	enhance MA conditions currently provided under the CPA	#simplified rules of origin
		develop effective measures for implementation of GATS Article IV	specific WTO compatible measures to protect interests of EC's outermost regions and in favour of products from these regions	
		improved and simplified rules of origin, while contributing to regional integration and preservation of preference margins	ACP countries should extend automatically treatment granted to the EC to all other parties of the Pea concerned, preferably ahead of trade liberalisation vis-à-vis the EC	safeguard measures
		simplified and harmonized customs regulations and procedures at national and regional levels	Antidumping measures in accordance to GATT/ WTO practices and with special regard to the particular economic and social situation of ACP countries concerned	
		effective systems to detect and combat fraud and other illicit customs activities	application of the HS classification	
		transparency, efficiency and integrity of customs operations	empowerment of parties to take appropriate measures to deal with lack of administrative cooperation or management	
		Fisheries agreement that contribute to the development of the countries and include sustainability of resources and environment, meaningful financial compensation, assistance to develop ACP country's fishing, processing/canning and export industry, establishment of joint ventures, transfer of technology, research&training, employment&training of ACP nationals on EU vessels, obligatory landing of parts of the catches in ACP States	appropriate measures to tackle with losses of custom duties linked to the management of preferential imports on the basis of a horizontal Council decision	
		improve access to the EU of services originating in ACP countries, particularly relating to the movement of natural persons (mode 4)	simplified and WTO compatible requirements and procedures related to imports and exports (customs processes, import licensing, customs valuation, transit rules, pre-shipment inspection)	
		reduce differences between the ACP and the EU in the field of standardisation, certification and quality assurance so as to facilitate trade	flexibility of liberalisation process in trade in services	
		safeguard measures with SDT for ACP	liberalisation of trade in services' transition period of no more than 10 years for the EC	
		application of a flexible and CPA/WTO compatible transitional period for the ACP		
		regulatory framework for further opening of capital market beyond direct investment with revision clause		
		safeguard provisions as defined in Art 8 of Annex V of CPA applied mutatis mutandis		
	Economic and developmental outcomes	preservation and improvement of the Lomé acquis	progressive removal of barriers to trade	no ACP State should be worse off than it is currently
		no ACP State worse off in the post-23007 period than under the current trade regime	elimination of all custom duties on imports from the EC for substantially all trade over a transitional period	Principle of sequencing in trade liberalisation
		WTO compatibility of commodity protocols	abolish all charges having equivalent effect to custom duties upon entry into force of EPAs	
		Safeguarding benefits from the commodity protocols	flexible transitional period while compatible with objectives of CPA and WTO rules	
		asymmetry of commitments to trade liberalisation	flexible product coverage and calendar/rhythm of liberalisation commitments	
strengthening product-specific export corridors		treatment of EC imports no less favourable than MFN treatment		
guaranteed access to the EU market for exports from all ACP countries, while taking into account existing Commodity protocols		asymmetry of liberalisation of trade in services		
duty-free and quota-free market access for essentially all products for all ACP LDCs		integration of EC's outermost regions into intra-regional trade		
increases in the existing quotas under the commodity protocol		elimination of export duties on an agreed timetable not exceeding 10 years		
restore lost quotas of the Sugar Protocol		abolition of quantitative restrictions and measures on entry into force of EPAs		
liberalisation of market access in sectors and modes of supply of export interest to ACP		progressive and reciprocal liberalisation of trade in services aiming at assuring a comparable level of MA opportunities, consistent with WTO and GATS V		
		enhanced market access for cultural goods and services		

BMA	Category	ACP SGs	EC SGs	Shared SGs	
Consideration of level of development within market liberalization process of ACP.	EPA Process		special reference to commitment to take account of the different needs, levels of development, economic, social and environmental constraints of ACP countries and regions		
		asymmetry of commitments to trade liberalisation	negotiations of EPAs shall take into account the capacity to adapt and to adjust their economies to the liberalisation process		
		Flexibility on the EU side towards the ACP, in view of the level of development and their development and economic needs	tariff dismantling will take into account existing and potential export interests of ACP countries		
			timetable for tariff dismantling and final product coverage will reflect economic, social and environmental constraints of ACP and capacity to adapt to liberalisation process		
	Institutional preparedness and improvement	safeguard measures that provide for SDT for ACP	possibility for the ACP to temporarily suspend the application of liberalisation schedule and, where necessary, to re-modulate the rate of progress to the ultimate establishment of an FTA, in conformity with WTO rules		
		rules of origin that preserve preference margins of ACP states	WTO compatible safeguard provision applied mutatis mutandis		
	Economic and developmental outcomes	SDT to ACP States, in particular to LDCs, vulnerable small, landlocked and island countries	variable speed in trade liberalisation		
		minimal adjustment costs			
	Participation of Non-State Actors	EPA Process	involvement of all stakeholders, public support for the negotiations		inclusive process, regular consultations with NSA, RTPF
		Institutional preparedness and improvement	public scrutiny (parliamentary follow-ups)		
Economic and developmental outcomes		public support for the outcomes of the negotiations			
Addressing Supply Side Constraints.	EPA Process	Address problems related to infrastructure and communication links, legal and administrative regimes for trade administration	the period of negotiations will also be used for capacity building in the public and private sector of the ACP countries		
	Institutional preparedness and improvement	develop access to technology, distribution channels, and information networks	better communication on customs tariffs and amendments		
		mechanisms to exchange information on customs matters within ACP, and between ACP and EU			
		functioning and cooperation links between ACP and European standardisation. Conformity assessment and certification institutions	conclude mutual recognition agreements in sectors of mutual economic interest re standards, technical regulations and conformity assessments		
		conclude mutual recognition agreements in sectors of mutual economic interest re standardisation and certification	upgrade infrastructure		
		mechanism for coordination, consultation and exchange of information for the notification and application of proposed SPS measures			
		Strengthen public utilities, infrastructure and other development tools for the private sector, institutional and policy frameworks, improve labour productivity			
		support for ACP States' efforts to develop and promote cost-effective maritime transport infrastructure and services, as well as air, land inland waterways transport			
		facilitate technology partnership and secure support for capacity building			
		greater complementary and harmonisation of communication systems and adaptation to new technologies at all levels			
		provide easy access to information and communication technologies			
		special programme to promote development of activities in PMDT of commodities			
		support to industrial innovation, research and technological development			
	Economic and developmental outcomes	Strengthen the capacity, efficiency and competitiveness of ACP countries in supply of services (labour, business, distribution, financial, tourism, cultural and construction and related engineering services, air transport and communications,	elimination of obstacle to free movement of personnel data via exchange of information and experts		

BMA	Category	ACP SGs	EC SGs	Shared SGs	
Support for economic reforms in ACP.	EPA Process	increase participation of ACP operators in intra-ACP, regional and international trade	tax carve out clause		
			reconfirm commitments taken under Art 12 of Annex II of CPA (current payments and capital movements)		
	Institutional preparedness and improvement	diversification and increase value-added for primary products	more transparent government procurement rules and methods	regulatory framework to enhance and stimulate mutually beneficial sustainable investment, based on principles of non-discrimination, openness, transparency, stability, protection	
		effective measures for implementation of GATS Art IV	strengthening and developing of financial markets		
	Economic and developmental outcomes		measures to enhance competitiveness with assistance to budgetary measures and fiscal reform where appropriate		
		reduced dependence of ACP States on primary products and natural resource-based sectors transformation into knowledge-based competitive economies			
Effective immediate implementation of development aid.	EPA Process	Additionality of resources and support for adjustment distinct from the EDF			
	Institutional preparedness and improvement	Address developmental needs specifically deriving from trade liberalisation			
		creation of an adjustment compensation fund with rapid and flexible disbursement			
		establishment of a mechanism to deal with external indebtedness of ACP countries compensatory mechanisms to deal with the cost of adjustments			
	Economic and developmental outcomes	commitment of additional resources by the EU through a regular budgeting exercise rather than on a voluntary basis			
		financing for human resource development for sustainable development and industrial restructuring increase ACP participation in world trade in services cancellation of all debts of ACP to EU and MS			
Development friendly treatment of trade related issues	EPA Process	#regional framework for government procurement	special reference to joint objective to enhance cooperation in all areas relevant to trade and to achieve progressive and reciprocal liberalisation of trade in goods and services		
		conclusion of investment protection and double taxation agreements			
	Institutional preparedness and improvement	SPS should not be used as a means of arbitrary discrimination or as disguised restrictions to trade			
		Strengthen ACP capacity to handle all areas related to trade, improving and supporting the institutional framework			
		Assist ACP States to develop the legal and administrative framework to deal with competition policy	flexibility of liberalisation process in trade in services		
		effective and sound national and regional competition policies and rules	improve investment		
		improved and secured investment friendly climate, sustainable industrialisation process, transparency in market access			
		implement and maintain mechanisms to avoid destabilization of domestic firms			
		IPR regime			
		mechanism for the disclosure of sources of traditional knowledge and genetic resources used in inventions			
		mechanism to protect traditional knowledge and expressions of folklore			
		mechanism to prevent biopiracy			
		support for ACP capacity building initiatives in the management of technical regulations, conformity assessments, metrology and standardisation and setting up of certification institutions			
		Support for ACP capacity building initiatives to meet increasingly stringent EU SPS measures			
		Support for development of energy in ACP States, including electrification and distribution to rural areas	enhanced cooperation in all areas relevant to trade, in full conformity to WTO provisions		
	Economic and developmental outcomes	investment promotion package, including measures to promote transfer of technology, know-how and skills, concessional funding by private sector and incentives for investment from EU MS to ACP	progressive liberalisation of procurement markets on the basis of the non-discrimination principle and with regards to levels of development		
		Equitable sharing between owners and users of the benefits of intellectual property (IP) regime			
IPR regime conducive to innovation and technological development, to meet public and social policy objectives and transfer of technology					
IP protection does not prevent access to social services					
IP regime does not exclude small entities from being able to enforce their IPR					
application of meaningful incentives by EU and MS for EU enterprises to transfer technology to ACP States					
	minimize extra costs placed on ACP producers and exporters to comply with EU SPS measures				

BMA	Category	ACP SGs	EC SGs	Shared SGs
Poverty eradication	EPA Process	Promote sustainable development	Special reference to commitment to centre partnership on the objective of reducing and eventually eradicating poverty	
	Institutional preparedness and improvement	Structural transformation of ACP economies		
	Economic and developmental outcomes	Eradication of poverty	reduction and eventual eradication of poverty	
		Increase the share of ACP economies of world trade trade creation	sustainable development	
Social & environmental sustainability	EPA Process	Address rural development and preservation of the environment concerns	Special reference to commitments, fundamental and essential elements of the CPA	
		possible reaffirmation of commitment to implement environmental standards as defined by relevant international conventions and WTO discussions	distinct treatment for audiovisual services with a view to preserving cultural diversity and to fostering intercultural dialogue	
		possible reaffirmation of commitment to internationally recognized core labour standards as defined by ILO conventions		
	Institutional preparedness and improvement	sustainable social and political implications of EPAs		
		sustainability of institutional and human resource capacities	enhanced market access for cultural goods and services	
	Economic and developmental outcomes	minimal adjustment costs	food security clause	
stability of ACP States		inclusion of a WTO compatible exceptions clause to be taken on grounds of protection of public order, human, animal or plant life or health, conservation of exhaustible natural resources		
Legal issues	EPA Process		Special reference to commitment to respect obligations assumed within the framework of WTO and to further objectives of the WTO	
		Clarify, improve and inject flexibility in the WTO rules relating to regional trading agreements	inclusion of a WTO compatible exceptions clause to be taken on grounds of protection of public order, human, animal or plant life or health, conservation of exhaustible natural resources	
	Institutional preparedness and improvement	Better consideration of development dimension/SDT in WTO negotiations	clause on dispute settlement	Closer cooperation between ACP and EC during ongoing WTO negotiations
		Active participation of ACP countries in the WTO negotiations	clause on non-execution	
		Better coordination between the Brussels and Geneva offices	clause on future developments to extend or merge EPAs	
		fair, simple, transparent and cost-effective mechanism for dispute settlement between ACP and EU	clause on entry into force of EPAs, duration, termination, notice for denunciation and territorial application clause	
		system to facilitate and promote use of arbitration and other alternative forms of dispute settlement to solve private trade disputes		
	Economic and developmental outcomes	ratification, entry into force and revision clause		
		WTO-compatible EPAs		WTO compatible EPAs
		Operationalisation and legally binding provisions in the WTO on SDT		
binding legal framework to incorporate results of negotiations at the all-ACP-EU level guaranteed legal status for EPAs				

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