11 The EU as a trade and development partner to the ACP: Some initial reflections

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The EU and the African, Caribbean and Pacific (ACP) group have shared a close and longstanding partnership spanning trade, political consultation, and development cooperation. Nevertheless, the partnership has become increasingly characterised by serial disappointments and tension on both sides. Beyond this, the EU has failed to engender political capital from its longstanding trade and development partnership with the ACP. The EU's failure to garner considerable political leverage from its Lomé/Cotonou relationship with the ACP can be attributed to an alloy of policy incoherence, weak strategic orientation, and bureaucratic obsession with process instead of fervent pursuit of development impact.

The EU is a major trade and development partner to the ACP group of countries. Trade data provide one metric of the importance of the relationship – 26% of total ACP merchandise exports in 2016 was sent to the EU. The benefits of the 1975 Lomé Convention (first ACP–EU legally binding partnership) conferred a number of trade provisions that spurred ACP development. Most notably, ACP countries gained non-reciprocal preferential access to the EU market. Special Protocols generated export prices that were considerably beyond world market prices. The Sugar Protocol also allowed the EU to act as a buyer of last resort, thereby ensuring the purchase of all ACP export volume. A final example of non-tariff preferential treatment can be discerned from STABEX,[1] which insulated ACP exporting states from a precipitous fall in world market prices. The EU policy reforms have retired these non-tariff trade benefits to the ACP, as evinced from provisions in Economic Partnership Agreements (EPAs).

Beyond trade, the EU has also been a major source of development aid to ACP countries. The EU's legal founding via the 1957 Treaty of Rome also facilitated the establishment

1 Système de Stabilisation des Recettes d'Exportation.

of the European Development Fund (EDF), which has since committed €112.64 billion.[2] The importance of EU development assistance stems from a contractual obligation through its multi-annual framework, thereby allowing ACP beneficiaries to plan their respective development interventions. Furthermore, the management of EDF resources nominally entails mutual ACP–EU accountability – a feat not extended to other EU aid instruments. Yet, it should also be clearly stated that the crafting of EDF financial procedures remains the sole preserve of the EU along with the determination of height of respective National/Regional Indicative Programmes (NIPs/RIPs). Nevertheless, the principle of EDF co-management has also resulted in the establishment of a Joint ACP–EU Ministerial Council on Development Cooperation.

The ACP–EU partnership is managed through an expansive array of institutional bodies, including Joint Ministerial Trade Committees, Joint Ambassadorial Committees and the Joint Parliamentary Assembly. The ACP Secretariat frequently interacts on a clutch of key policy issues with various EU actors, in particular the European External Action Service (EEAS), DEVCO and DG Trade. The regular ACP–EU policy engagement has also contributed to the emergence of the last two major multilateral agreements – the Paris Agreement on Climate and the WTO Trade Facilitation Agreement.

Notwithstanding the revolutionary provisions of the Lomé Convention and *prima facie* close ACP–EU collaboration, the two sides share a tense relationship marked by serial disappointment and occasional spasms of anger. What explains the naked antagonism that has long engulfed the ACP–EU relationship? Allied to this, what are the factors behind the EU failing to engender political capital by translating its longstanding trade and development partnership. Courtesy of vignettes of experiences garnered, this chapter seeks to posit a series of arguments on strategic errors made by the EU in its trade and development partnership with the ACP. The EU's ambition to be an earnest and reliable trade and development partner to the ACP cannot be doubted. Yet, this noble EU endeavour remains compromised by a combination of policy inconsistencies, missed opportunities, failure to prioritise concrete developmental deliverables, and an inherent contradiction between a global economic actor and development partner. The ACP are not exempt from justifiable criticism of the manner in which their respective developmental ambitions have been pursued. A final section charts a number of steps that could be instituted by the EU to bolster its role as a major ACP trade and development partner.

2 A number of caveats surround this figure: (i) the overall sum is not entirely awarded to ACP countries as it also includes EU funding for both OCTs and EU Missions in ACP countries and regions; (ii) EU contribution to Cotonou Investment Facility administered by the EIB; (iii) the overall sum also includes EU contributions to global platforms such as the EIF and the Global Fund to Fight AIDS, Tuberculosis and Malaria that are not limited to ACP member states; and (iv) the figure reflects the level of EU commitments but not actual sums spent.

Below is an illustrative and cursory set of recent EU policy and institutional behaviours that underscore the systemic limitations of the EU as a trade and development partner to the ACP. More importantly, the series of examples show the EU compromising its own aspirations to be a main global development partner.

Ineffective EU political engagement

The first example stems from the 2015 EU-CELAC Summit ending with the crafting of a Brussels Declaration.[3] The EU described the CELAC Summit as the main forum for dialogue and cooperation between Europe and Latin American and Caribbean states.[4] Key EU-Latin American and Caribbean heads met (in addition to a Caribbean-EU side meeting) to discuss a range of germane issues. Yet one week later (on 17 June 17, inst.) the European Commission published an Action Plan aimed at pushing non-cooperative extra-EU jurisdictions to be both more cooperative and adopt international standards on transparency in taxation.[5] The statement enumerated 12 Caribbean states and territories that were deemed "non-cooperative jurisdictions with respect to sharing information on taxation issues." The EU intervention is problematic on a number of fronts. First, the EU made a major policy announcement one week after an important summit where EU leaders failed to either discuss or forewarn their Caribbean colleagues on an important economic issue that harboured grave consequences for affected small Caribbean economies. Second, the EU's intervention came at a time when the affected Caribbean states and territories were already consulting with the OECD to comply with that body's tax transparency guidelines. Third, the substantive issue remains that the EU, otherwise keen to underscore its multilateral credentials, had threatened Caribbean countries for failing to uphold OECD rules that affected jurisdictions have neither crafted nor contributed to. It might not have been by design, but the EU's actions on transparency in taxation contributed to diluting Caribbean leaders' trust in the EU.

Tariff rate quotas: A case of EU double standards

Another example of the EU's failure to reconcile the impact of its domestic policies with its aspirations as a development partner can be gleaned from the design and

3 http://www.europarl.europa.eu/intcoop/eurolat/key_documents/summits_eu_alc/2_celac_eu_2015/declaration_brussels_en.pdf
4 https://www.consilium.europa.eu/en/meetings/international-summit/2015/06/10-11/
5 http://europa.eu/rapid/press-release_STATEMENT-15-5211_en.htm

administration of its multi-billion Common Agricultural Policy (CAP).[6] Specifically, all EPAs with the ACP (except that with SADC, a hangover from the Trade Development Cooperation Agreement with South Africa) bar the use of quantitative restrictions. These free trade agreements (FTAs) with small, poor vulnerable ACP economies also oblige the developing countries' partners to extend any applicable domestic treatment to the EU. Yet, the EU currently has 24 FTAs in which tariff rate quotas (TRQs) are currently operative, including recently concluded trade agreements with Canada (2016) and a revised agreement with Norway (2017).[7] Trading partners benefitting from the use of offered TRQs include OECD countries such as Switzerland, African states such as Egypt, Morocco and Tunisia, and Latin American economies such as Chile, Andean Pact and Central America. The EU appears willing to tolerate the use of TRQs by a wide array of its trading partners but insists on removing this defensive trade measure from the policy tools available to economically weak ACP countries.

This example of EU policy inconsistency is made more acute by the recognised significance of agriculture in ACP countries to promoting food security and alleviating poverty, with the attendant role of TRQs to protect domestic agricultural production. In addition, the CAP reform (coupled with the Global Europe strategy) has resulted in a marked shift in EU objectives from promoting food security to prising open global markets for European agricultural exports. As a result, the EU catapulted to become the world's leading exporter of agricultural goods, valued at a record €137.9 billion in 2017, along with a record agriculture trade surplus (also a record at €20.5 billion).

The overall impact of CAP reform on ACP countries remains debatable[8] but two repercussions on ACP sugar exporters are readily evident. First, ACP export volume fell by 58.7% in 2017/2018 relative to the previous season, partially due to ACP sugar exports being displaced by EU beet sugar production. Second, the reduction in ACP sugar export volume was exacerbated by 37% fall in average price paid for ACP raw sugar in the same period.[9]

6 Beyond agriculture, the most glaring example of incoherence between economic policy and impact on development partners can be found in industrialised countries' response to the 2008 global economic crisis. According to Evenett and Fritz (2015), 494 trade measures were introduced resulting in a 31.5% decline in LDC exports between 2009-2013 – the equivalent of US$265 billion in lost earnings. The EU was responsible for 64 measures affecting LDCs. The study did not quantify the specific economic injury to LDCs (most of which are ACP members) by EU action but the order of total export loss suffered remains considerable. Also, the negative impact on LDCs was in spite of numerous G20 pledges to shield the LDCs from harmful policies.

7 Author's own enumeration based on European Commission (2018).

8 A recent SWP research note (Rudloff and Brüntrup 2018) that finds that removal of the CAP would have neglible impact on EU agricultural production.

9 http://epamonitoring.net/sugar-substitution-gaining-pace-in-eu-amid-falling-eu-import-demand/?_sft_category=sugar

The case of the TFA: Failure to replicate an innovative approach

The WTO's Trade Facilitation Agreement (TFA) constitutes a new architecture for articulating special and differential treatment by making the assumption of new trade rules commitments by developing countries contingent on the delivery of trade support measures. More specifically, Section II outlines the basis for the articulation of special and differential treatment for developing countries and the technical assistance required for such Members to implement their commitments. Article 13 of the TFA enumerates three categories of commitments with developing countries allowed to identify commitments that require longer implementation periods and the receipt of technical assistance. These trade facilitation measures (known as Category C obligations) become legal obligations only once both the affected developing country and industrialised country delivering trade capacity support both notify the WTO that the required capacity has been effectuated. Both the ACP and EU midwifed this innovative approach to addressing one facet of the generally weak regulatory framework in developing countries, but both appear unwilling to extend this orientation to the treatment of other regulatory issues. Worse, the pioneering TFA approach to special and differential treatment has not been extended to negotiations of new ACP–EU trading arrangements, namely, EPAs. Here it should be noted that EPAs do provide for development cooperation on prioritised trade needs in ACP countries and regions. However, the EPA approach offers the promise of EU trade capacity support but does not make its actual delivery a trigger for ACP countries/regions to assume new trade rules. In addition, the interim EPAs almost definitionally are confined to trade in goods and therefore lack obligations on regulatory issues such as services (especially domestic regulation), intellectual property, competition policy, public procurement, e-commerce, and personal data protection. The EU's failure to propagate the TFA approach assumes both strategic and economic importance in light of the recognised need for ACP countries to address such trade regulatory issues as the basis for moving up global value chains and enhancing the competitiveness of export production.

The EU's handling of TFA implementation support to ACP countries exposes another limit of its muted strategic trade approach with the ACP group. During the height of TFA negotiations, the ACP was marshalled by the then Jamaican ambassador in his capacity as group convenor. His task included both convincing key WTO Members (industrialised and emerging economies) and assuaging the inherent scepticism of ACP members (principally in Africa) to support the group's novel policy approach. The ACP convenor's essential role in shepherding the successful conclusion of a new multilateral trade agreement has been widely recognised by his peers in Geneva and by DG Trade operatives at Charlemagne. Yet, this stellar achievement was not reflected in the programming of his country's NIP under the 11^{th} EDF. In fact, Jamaica's NIP fell from €123 million to €46 million under the 11^{th} EDF. This precipitous fall in EU aid reflected the EU's new policy of graduation, i.e. radically reducing its aid from countries classified by the World Bank as middle-income states. Of greater import, the three prioritised sectors in the NIP – justice, environment and climate change, and public finance management – precluded support for the country to implement its TFA commitments. The lack of EU support for Jamaica's TFA implementation came despite the 11^{th} EDF's NIP being signed nine months after the 9th WTO Ministerial Conference, where the new multilateral trade agreement was concluded. In emphasising the delivery of policy prescriptions (for example, through the conclusion of a new WTO trade agreement), the EU fully ignored the strategic value of rewarding a critical partner without whose efforts a key EU objective would not have materialised.

CEPA implementation: Missed EU strategic opportunities

The implementation of the CARIFORUM–EU EPA (CEPA) constitutes yet another missed EU strategic opportunity. It is generally accepted that EPAs were conceived as an EU policy initiative to craft new trade relations with Africa. With that assumption, it is reasonable to expect that the EU would have invested considerable political capital to ensure that the CEPA became an unfettered success, thereby offering a positive demonstrative effect to African EPA configurations. Instead of undertaking radical action to advance CEPA implementation, the EU retreated into its traditional fare of Ministerial meetings delivering choreographed set pieces with telegraphed interventions and results. The EU increased its assistance under the 11^{th} EDF, mainly to support CEPA implementation. However, programming of the additional aid volume to the Caribbean remained delayed, highlighting the EU's reputation for being unable to deliver time-sensitive trade support. The risk-averse EU approach meant the preclusion of engagement with other international development partners, such as the World Bank and the Inter-American Development Bank, to support CEPA implementation. A proactive EU approach would have meant declaring at the Joint CARIFORUM–EU Council in June 2010 commissioning the Caribbean Regional Technical Assistance Centre (CARTAC) to support tax reform to mitigate the phasing out of other duties and charges. This failure is more astounding given that CARTAC, an IMF regional technical support, already benefits from EDF support on tax reforms. Mobilising targeted trade support by other international development partners would have signalled EU political determination to underpin CEPA implementation in a robust and innovative manner from the very outset. A measure of the business-as-usual approach to implementing a radical trade agreement can be gleaned from the fact that the three subsequent meetings of the Joint CARIFORUM–EU Council have only delivered exhortatory statements to accelerate implementation of the new trade arrangement.

EU failure to surgically pursue development impact

The EU's reputation as a norm entrepreneur has driven the body's devoted pursuit of proselytising values such as good governance, human rights, and rule of law in its relations with ACP countries. However, this EU action accentuates the primacy of policy instead of robust delivery of development impact. The EDF has been consistently increased in nominal terms but its interventions are not tasked to attain maximum development impact. As a result, EU development cooperation support is not underpinned by either innovative delivery mechanism or razor-sharp focus on impact. Instead, the general focus has been on observance of sound EDF regulations. This process-driven approach ignores that the EU taxpayers' value is best secured by measurable development impact of invested aid resources. Note the contrast with the series of innovations arising from UK-funded trade support programmes, such as the Trade Adjustment Fund, TradeMark Programmes and CARTFund.10 These DFID-funded programmes deliver trade support interventions in a time-sensitive manner with less bureaucratic demands, and empower beneficiaries to craft meaningful projects. The EU's own rich experience includes funding the Caribbean rum project aimed at switching export production from bulk rum to higher-value bottled products. This was a successful case that addressed two of the most important challenges facing ACP economic operators - i.e. private sector development and attenuating the impact of preference erosion. In implementing the project, the EU granted a waiver to allow the beneficiary, the Caribbean rum trade association (WIRSPA), to manage its own project. In spite of the documented success of this project (e.g. Braun-Munzinger and Goodison 2010), the EU ensured that this EDF delivery mechanism was never replicated in spite of the urgent need to support ACP firms' competitiveness through enhanced capacity to apply modern trade regulatory tools to access the markets of industrialised countries.

Lack of openness in EU economic interests

The EU's stance towards Africa underscores the ease with which the EU eroded negotiation and political goodwill among a key group of development partners. West Africa–EU EPA negotiations (ECOWAS plus Mauritania) were concluded in February 2014 – almost exactly ten years after they were launched. The protracted delay in

10 For a brief evaluation of the innovations introduced by a modest UK-funded trade support programme in the Caribbean, see Gill (2011).

concluding the goods-only EPA rested on divergent views on the share of EU imports to be liberalised by the West African region. ECDPM reported that in light of the special characteristics of West Africa, a deal was struck at 75% of trade to be liberalised over the next 20 years, rather the EU request for 80% over 15 years.[11] The EC finally resiled from its substantially all trade benchmark for West Africa in a context marked by 13 of the West African countries being least-developed countries (LDCs) and therefore having recourse to Everything-But-Arms (EBA).[12] More significant is that the lengthy negotiation period led to a diminution of confidence among both parties, with the unsurprising result that three West African countries failed to sign the Agreement in 2014 and the signature of one (Nigeria) still remains outstanding.[13]

Beyond the diminution of precious negotiation capital and goodwill, EPA negotiations with African regions expose yet another EU strategic error. The EU remains incapable of openly declaring its stark commercial interests in its trade policy pursuits with Africa. The EU has strong antecedents, with the Yaoundé Agreement providing reciprocal trade arrangements euphemistically branded as 'reverse preferences'. The EU continues to pitch its policies towards Africa either as a moral duty to support the poorest countries or to assist neighbouring developing countries to address illegal migration and fight terrorism. Specific EU trade interests are framed with the aim of spurring greater EU foreign investment to assist African economic development. Contrast this EU equivocation with China's declaration of its interest in accessing African mineral and agricultural wealth. The Chinese stance has conferred African leaders with a recognition of their countries' economic value, thus establishing the basis of an open partnership. It is undeniable that Africa is an attractive economic partner given its massive GDP (forecast to grow to US$2.6 trillion in 202o) (McKinsey Global Institute 2010), fast-growing labour force, vast mineral and agricultural wealth, and physical proximity to major markets. Moreover, the EU's persistent lack of openness with regards to its economic interest in Africa hampers the recalibration of the trade relationship into a post-colonial dispensation based on true partnership.

11 https://ecdpm.org/talking-points/economic-partnership-agreements-west-africa-seals-deal/

12 It should nevertheless be noted that EBA, which grants duty- and quota-free market access to all products, except arms, originating from LDCs is less advantageous than EPAs in a number of respects: (a) it is unilateral and can therefore be summarily withdrawn; (b) its trigger levels for trade defence tools are lower and can therefore blight beneficiaries' export growth; and (c) it fully ignores provisions on new generation trade tools such as services investment, procurement, competition policy and intellectual property. Nevertheless, most LDCs favour EBAs as they tend to be defensive about exposing their domestic markets to imports, particularly from industrialised countries.

13 http://trade.ec.europa.eu/doclib/docs/2009/september/tradoc_144912.pdf

What can be done? A few suggestions

Personalities matter

Former EU Trade Commissioner Pascal Lamy became WTO Director-General in 2005 in spite of the candidature of two ACP ministers.[14] The Frenchman leveraged his vast professional network with ACP ministers honed during his stint as EU Trade Commissioner. This achievement was all the more remarkable given the prevailing atmospherics surrounding Lamy's tenure at the European Commission. Most notably, the collapse of the WTO Ministerial in Cancun incited deep distrust between developing and industrialised WTO Members; CAP reform triggered an erosion of the value of ACP trade preference; and the launch of EPA negotiations was controversial. In spite of these developments, Lamy's open engagement with the ACP and patent understanding of the group's trade and development concerns garnered him considerable political support among the tricontinental club of developing countries. Personalities resonate even more deeply in the context of the EU as a norm entrepreneur. In propagating its cherished values, the EU should invest more time and effort in sustaining relationships with its ACP trade partners to more effectively engage as opposed to the time-honoured tradition of lecturing. EU personalities thus become a more meaningful form of developing balanced partnerships with a longstanding group of developing countries.

Building partnerships

Beyond the weight of personalities, open and sustained engagement remains paramount in the pursuit of long-term ACP–EU trade partnerships. Such an orientation entails, *inter alia*, the EU retiring its endemic reluctance to openly acknowledge its manifest economic interests in resource- and labour-rich Africa. Increased EU openness should be complemented by ditching the choreographed summits and ministerials and opting instead for robust and business-like exchanges that allow for genuine policy dialogues, robust advancement of specific goals, and the clearance of implementation bottlenecks. Furthermore, EU partnerships should be extended to a broader cluster of development actors including parliamentarians, academics, opinion formers, economic operators, and civil society activists. Recent history has shown that trade policy reforms need to be owned by all invested ACP development partners and this ownership can only emerge from sincere EU engagement.

14 These were Hon. Mukhisa Kituyi (Kenya) and Hon. Jayen Cuttaree (Mauritius).

Policy coherence

The European Commission has traditionally commissioned sustainable impact assessments (SIAs) to forecast possible developmental impacts of its trade policy on developing countries. However, SIAs offer ex ante assessments of possible impacts with no built-in mechanism to measure subsequent ramifications of EU policy on developing countries. In 2015, the EU introduced its Better Regulation Policy (BRP) including a set of toolkits on policy issues such as environment, migration and trade. According to the Commission, this policy coherence for development orientation should allow for improved ex post evaluation of the impact of EU policies on developing countries. Thus far, however, no evidence has emerged of these toolkits being used to gauge the impact of EU policy on developing countries. Instead, the Commission appears to use the BRP tool to justify its various policy interventions. One example is the positive contribution of the CAP in promoting food security in developing countries. It might be far more beneficial for the EU to regularly institute development audits on its policies. These audits would carry the same policy and legal weight as the European Court of Audits reviews of EU spending and processes. Moreover, the development audits would allow for the speedy conduct of requisite remedial action and benefit from regular exchanges with affected ACP partners with respect to possible corrective measures. Indeed, the mere existence of institutionalised development audits would improve the design and impact of EU policies as policymakers would be able to incorporate their results.

Development impact

Most EDF programming tends to be informed by demand-driven requests. Here again, the EU's belief is positive as it obviates a top-down approach where small institutional actors are crowded out from donor support. However, the downside of a demand-driven approach remains the absence of delivering the highest development impact on affected ACP countries and regions. Instead, a broader consultative approach based on identifying interventions yielding the best development effect is required. Complementing this results-based impact would be the use of innovative solutions with best practices from other EU member states and international development partners. In addition, there are recent examples of the EU supporting a slew of international organisations to deliver trade support to developing countries. However, such EU support tend to constitute an interim solution before the programming of EDF resources can be completed. This EU policy orientation should be retired and replaced by a more robust pursuit of synchronised support from a broad range of development partners, such as the African Development Bank, the Caribbean Development Bank, the Inter-American Development Bank, the World Bank, and the IMF – most of which have EU Member states as main shareholders.

In conclusion, the EU remains an earnest trade and development partner for the ACP group and its constituent countries and regions. The EU remains a significant trade partner, accounting for a quarter of ACP exports. In addition, EU donor support to the ACP remains financially significant, also in terms of the legal underpinnings, co-management, and facilitation of multi-annual planning. However, the EU's development efforts are often compromised by the weight of its economic interests, resulting in policy incoherence. In addition, the height of the EDF is prioritised as opposed to deploying bolder measures to secure development impact of the vast aid resources invested in ACP countries and regions. A number of measures could be instituted to remedy the referenced weaknesses in EU trade and development policy, most notably prioritising engaging personalities, building effective partnerships, pursuing policy coherence, and focusing on development impact. Yet, operationalising these proposals is predicated on the EU summoning the requisite political will to become a sustainable trade and development partner.

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