

Trade Policy of the EU ¹⁵⁶

Trade is arguably the most important policy area influencing the developing countries over which the European Union has competency. The EEC was mainly established for political reasons – through economic means. The centrepiece of the Treaty of Rome was the establishment of a Customs Union, and alongside the Common Agricultural Policy (CAP), and the Common Fisheries Policy (CFP). Since the Maastricht Treaty the competencies of the Community have been widened to include a large number of other areas. In relation to trade, the European Community has competence to form policies in: (1) the free movement of goods, (2) agriculture and fisheries, (3) the free movement of persons, services and capital, (4) transport policy, (5) competition, taxation and approximation of laws, (6) economic and monetary Union, and (7) common commercial policy.¹⁵⁷

In terms of trade volume the EU clearly is a global player. In 1997 the share of EU's total exports in goods and services was 37.9% of total world exports. This is compared to 13.7% of the US and Japan's share of 7.1%. The proportion for Germany alone was larger than that of Japan, with 8.7%. The share of all developing countries' total world exports was 18.6% and of this the share of Sub-Sahara Africa was only 1.5%. If South Africa and Nigeria are excluded the share of Sub-Sahara Africa only counts for 0.8%. The number of exports of Sub-Saharan countries in total world exports is minute and certainly no match to the EU's gigantic export capacity.¹⁵⁸

This capacity has been built over a long period in which Europe's productive potential was carefully nurtured, stimulated and protected. Intervention has been the key strategy for sheltering and encouraging European trade as well as expanding EU internal and external trade. This protectionism has now become increasingly at odds with the globalisation strategies pursued by the major economic players, which are focused on neo-liberal free trade arrangements.

The contradictions between protectionism and liberalisation, and their consequences for the South, are discussed in the following sections. Current globalisation strategies designed by the European Union clearly have an export orientation, and are a response to the competition with the US and Japan over external markets. The interest in increasing exports, while protecting EU producers, obviously creates a tension between protectionist and liberalisation measures. This tension between two economic paradigms, leading to different practices at various policy

levels, creates contradictory policies that are incoherent with the objectives of EU development policies.

This chapter will address the question of the (in) coherence between the EU trade policies and its development objectives. The first section will discuss recent developments in relation to the backbone of the European trade policies: the CAP. In the following section we will identify trade regimes specifically designed for trade with developing countries: the Lomé trade arrangements and the General System of Preferences (GSP). In section 8.3 we will look at trade negotiations with the strongest economic bloc in the developing world: the South-east Asian countries, including China. In section 8.4 the negotiations on the Free Trade Agreement (FTA) with South Africa will be reviewed as a means of looking at the possible implications of such negotiations. Finally the proposal to establish Regional Free Trade Agreements in the context of the Lomé Convention will be discussed.

8.1 The CAP and the agenda for reform

The Common Agricultural Policy was established in 1962 and was designed as a system of support for EU farmers in order to ensure food self-sufficiency. Its central element is market organisation for about 90% of the Community farm output. Its objectives are to:

- increase agricultural productivity through promoting technological progress;
- ensure a fair standard of living for agricultural farmers;
- stabilise agricultural markets;
- guarantee regular supplies of food to consumers; and
- ensure reasonable prices of food to consumers.¹⁵⁹

These objectives have been achieved through an agreed set of measures – including common pricing arrangements, common protection, and intervention by the EU in the agricultural market. The main feature of the CAP, to date, has been the setting of target prices within the Community for specific products. Import prices for these products are then kept above the target price. Within the Community intervention prices are set slightly below the target price. If sales can only be made below the intervention price, the Commission buys up the product in order to drive the price up.

The CAP is financed jointly by the member states through the European Agricultural Guidance and Guarantee Fund (EAGGF) which is part of the General EU budget. In the past it has consumed up to 70% of the total EU budget. At present it accounts for approximately 50% of the budget as expenditure under other budget headings has expanded. This is equivalent to more than €40 billion.

8.1.1 *Effects of the CAP on the South*

The European Council Resolution of 5 June 1998 on coherence emphasised the need for the European Union to ensure coherence between European policies and food security in the developing countries.¹⁶⁰

The CAP has had detrimental effects on food security in developing countries. The CAP increases agricultural production and lowers world market prices, for which European farmers are compensated, but farmers in developing countries are clearly not. The closure of the EU market further helps to bring world market prices down. Moreover, the overproduction fills the EU market, but also increases the volume of EU exports. In some cases these exports are again subsidised, giving European products even further advantage over domestic products in developing countries. Ironically, this problem is further accentuated when excessive supplies are distributed as aid because they further lower world market prices and simultaneously undermine domestic production in the country concerned.

In some instances the CAP has encouraged the export of agricultural products from the South. A good example is the case of cassava production. Cassava is a cash crop for farmers with few resources because it requires little investment. While the EU was keeping the prices of grains artificially high, Europeans turned to cassava as a source of animal feed. This drove up the world prices of cassava and made cassava farming attractive to farmers in the South.

In Thailand, for instance, many farmers changed to cassava production and at the peak of the production in the early 1980s about 80–90% of total cassava produce was exported to the EC. In 1982 the EC initiated a policy to impose quotas on cassava imports and to introduce tariffs, which made the production of cassava considerably less attractive. In 1992 the EC committed itself to reduce its fixed prices for grain, and grain again became attractive as animal feed. This in turn decreased the demand for cassava. This seriously affected farmers – who found it difficult to divert to other crops. Farmland that has been used to cultivate cassava for several years is not suitable for other crops. In such cases, the CAP has created a situation in which poor farmers in the South are wholly dependent upon decisions taken in the EU and over which they can exercise no control.¹⁶¹

8.1.2 *Quotas and preferences*

It can be concluded that these measures have seriously hampered farmers in the South both to supply the domestic market and to increase their export possibilities in a sustainable way. By protecting European farmers' production at relatively high costs, the CAP has prevented agricultural producers in developing countries from capitalising on their comparative advantage. The CAP has, therefore, generally acted as a disincentive to agricultural production and food security in the South.

High European prices are maintained by the protection of the volume of imports into the EU. However, these measures are not applied equally to non-European producers. In fact, the measures to protect the EU market are a complicated set of tariff barriers negotiated separately with different countries. The effects are, therefore, more complex to map out because they restrict imports from some countries and give preference to others.¹⁶² The preferences take two forms:

- Special quotas: producers of some countries can supply their products to the EU, while maintaining the high prices set for products by the EU, but without paying import duties that constrict producers of other countries on the European market. Examples of these are the beef and sugar protocols signed under the Lomé Convention with specific countries.
- Preferences: producers from some countries are allowed to supply their goods to the EU market without the need to maintain the high prices set by the EU. This gives them comparative advantages over others.

The abolition of these special quotas and preferences would dangerously undermine the economies of some countries that are heavily dependent on them. For instance the Caribbean countries have few alternatives to the production of bananas, sugar, or rum, and depend heavily on the preferences granted through the Lomé protocols. The economies of these small island states would probably collapse if the special protocols were abolished. On the other hand, the system of quotas and preferences limits access of these products from other developing countries to the EU market.

8.1.3 *Reform of the CAP*

In 1992 the Commission decided to reform the CAP in order to address concerns over its high costs. Reforms mainly involved the reduction of intervention prices, reductions in production and encouragement to farmers to set aside land. These cost-cutting measures were accompanied by compensatory income support payments to farmers. In spite of these measures, the CAP still consumes 50% of the budget.

In Agenda 2000, the European Commission identified the following reasons for reform of the CAP:¹⁶³

- The process of globalisation requires lower prices if the EU is to be competitive in newly emerging markets;
- The negative image of the CAP among the general public caused by the high costs of the CAP;
- The need for greater effectiveness requiring the decentralisation of managing the CAP;

- The preparation of eastward expansion of the EU with countries with large agricultural sectors which would cause the costs of the CAP to spiral;
- The EU's commitment under the GATT Uruguay Round to cut the volume of subsidised exports by 21% over six years, which it has not yet implemented. Moreover, there are proposals for a new round of international trade negotiations under the WTO to be launched in 1999 as well as the negotiation of several bilateral trade agreements.

The Commission proposed drastic cuts in intervention prices so that agricultural products can be exported with less subsidies. Direct income support, allowed under the WTO rules and regulations, to European farmers would compensate for these measures. In the meeting of February/March 1999 the Council reached a compromise on the reform of the CAP within Agenda 2000 largely along those lines.

8.1.4 Expected effects of the CAP reforms

Current production, in the context of increasing competition over the lowest production prices, reduces the quality of agricultural products worldwide and has caused a crisis in the European agricultural sector. The CAP has encouraged intensive production, the extensive and illegal use of hormones, pesticides and fertilisers. Consumer confidence has fallen dramatically while the problem of overproduction has not been addressed.

The reform measures of Agenda 2000 do not tackle the current problems of the CAP.¹⁶⁴ The combination of low prices on the one hand and income support on the other results in a production that is completely divorced from production costs. The selling of agricultural products below the production price is not sustainable in the medium to long term. Moreover, the proposed measures will not lead to a reduction of production necessary to avoid gluts and surpluses.

The proposals also do not encourage food security in the South. On the contrary, they help European farmers to compete with poor farmers in developing countries. The costs and benefits are not equally divided among the South. Looking at the proposals in more detail shows that producers in some developing countries lose, while producers in other countries gain. No measures have been proposed to ensure that negative consequences of price cuts for producers in developing countries are tackled. For instance reducing tariff barriers to the EU market for exporters from the South would clearly help Southern producers to compensate for the market share taken by EU producers in developing countries. Also surpluses will need to be reduced so as to naturally increase agricultural prices.

Concerns are that the reforms' emphasis on enhancing EU competitiveness will result in further displacement of small-scale producers in the developing countries

by European large-scale producers. In the South only large-scale producers are likely to survive. This will lead to a further concentration in land ownership and increasing hardship for the majority of small-scale producers. An increase in the dependency of developing countries on food imports can be anticipated, which in turn will render them even more vulnerable to price changes. Price fluctuations of world market prices will generate balance of payments problems when countries become increasingly dependent upon food imports. Subsequent financial instability and currency devaluation affects vulnerable domestic consumers. Finally, the modes of production required to be competitive may well lead to increased environmental degradation and increased inequality in prosperity.

The proposed reforms of the CAP will not make the CAP any cheaper. On the contrary, in the next decade the budget for agriculture will continue to increase. A radical overhaul of the CAP is needed in order to make European agricultural policies sound as well as coherent with the development objectives stipulated in the Amsterdam Treaty.

8.2 Trade regimes with developing countries

In relation to the EU the developing countries can benefit from two different trade regimes. The Lomé trade arrangements are negotiated between the EU and the ACP, and give the most far-reaching access to the EU market. The Generalised System of Preferences (GSP) gives preferences to those developing countries that do not belong to the ACP grouping. In the new GSP regulations concerning the period July 1999 to 31 December 2001, LDCs are to be given preferences equivalent to those received under the Lomé Convention, so as to comply with WTO regulations. While the Lomé Conventions are negotiated between the two parties, the GSP is unilaterally offered by the EU to a certain number of countries and can be withdrawn unilaterally. The Lomé Convention thus provides much greater predictability than the GSP. Once the Convention has been signed trade preferences cannot be suspended or withdrawn except as a last resort, and only when the essential clause has been breached. Even then a consultation process is required before such action can be taken (art. 3.6.6.).

Another important difference between Lomé preferences and the GSP is that the GSP is based on the principle of graduation – meaning that preferences diminish once a country or production sector becomes stronger. This is not the case under Lomé where trade preferences are agreed similarly for all participants, with the exception of special protocols. The GSP has additionally a social and environmental incentive clause.

In the table below the most important differences between the Lomé trade arrangements and GSP are set out.

Box 4 – Lomé Preferences versus the GSP¹⁶⁵

The European Scheme of Generalised Preferences defines a list of 50 least-developed countries¹⁶⁶ (LDCs) that benefit from extended tariff preferences for industrial and agricultural products, beyond the General System of Preferences. These LDCs benefit either from the Lomé Trade Regime, or from the extended GSP. The two regimes compare as follows:

<i>Lomé Trade Regime</i>	<i>GSP Trade Regime</i>
Originates from 1957 provisions made in Treaty of Rome for association of non-European countries and territories with which EEC member states had special relations – colonies, former colonies and overseas territories.	Began in 1971 following an offer made by the EEC in the United Nations Conference on Trade and Development (UNCTAD).
Is granted to ACP countries, includes 41 LDCs and 30 other developing countries, including vulnerable economies such as small island states and land locked countries. Does not include graduation.	Is granted to a large number of developing countries, including 9 LDCs. ¹⁶⁷ Includes sector/country graduation on the basis of market share, which can affect LDCs and other very poor states. ¹⁶⁸
The non-discrimination clause ensures that the preferences also apply to the other ACP countries.	LDCs not party to the Lomé Convention are granted equivalent preferences to those provided under Lomé. ¹⁶⁹
Rules of origin make cumulation of the input into a product's value permissible where this originates in all ACP countries and the EU. Specific rules are defined for each product or group of products.	Rules of origin permit input of a product in individual countries with further input from the EU. Some regional cumulation is allowed for the members of ASEAN, ¹⁷⁰ the Central American Common Market (CACM) and the ANDEAN Community. Specific rules are defined for each product or groups of products.
Industrial products can enter without restrictions.	Gives duty free access for manufactured exports listed. Also duty free treatment in clothing and textile sector.
Tariffs on many agricultural products are reduced, or are set up for certain quantities (quotas). Quotas in 'sensitive' areas arranged in special protocols.	Tariffs on a group of agricultural products are reduced.

Lomé Trade Regime	GSP Trade Regime
<p>No withdrawal or suspension of trade preferences after the trade protocol of the Convention has been signed.</p>	<p>Suspension of trade preferences in circumstances of use of any form of forced labour, exports of goods made in prison labour, inadequate control on the export or transit of drugs, failure to comply with obligations entered into in the Uruguay Round, failure to comply with international conventions on fisheries, etc.</p>
	<p>Contains an incentive mechanism concerning labour rights and environmental protection if labour rights are complied with in countries or production sectors in these countries.</p>
<p>Lomé Trade preferences are being reviewed as part of the negotiations to produce a new agreement effective from March 2000. A waiver for renewed Lomé trade provisions could be obtained as there is a provision in WTO rules for non-reciprocal trade arrangements; alternatively an extension of the WTO's provisions governing 'special and differential treatment' to cover a new agreement with the ACP could be obtained.</p>	<p>The current GSP schemes fall within guidelines agreed for the period 1995-2004. For industrial products it was introduced for a four-year period in January 1995, and renewed for 1999-2005. The scheme for agricultural products came into force on 1 July 1996, but was only applicable to 1 January 1997 and will be valid till 30 June 1999.</p>
<p>The Commission wants to change Lomé trade preferences into Regional Economic Partnership Agreements (REPAs) or into GSP arrangements.</p>	
<p>EU does not want an extension of unlimited free access in some products it has defined as 'sensitive' such as rice, bananas, sugar, manioc and bovine meat (beef and veal). The EU believes that developing countries could rapidly increase export of these products if liberalisation took place. EU sensitive sectors are protected by a dual mechanism involving a modulation of preferential tariff margins coupled with an emergency safety clause. The emergency safety clause allows for the suspension of the provisions if severe market disruption is likely.</p>	

Trade regimes with developing countries are not always established with the objective of promoting trade. On the contrary, the comparative advantage of developing countries resulting from their low prices is often seen as a problem. The following sections will look at what negotiations are taking place on trade with specific developing regions, and how the EU focuses on the way in which it can protect its market on the one hand, while opening markets in the developing countries on the other.

8.3 EU trade policies with different regions

Globalisation presently determines the direction of the major economic powers, including the EU. Policies of export-led growth are promoted on the basis of comparative advantage in production costs. While this liberalisation, in theory, leads to fair competition, the protection of major economic areas by the major powers at present creates uneven playing fields for economic development. This undermines the viability of liberalisation as an economic policy that can help foster social and sustainable development. Liberalisation is here defined as the dismantling of boundaries as barriers to economic activity. Globalisation here, can be termed as the increasingly close international integration of markets for goods, services and capital, which results in a situation which is characterised by the inter-linkage of countries/businesses whereby decisions made in one part of the world have direct and indirect repercussions on economies and communities far removed.¹⁷¹

In the following sections trade arrangements with different regions will be compared. First, the negotiations will be examined between the EU and the grouping of South-east Asian countries in ASEM. This group includes the ASEAN countries, with the exception of Burma and Laos, as well as Japan, China and South Korea. Trade facilitation between the two groups is predominantly geared to non-tariff barriers.

ASEM provides an excellent example of the way in which political processes are developed as a direct response to competition from other economic super-powers. It also shows how globalisation is accompanied by stark contradictions between policies of liberalisation and of protectionism. It is suggested that the mutual political objective of the participants in the two groupings is to impede too rigorous a liberalisation process which is being pushed by the United States through the WTO, while at the same time ensuring that non-WTO members, in particular China and Vietnam are brought into the multilateral system of WTO rules.

Secondly, the negotiation process on an FTA between the EU and South Africa is considered. The imminent outcome of this protracted and arduous process will give a clear indication as to what other developing countries – with considerably less bargaining power – can expect from negotiations on free trade agreements. The negotiations with South Africa are especially important since South Africa is both a member of the Southern African Customs Union (SACU) and of the Southern African Development Community (SADC). This means that, *de facto*, any agreement between the EU and South Africa would directly affect SACU and SADC countries, even though they did not participate in the negotiations – and do not have the same economic capacity as South Africa.

Finally – and not entirely unconnected to the above – the proposal for Regional Economic Partnership Agreements (REPAs) between the EU and the ACP countries is discussed. The REPAs would provide a mechanism for the liberalisation of trade between the different groupings. While their feasibility and sustainability is widely contested, the EU seems determined to move the negotiations in the direction of regional free trade agreements with the ACP.

8.4 Asia-Europe Meeting¹⁷²

The Asia-Europe Meeting (ASEM) is a process held against the background of increased integration of markets worldwide and, therefore, has a clear focus on trade and investment. It encompasses ten East and South-east Asian countries: Japan, China, South Korea, Thailand, Brunei, the Philippines, Malaysia, Indonesia, Vietnam and Singapore and the fifteen individual member states of the European Union as well as the European Commission.¹⁷³

8.4.1 *The evolution of EU – Asian relations*

Economic relations between European countries and Asia have existed since the very early days of global trade. Several EU member states have long standing economic ties with Asia stemming from European colonisation of Asian territories. However, given the fact that external trade is one of the areas that EU member states have largely conceded control over to the European Community, it is the Community's relations with Asia that provide a better picture of present EU trade relations with Asia. The Community has had institutionalised relations with Asia for over twenty years. However there have been developments in the form, pattern and intensity of the relations in recent years.

It is evident that member states' policies have provided a significant contribution to Community policy. The first significant development in economic relations for the Community came in 1973 with the accession of the United Kingdom to the then European Community of six. The UK, wanting to maintain its ties with South Asian countries, influenced the Community to agree to commercial co-operation agreements with the major South Asian countries – India in 1973, Sri Lanka in 1975 and Bangladesh and Pakistan in 1976. In 1980 the Community concluded a multilateral trade and co-operation agreement with ASEAN. This was followed by trade and co-operation agreements with Indonesia (1982), China (1985), Thailand, Singapore, Malaysia and Korea (1986), the Philippines (1987) and Vietnam (1994).

8.4.2 *The EU towards a new Asian strategy*

A more coherent action first came from the EU in the form of a European Commission paper on Asia in July 1994 titled *Towards a New Asia Strategy*.¹⁷⁴ The intentions of the document were to accord Asia a higher priority by strengthening the EU's economic presence in the region, developing political dialogue with Asia, contributing to regional security dialogue as well as maintaining development co-operation as an instrument for poverty alleviation in the region. In its emphasis on economic interests the Asia strategy paper outlines the role of the EU stating:

“The Union's role is to pursue market-opening for both goods and services and to overcome obstacles to European, trade and investment by encouraging a favourable regulatory environment for business in Asia (...). To achieve its aims, the Union needs to adopt more pro-active strategies: emphasising fuller, and increasingly targeted use of economic co-operation to promote European investment.”¹⁷⁵

As the overall objectives of the new Asia strategy, the document outlines the following:

- To strengthen the Union's economic presence in Asia in order to maintain the Union's leading role in the world economy;
- To contribute to stability in Asia by promoting international co-operation and understanding;
- To promote the economic development of the less prosperous countries and regions in Asia;
- To contribute to the development and consolidation of democracy and the rule of law, and respect for human rights and fundamental freedoms in Asia.

8.4.3 *The ASEM initiative*

Following the EU new strategy for Asia, the proposal for a forum between Europe and Asia came from an Asian country: Singapore. In a communication from the Singapore government to the French government in November 1994, a proposal was made for a European Asian forum. In April 1995 the European Commission began negotiating with Singapore and other members of ASEAN on the matter. It is worth noting that it was the ASEAN group which suggested the other non-ASEAN Asian countries as participants in the forum. It is striking that the proposed Asian countries were exactly those that the Malaysian Government had targeted for membership in its earlier proposal for an East Asia Economic Caucus (EAEC). Agreed by both sides, this initiative resulted in the first Asia-Europe Meeting in Bangkok on 1-2 March 1996.¹⁷⁶

8.4.4 *ASEM and the Asia Pacific Economic Co-operation (APEC)*

According to the EU Asia Strategy paper the World Bank estimated that by the year 2000, half the growth in the global economy would come from East and South-east Asia alone.¹⁷⁷ This growth would result in 400 million Asians having average disposable incomes as high or even higher than that of their European or US counterparts. It was this affluence that the EU wanted to tap. Its potential to provide markets for European goods would be enormous.

Asia's economic boom meant that Asian countries were less dependent on the West. The Asian share of world trade had grown from 20% in the 1960s to 40% in 1990. But it was really the growth in intra-Asia trade that led to its decline in dependence on developed countries. This made Asia less susceptible to the introduction of socio-political reforms being used as a conditionality for stronger economic ties. The so-called 'Asian way' was being espoused by Asian leaders over western values. Given the economic success of Asia few felt politically able to challenge this.

It is ironic that the establishment of APEC also played a role in persuading some Asian countries, particularly Malaysia and Singapore, to seek closer relations with Europe. These countries hoped to use the grouping with Europe to bond with other Asian countries as a sort of prelude to the EAEC, that had been proposed by Malaysian Prime Minister Mahathir in 1990. This caucus has been strongly opposed by the US because of its intention to exclude non-Asian powers. It was also believed that closer ties with Europe would allow some Asian countries to counter pressure from the US in its efforts to create a Trans-Pacific free trade area. ASEAN countries saw in Europe a crucial ally for support in holding on to some of their protectionist policies.

This historic background to the establishment of ASEM is reflected in the official communiqués from the Ministry of Foreign Affairs in Thailand, clearly adding a US/Pacific Rim dimension to the Bangkok ASEM Summit:

"The initiative for this Summit grew from the recognised need to strengthen the linkage between Asia and Europe. While the Trans-Pacific linkage appears to be strong through the Asia-Pacific Economic Co-operation (APEC) as well as the Trans-Atlantic linkage through the G7, ties between Asia and Europe have not been developed to its full potential. This historic Meeting should help strengthen this linkage as well as foster closer ties between the three main centres of economic growth namely, Asia, Europe and North America."¹⁷⁸

A Commission Working Document of June 1997 is perhaps more explicit in recognising that Europe was running far behind the United States in terms of its relationship with the booming South-east Asian economies:

“The first ASEM took place at a time when Asians and Europeans had come to realise that the potential synergy and partnership between the two regions had been largely underestimated, in the political and cultural fields as well as the economic sphere. The ASEM initiative also reflected a sentiment that, in today’s multi-polar world, relations between Asia and Europe had lagged behind strengthening Trans-Pacific and Trans-Atlantic links, and an urgent need was felt to rectify this asymmetry.”¹⁷⁹

Thus APEC is essentially part of the picture. Formed in 1989, APEC, like ASEM, is an informal forum, but one which is spear-headed by the United States.¹⁸⁰ APEC’s participating countries are committed to achieving the goal of free and open trade and investment by 2010. Its developing country members have been given an additional 10 year grace period and have to eliminate obstacles to free trade by 2020.¹⁸¹ Quite apart from Europe’s desire to increase its profile in Asia and to avoid missing out to their major economic competitors, Japan and the United States, there is also an Asian interest in a countervailing political and economic forum to APEC. Rocamora put it as follows:

“For the US, the main purpose of APEC is to head off the possibility of an Asian economic formation such as that proposed by Malaysia’s Mahathir, one that would exclude the US. The US would like to develop certain institutional mechanisms, quite likely under American leadership, which can facilitate the resolution of trade and other economic disputes. Not incidentally, a formation that cannot include its European competitors will be useful in the US’ economic race with Europe.”¹⁸²

Indeed official background information on the second ASEM Summit, held in London in 1998 states that:

“The forum, which evolved from an idea by Prime Minister Goh Chok Tong of Singapore, is intended to balance the existing links across the Atlantic and Pacific.”¹⁸³

Both ASEM and APEC have the added advantage in locking in China into a structured, albeit informal, relationship with the EU in the former case and with the USA in the latter.¹⁸⁴ This is significant since both fora have a primary commitment to the World Trade Organisation (WTO) agenda and rules. China is at present only an observer member of the WTO and there is a clear interest by developed and Asian developing countries alike to accelerate China’s full membership. Both fora also involve South Korea and Japan. Thus both ASEM and APEC include two members of the globally dominating economic triad – Europe and Japan in the first instance and Japan and the United States in the latter.

8.4.5 *Association of South-east Asian nations (ASEAN)*

In economic and globalisation terms, the ASEM arrangement clearly has certain advantages over the traditional relationship, which the European Union has with ASEAN.¹⁸⁵ This association, formed in 1967 with five member states, began its relationship with the European Union as early as 1973 through informal relations between the then EEC. The EEC was the first grouping with which ASEAN established links; initiating a Joint Study Group in 1975 and a more formalised relationship in 1977 when the Community became an ASEAN dialogue partner and was invited to attend the first ASEAN Post-Ministerial Conference. The first EC-ASEAN ministerial meeting was held in 1978 and 1980 saw the first generation of EC-ASEAN co-operation agreements.¹⁸⁶

ASEAN, in a joint declaration with the EU, has welcomed the launching of the ASEM process but has reiterated that ASEAN remains a cornerstone of the EU's dialogue with the Asian region. It adds that:

“As the ASEAN-EU relationship enters its third decade, it is timely to launch a new dynamic in this partnership, which will run parallel with ASEAN.”¹⁸⁷

Both ASEAN and the European Community have developed over the period of this relationship: with enlargements in both regions and with the growth of regional free trade within Europe and within ASEAN.¹⁸⁸ On the ASEAN side, in 1992 it agreed to the creation of the ASEAN Free Trade Area (AFTA) designed to promote free trade within the region but not aimed at political or economic integration. The aim, the recent financial crisis notwithstanding, is to complete the AFTA by 2003, with Vietnam, Burma and Laos given additional time to reduce tariffs.

8.4.6 *Participation in the different Asian fora*

It is important to note here that, at its inception, ASEM comprised, on the Asia side, all ASEAN countries plus Japan, South Korea and China. The reality today is slightly more complicated. Not all members of ASEAN participate in ASEM or APEC, the notable exceptions being Burma and Laos, who became members of ASEAN in July 1997. Burma is a particular sticking point since it raises the thorny question of human rights which is regarded as a particularly sensitive issue in the West's dealing with Asia. Cambodia is currently a member of none, although it has been agreed within ASEAN that it will become a member of that organisation but a specific timetable for adherence has yet to be agreed.

APEC also has the advantage of including the 'three Chinas' (China, Hong Kong and Taiwan) and this primarily accounts for a deliberate lack of reference to countries or nations within the APEC context. APEC also includes colleague OECD

nations: Canada, Australia and New Zealand. Recently, together with Peru and Vietnam, it also includes Russia.

TABLE 18 *Participation/membership of the key Asian groupings (1999)*¹⁸⁹

ASEM	APEC	ASEAN
Brunei Darussalam	Brunei Darussalam	Burma
China*	China*	Brunei Darussalam
Indonesia	Hong Kong	Indonesia
Japan	Indonesia	Laos*
South Korea	Japan	Malaysia
Malaysia	Korea	Singapore
Philippines	Malaysia	Thailand
Singapore	Philippines	Philippines
Thailand	Singapore	Vietnam*
Vietnam*	Thailand	
	Taiwan	
	Vietnam*	
European Union	Australia	
15 member states +	Canada	
European Commission	Chile	
	Mexico	
	New Zealand	
	Papua New Guinea	
	Peru	
	Russia	
	United States	

* No WTO membership but observer status (10 February 1999)

Documents for the second ASEM Summit in London in April 1998 outline the current membership of ASEM as shown in the above table and add: “participation may be expanded on both sides in the future.” This carefully worded phrase suggests that membership of the EU or membership of ASEAN does not automatically qualify for membership of ASEM. Certainly the Commission stresses that ASEM is not a bloc-to-bloc arrangement and therefore membership is not automatic.

8.4.7 Objectives of ASEM

In his introduction to ASEM I the Chairman identified the following goal:

“The Meeting recognised the need to strive for a common goal of maintaining and enhancing peace and stability, as well as creating conditions conducive for economic and social development.”¹⁹⁰

The objectives of ASEM, as set out in the Chairman’s Statement of the first ASEM Meeting in Bangkok in March 1996 are: the fostering of political dialogue, the reinforcement of economic co-operation, and the promotion of co-operation in the social and cultural fields.

With regard to reinforcing economic co-operation, the statement clearly emphasises the generation of greater two-way trade and investment flows on the basis of:

“.. the common commitment to market economy, open multilateral trading system, non-discriminatory liberalisation and open regionalism.”

The meeting further agreed:

“.. that the ASEM process should complement and reinforce efforts to strengthen the open and rules-based trading system embodied in the WTO”.

It also stressed the need to:

“.. encourage the business and private sectors, including small and medium sized enterprises of the two regions, to strengthen their co-operation with one another and contribute towards increasing trade and investment between Asia and Europe.”

It was strongly emphasised by the participant countries that ASEM should not involve itself with contentious issues. This has clearly limited the scope for political dialogue. ASEM also avoids duplication with any other fora, and rather complement these, including most importantly the WTO.¹⁹¹

The ASEM process has resulted in the production of two action plans adopted at the 1998 London Summit: the Trade Facilitation Action Plan (TFAP) and the Investment Promotion Action Plan (IPAP). In addition a third meeting of the Asia-Europe Business Forum (AEBF) was held parallel to the London Summit. Further, in response to the financial crisis, the London Summit established an ASEM Trust Fund under the aegis of the World Bank.

8.4.8 The structure of ASEM

The very structure of ASEM indicates both the level of priority it accords to the region and the fundamental agenda, which it is keen to pursue. It is also worth

noting that, despite the rhetoric of the Bangkok summit, there are no meetings of Development Ministers in the ASEM process.

Box 5 – Structure of ASEM

1 ASEM Summit

Meeting of the Heads of Government every two years. The first Summit was held in Bangkok in March 1996, the second in London in April 1998 and the third is scheduled in Seoul in October 2000.

2 Foreign Ministers' Meetings

In addition to preparing the Summits, political dialogue is their principal area. The first meeting was held in Singapore in February 1997 and the second in Berlin, 28-29 March 1999. It is the Foreign Ministers which proposed both the Asia-Europe Co-operation Framework and the ASEM Vision Group.

3 Senior Officials' Meeting (SOM)

The SOM is designed to assist the Foreign Ministers. Meetings have been held in Dublin in December 1996, in Luxembourg in October 1997, in London in February 1998, and in Berlin on 27-28 March 1999.

4 Finance Ministers' Meeting

Two meetings of Finance Ministers have been held – 19 September 1997 in Bangkok and 15-16 January 1999 in Frankfurt.

5 Finance Deputies' Meeting

The Finance Deputies assist the Finance Ministers and have to date held two meetings – in Luxembourg in September 1997 and in London in February 1998.

6 Economic Ministers' Meeting

It is this meeting which is responsible for TFAP and IPAP. Their first meeting was in Makuhari, Japan on 27-28 September 1997, with a second scheduled for Berlin on 9-10 October 1999.

7 Senior Officials Meeting on Trade and Investment (SOMTI)

SOMTI assists the Economic Ministers and particularly with regard to TFAP and IPAP. SOMTI has met in Brussels in July 1996; in Tokyo in June 1997; in Brussels in February 1998; in Singapore on 8-10 February 1999. It is scheduled to meet again in Belgium, on 7-8 July 1999 and on 7-8 October 1999, immediately prior to the Economic Ministers' Meeting.

8.5 The ASEM Trade Facilitation Action Plan

Three particular instruments were developed for the 2nd ASEM Conference in London in 1998. These are the Investment Promotion Action Plan (IPAP), the Trade Facilitation Action Plan (TFAP) and the Asia Europe Business Forum (AEBF). These instruments aim to promote investment and trade between the two regions. The aim of TFAP is to promote trade opportunities between the regions by reducing non-tariff barriers. Non-tariff barriers are, like quotas or tariffs, obstacles to imports. According to Asian civil servants non-tariff barriers represented an estimated 15% of total business costs incurred by both partners.

By focussing on non-tariff barriers alone, the TFAP has a very narrow focus, with non-controversial issues that scarcely influence the core of EU-Asian trade. Important problems impeding trade between the EU and Asia are not dealt with, despite the importance of the political setting in which TFAP is one of the main components. In the next sections some of the more serious problems of EU-Asia trade are addressed.

8.5.1 *The anti-dumping regulation*

The anti-dumping regulation is one of the most contentious aspects of trade between the EU and Asia. It imposes duties on exporters for exporting products to the EU at a price lower than the price in the EU market. There are several problems identified with this measure. Firstly, it can be difficult for exporters to get correct information on the prices in Europe. According to Searles (1997), looking at the application of this instrument in China, in many cases exporters are under pressure from European importers to reduce prices. While lacking knowledge of pricing in Europe, they cut prices to the point where they are accused of dumping.¹⁹²

A second problem is that the exporter is penalised by the payment of duties, which are established as the margin between the price of the goods and the price of the same goods from another country. This procedure is not transparent, – often the reference country cannot be identified and the choice of country makes a large difference to the total amount of duties payable.¹⁹³ The third problem relates specifically to China and Vietnam, which the EU has classified as non-market economies. The EU imposes the penalty on the entire industry if a firm violates the rule, with the argument that the state could otherwise shift the exports to another firm.¹⁹⁴

Given lower wages and the lower cost-of-living in many Asian ASEM countries in relation to Europe, many observers have argued that the anti-dumping regulation unduly penalises Asian countries for their ability to produce goods cheaper than European producers. Asian ASEM countries China, Japan, South Korea,

Thailand and Malaysia are listed among the top ten countries who have fallen foul most of the regulation. China heads the list, as it has been the target 34 times since 1990.¹⁹⁵ Victims of the EU anti-dumping regulation have been characterised as developing countries, in the very general sense, with labour and over-all production costs that are still low and without much experience in building good export and product distribution vis-à-vis developed countries.¹⁹⁶ Even though, in recent years, the EU's application of the measure has been diminished, the regulation is still a real problem for many Asian exporters.

8.5.2 *ASEM and social development*

The Asia financial crisis in 1998 has dramatically demonstrated the vulnerability of the economic growth of the 'Asian tigers'. The European CAP places heavy constraints on Asian investment in agriculture. The Asian dependence on food imports creates food insecurity. The financial crisis has shown the vulnerability of people living in poverty in the Asian countries, which was seriously aggravated by the high prices of imported food. Additionally, the agricultural sector and the processing of raw materials could play a significant role in revitalising the Asian economies because they require fewer imported components and can work with higher profit margins when local currencies have fallen.

TFAP deals with none of these outstanding issues of trade relations between South East Asia and the EU. TFAP's main strength is in sharing information and bringing the two parties closer together through greater understanding of each other's trade regulations. But the main question remains as to why an important grouping like ASEM is satisfied with producing such a limited trade facilitation programme.

The first point to note is that TFAP reiterates many of the issues dealt with in the GATT agreement. The explanation for this is the common interest of both EU and Asian countries in bringing the two non-WTO members, China and Vietnam, into a multilateral framework for trade.

The second point is the focus on non-contentious issues in non-tariff barriers. This strengthens the assumption that the aim of fostering bilateral trade between the EU and ASEM Asian countries is not by further removing tariff-barriers. This can be understood if we assume the hypothesis that the common agenda of the EU and South-east Asia is to protect the domestic markets.

TFAP is not concerned with social development. The considerable disparities in levels of development between Asian countries are not taken into account. TFAP's measures on standards are likely to favour large businesses. There are no measures to create an environment favourable to small and micro-enterprise. Even though the objective of TFAP is to clarify and share information, it does not even attempt

to simplify or provide information on more development-oriented aspects of trade such as the complex GSP, or the unclear rules of the anti-dumping regulation. TFAP is not an instrument that offers any measures to make trade work towards social development.

TFAP is the only trade instrument in the context of ASEM, alongside the business forum. Both of these are geared to promoting the trade of large businesses. ASEM does not provide any action to ensure that trade co-operation will also help the eradication of poverty.

8.6 EU Free Trade Agreement with South Africa

Following the elections in April 1994 and the establishment of a democratic government, the European Council confirmed its commitment to increase co-operation with South Africa. The negotiation between the EU and South Africa on a co-operation agreement has been a major dossier in the EU's Common Foreign and Security Policy. The outcome of trade arrangements with the EU was extremely significant for South Africa. The EU is South Africa's largest trading partner, absorbing more than 40% of the country's exports and 33% of its imports. As for the EU, South Africa only accounts for 1.9% of EU imports and 1.3% of exports.¹⁹⁷

The first Interim Cooperation Agreement between the EU and the Republic of South Africa was signed in October 1994, with the aim of promoting social and economic development and of establishing long-term co-operation. The EU budgetary authority created a budget line to support development actions. This budget line (European Programme for Reconstruction and Development – EPRD) replaced the Special Programme for South Africa that had given support to “the victims of apartheid” through Non-governmental Organisations.¹⁹⁸ It was also agreed that South Africa should participate in the GSP, even though this would effect at most 4.7% of South African exports to the EU and left unaffected the industrial and agricultural exports for which it was seeking improved market access.

In November 1994, South Africa's then Deputy Prime Minister Thabo Mbeki called on the EU Presidency to open negotiations on South Africa's accession to the Lomé Convention and on a special agreement for issues that could not be dealt with in the context of the Lomé Convention. South Africa did not expect to be entitled to many of the trade provisions under the Lomé Convention including the special protocols and the STABEX and SYSMIN instruments. At the same time, South Africa preferred to continue the arrangement of development assistance under the EPRD. While South Africa sought the closest possible association to the

Lomé Convention, the EU negotiating mandate proposed only very limited access. In March 1995 the European Commission proposed that South Africa be given only ‘qualified’ membership in the Lomé Convention and proposed negotiations on another initiative: a Free Trade Agreement.

On June 30 1995 negotiations between the EU and South Africa commenced on a comprehensive trade, co-operation and development agreement. In November 1996 the EU Council adopted a regulation on development co-operation with South Africa which covered the EPRD budget line. The negotiations lead in April 1997 to partial accession to Lomé IV *bis*. It provided in the accession commitment “to the objectives and principles of co-operation” and participation in the institutions of the Convention. South Africa would be eligible to tender for projects financed by the 8th EDF and would be able to take advantage of ‘ad hoc’ arrangements regarding cumulation and rules of origin. However, South Africa would not take part in the trade co-operation, including the co-operation on commodities (STABEX and SYSMIN) and the special protocols on beef, sugar, etc. South Africa would also not make use of financial resources, except for the possibility of finance under Article 255 relating to a sudden influx of refugees into South Africa.¹⁹⁹

In July 1997 it was agreed that negotiations would start on a Free Trade Agreement (FTA).²⁰⁰ It was agreed that the FTA would be:

- fully compatible with WTO rules;
- fully completed by the end of a transition period of 10 years for the EU and 12 years for South Africa;
- respectful of the interests and the sensitive products of both sides;
- beneficial to the whole of Southern Africa.

The Commission’s interpretation of the WTO criteria for establishing an FTA would require that around 90% of all trade would have to be liberalised. The negotiations between the EU and South Africa were based on the principle of asymmetry, which would allow South Africa more time to liberalise a smaller range of products, while the EU would liberalise a wider range of products at a much faster rate. Full liberalisation would be reached over a 12-year period.

8.6.1 *The illusion of free trade*

The use of percentages as indicators of free trade is rather mystifying.²⁰¹ The respective points of departure for the negotiations between the EU and South Africa was the idea that the EU would, in 12 years, liberalise around 90-95% and South Africa 80-85% of all trade. The end result of the negotiations brings the average to 90%.

However, the EU produced, at the beginning of the negotiations, a list of agricultural products to be excluded from negotiations – which South Africa claimed

“excluded about 40% of Southern African agricultural products from free trade”.²⁰² It only covered 4% of EU exports to South Africa.²⁰³ Fixed EU prices, subsidies, custom duties and tariff quotas protect this list of sensitive products. Trade in these products from South Africa to the EU is negligible but, if the European market were opened, it could potentially increase rapidly.

The list was crucial from a domestic European point of view; in order to keep the member states together on one line. France and Germany were particularly worried that the CAP be protected. Other southern member states, such as Spain, were fearful of competition from South Africa for certain agricultural products, such as fruits. Member states were also particularly concerned about the “*erga omnes*” clause of the WTO, meaning that concessions given to one should be given to everyone. This meant that member states wanted assurance that products which are not even currently produced in South Africa would be classified as ‘sensitive’, in the light of agricultural trade with other countries.²⁰⁴

Consequentially, while it was agreed that the FTA should be based on asymmetry in favour of South Africa, the EU proposal worked in the opposite direction. The proposals of the EU would allow the EU to retain protection on approximately 40-50% of South Africa’s current agricultural exports to the EU, while allowing South Africa to retain protection in only around 5% of current EU agricultural exports to South Africa. On agricultural products the EU would eliminate duties (but not subsidies) on an additional 50% of imports from South Africa, while South Africa eliminated duties on an additional 95% of imports from the EU.²⁰⁵ This justified the conclusion that the FTA would be:

“an asymmetrical liberalisation process in the agricultural sector, with South Africa liberalising far more than the EU.”²⁰⁶

The Uruguay Round has not seriously challenged the CAP with the EU’s existing GATT tariff reduction commitments – and there are no signs that the WTO will do so in the near future. South Africa, on the other hand, has been obliged to dismantle many of its protection measures in order to meet its accession commitments as a WTO member. Particularly disadvantageous in this was that it became a WTO member with a ‘developed nations’ status. The result is that the dismantling of tariffs in an FTA between the EU and South Africa is very unequal, and highly profitable for the EU.²⁰⁷

The inequality favouring the EU has already had dramatic consequences. An example is given below.

8.6.2 *Job losses for women canning workers*²⁰⁸

In 1997 the South African government dismantled the General Export Incentive Scheme (GEIS), in line with its WTO obligations. This scheme compensated South African canning workers for the competitive disadvantage of EU import duties of between 10.7% to 23%. The EU canning industry is not only protected by import duties, but also by support schemes which subsidise European producers. This inequality, in which the European fruit canning is subsidised in multiple ways, while the support to the South African canning industry was dismantled, has driven South African products from the European market. The EU is also taking over traditional South African markets in Japan and the US and has a strong competitive edge over South Africa in new markets such as Brazil and Argentina. As a result factories have been closed leading to unemployment in the food canning industry, and job losses in the fruit production sector.

8.6.3 *Impact on the region*

Though in the principles of the negotiations it was agreed that the agreement should be profitable to the region, the countries of the region have not been able to play any formal or direct role in the negotiations. This is particularly surprising in relation to the countries that, with South Africa, form the Southern African Customs Union (SACU), because any decision taken by South Africa on the Agreement impacts directly on the other member countries. Immediately after the election of 1994, South Africa also became a member of the Southern Africa Development Community (SADC). The SADC agreed in the August 1996 Protocol on Trade that a Free Trade Area would be established within a period of eight years from entry into force of the protocol.

The exclusion of the other member countries of SACU, the so-called BNLS – Botswana, Namibia, Lesotho and Swaziland – and of SADC has been worrying for several reasons. First, the only region with which South Africa has a negative balance of trade is with the EU. This trade deficit increases each time South Africa is seeking to increase its rate of growth, since growth increases its imports from the EU. An FTA is unlikely to change this balance, particularly in view of the tremendous dismantling of South African protection measures. The dominance of South Africa in the region appears in its share of total trade of the region: in 1998 it accounted for 62% of total SADC imports and 70% of total SADC exports. South Africa will need to ensure that it keeps a positive balance of trade with other important trade partners, notably BNLS and SADC members. This element will clearly have played a role during the negotiations and South Africa's determination of which concessions it was prepared to make to the EU.

Secondly, the FTA means a direct loss of revenue for the BNLS. It will lose customs revenue, which, to give an indication, for Swaziland is about 50% of the entire government revenue²⁰⁹ or for Namibia it is around 24% of government revenue.²¹⁰ Such losses without proper compensation will create an economic crisis.

The FTA will further require high adjustment costs in the region. Products that enter the South African market freely from the EU can then – without any custom duties, enter the BNLS markets. At the same time the South African market is still well protected against BNLS imports through tariff and non-tariff barriers.

It is also expected that investment will divert to South Africa, because the current comparative advantage of the BNLS countries under the Lomé Convention will erode with the establishment of an FTA. It can be expected that industries will move to more efficient locations in South Africa where higher profits can be made. This problem will also have its effect on the SADC member countries. One example of the regional effects of the unequal removal of barriers is outlined below.

8.6.4 The impact of EU beef dumping in Southern Africa

One of the clearest negative effects of the CAP is caused by the export subsidies given to enable exporters to dispose of surpluses on the lower-prices world market. These products are doubly subsidised – once for producing it against the higher fixed EU price, secondly to export it on the lower world market price. The subsidies do not differentiate between various parts of the product and often the quality of the product is so inferior that their export is profitable for the subsidies alone. This is not only very costly to the European taxpayer; it also gravely undermines domestic markets in developing countries.

A well-documented case describes the problems caused for Namibian producers by the EU dumping of beef to South Africa.²¹¹ In September 1993 South Africa removed import controls on beef. The EU dumped beef during this period. It was undercutting the prices of all other producers on the market, including beef from Argentina.²¹² From 1993 to 1995 the EU beef exports of subsidised low quality beef increased from 6 651 tons to 46 176 tons.

In 1996, the UK – the largest exporter of beef – banned its export to South Africa and the total exports in that year dropped as a result. The prices at which subsidised beef was sold in South Africa were far below local production costs and substantially below any other nation exporting beef to South Africa. It was only in 1997, when the EU reduced its subsidies, that Argentina could begin to compete. However, through its subsidies, the EU had forced itself into a particular section of the market.

The effects of the dumping were not limited to South Africa. It also impacted on members of the Southern Africa Customs Union (SACU), which are net export-

ers of beef. South Africa is an important market for beef from Namibia and Botswana. The sales by the local South African beef producers was reduced by 5.7% but in the northern communal areas of Namibia the marketing rate was reduced by almost 40%. Secondly, prices for locally produced beef in South Africa and Namibia were reduced by approximately 4% in 1994, 5% in 1995 and 6.5% in 1996.

In February 1997 the Meat Producers Association of Namibia appealed to the EU on the basis that the damage for the Southern African beef industry went beyond the benefits to the EU of the beef exports and could not justify the continuation of the scheme. According to Rob Davies, MP and Chairperson of the South African Parliament's Trade and Industry Portfolio Committee, the accumulated loss experienced by Namibia and South Africa was equivalent to the total amount of aid the EU grants to the two countries.²¹³ He pointed out how this

“.. foreshadows the problems that could arise should a free trade area be established between South Africa and the EU.”²¹⁴

In March 1997 the ACP-EU Joint Assembly adopted a resolution on the impact of the beef export subsidies. The Joint Assembly called:

“[f]or the Commission to draw up an annual report on the achievement of coherence between EU development policy objectives and the application of the various policy instruments of the CAP, with particular reference to cases involving appeals from developing countries.”²¹⁵

The EU Council defended the position that beef exports by the EU to South Africa did not constitute dumping. In 1997 export subsidies were reduced by 40%. Meanwhile no report has been prepared on coherence – even though the Council also requested this in its 1998 resolution.

8.6.5 *The Pinheiro-Erwin compromise*

The so-called ‘Pinheiro-Erwin compromise’ between the European Commission and South Africa reached in Davos, Switzerland at the end of January 1999, amply illustrated the internal tension in the EU over the agricultural issue. In February 1999 the compromise was rejected by the EU General Affairs Council. France, Spain, Italy and Portugal believed that the European Commission had gone beyond its negotiating mandate as far as the sensitive agricultural products were concerned, and did not accept the compromise on the use of the names ‘port’ and ‘sherry’.²¹⁶ Indeed some inroads were made by the South African negotiators, especially with regards to the ‘exclusion list’ of products becoming a, less severe, ‘reserve list’. Additionally, a few safeguard clauses were built into the agreement that, South Africa hopes, might give some space for further improvement. These are:

1 Agricultural safeguard clause

With regards to agriculture the agreement provides for consultation and compensatory adjustments for any changes which may affect the balance of concessions. The safeguard clause gives South Africa the right to:

“challenge the EU should there be proof that increased imports of agricultural products are causing harm or threatening to cause harm to the domestic industry.”²¹⁷

2 Regular safeguard clause

This clause provides for measures to be taken in the case of import surges that threaten or cause harm to domestic producers. It is accompanied by a non-reciprocal provision that South Africa can take exceptional measures to protect infant industries or sectors facing serious difficulties caused by increased imports during the transitional period.

3 Safeguard of SACU members

This clause has been included with the intention of protecting the BNLS if increased imports threaten or cause serious deterioration in their economic situation. However, whether the BNLS can proceed on the clause depends on the willingness of South Africa to take it up. One could say that the clause makes the other SACU members hostage to South Africa's political good will.

The lack of generosity of the EU during the four years of these tough negotiations has demonstrated that the EU finds it extremely difficult to make any concessions in the agricultural sector. The statement of Commissioner Pinheiro to the Development Committee of the European Parliament²¹⁸ in defence of the Pinheiro-Erwin compromise graphically illustrates this:

“We have squeezed the orange to the last drop, we can not squeeze it further. We are bullying South Africa. After 12 years the use of the names port and sherry will disappear, so what is the problem? South Africa has produced under these names for more than 100 years. Are we trying to humiliate Mandela?”

After South Africa agreed to some more modifications of the Pinheiro-Erwin compromise and in the light of the internal negotiations on Agenda 2000 at the European Council in Berlin of March 24 and 25, 1999, the Trade and Cooperation Agreement with South Africa was approved. The Council stated that:

“The Agreement is an important further step in the consolidation and strengthening of the solid partnership which exists between the European Union and South Africa in the political, economic and trade fields. The European Council considers this historic Agreement a symbol of the strong links of friendship and solidarity between the peoples of Europe and of Southern Africa.”²¹⁹

Whether Southern Africa as a whole will benefit from this agreement remains to be seen. The agreement between the EU and South Africa will certainly have complex implications for the wider region, and, indeed, for the ACP as a whole. The potential consequences in relation to the trade negotiations in the context of the ACP-EU negotiations will be discussed below.

8.7 Regional Economic Partnership Agreements

The negotiations with South Africa – and the impact on the region have been seen by many observers as a ‘pilot scheme’ for regional Free Trade Agreements that the EU proposed in its negotiating mandate for a new Lomé Convention. These are called Regional Economic Partnership Agreements (REPAS) and would encompass arrangements between the two partners on both trade and aid.

The potential effect of FTA agreements needs to be thoroughly examined, acknowledging the vulnerability of the economies of many of the ACP countries. Within this context one needs to keep a clear focus on the relative interests of the two partners in the negotiations. While the ACP is a minute partner for the EU, with a share of 2.8% in EU exports and 3.4% in EU imports, the EU is a substantial, if not the most important partner, of most ACP countries – partly for historic reasons. The reason for the dramatic reduction in share of African trade in EU imports and exports is the fall in primary goods prices and the competition with other developing countries due to the loosening of colonial economic ties. Between 1960 and 1997 the share of the ACP in EU imports and exports has declined from around 10% to around 3%.²²⁰ This demonstrates that the ACP is a very vulnerable group as far as trade is concerned and policies aimed to improve their results should be examined with the greatest caution.

In order to understand the potential impact of REPAS for ACP economies, one needs to identify their central characteristics. The first observation is the heavy dependency on the agricultural sector. Even though the agricultural sector may have declined in economic importance since the 1960s due to decreasing world prices of primary product exports, the sector still employs between 75-79% of the work force in low-income African countries.²²¹ A number of ACP countries depend on agricultural commodities for 70-100% of their export earnings, and for almost half of the ACP this is more than 50%.²²² The Sub-Saharan region as a whole depends for 50-90% of total merchandise exports and this would be higher if estimates of informal trade are included.²²³ Many of the ACP countries have a limited diversification, and a few depend almost totally on single products. For instance, Burundi, Ethiopia and Uganda depend for more than two thirds of

their total export earnings on coffee alone, while Malawi depends almost entirely on tobacco.²²⁴ In Sub-Saharan Africa the majority of people living in poverty, and particularly women, are involved in the non-formal agricultural sector, for subsistence but also in internal trade, in areas that are vulnerable to external competition.

What have the ACP countries to gain from reciprocal FTAs? If the REPAS would give the ACP countries greater access to the EU market for agricultural products, this would clearly increase their export capacity. However, the negotiations on the EU-SA FTA have demonstrated the unwillingness of the EU to make any meaningful concessions in this area. It is further unlikely, that any fundamental changes to the CAP will begin in the next ten years. It should, therefore, be questioned whether ACP countries are likely to gain any more access to the European market with a REPA than has been achieved under the current Lomé Convention. On the other hand, the REPAS could entail the opening up of ACP countries (of part) of the agricultural sector and/or related industries for EU products. Given the uncertainties in the offer of the EU to negotiate FTAs with the ACP countries, the questions of (1) timing in terms of what will be agreed by whom and when, (2) quid quo pro: what is received in return for what concessions, and (3) capacity to negotiate, implement and monitor agreements become crucial variables determining the outcome of the negotiations.

In order to review the potential impact of the proposed REPAS, the Commission has commissioned a number of impact studies. These studies made a comparison between a scenario without a REPA and a scenario with a REPA, in order to assess the potential economic impact of the liberalisation plans. As these are the only available studies at present looking at the potential impact of EU FTAs with the ACP it is useful to examine their findings. Firstly, the regions in relation to which the studies were implemented are considered. Secondly, a summary of the potential impact of the REPAS is presented. This is followed by a reflection on the possible consequences for ACP LDCs. In the scenario without a REPA the studies assumed that non-reciprocal Lomé preferences would be kept for the LDCs, while non-LDCs "would be transferred to a slightly improved GSP", and commodity protocols would be discontinued.²²⁵

8.7.1 *Regions in the ACP*

The impact studies concentrated on six regions, which were selected by the EU and do not necessarily reflect the wishes of the ACP. The regions are CARICOM (Caribbean Community), EAC (East African Cooperation), the Pacific, SADC, UDEAC-CEMAC (Central Africa), and UEMOA (French West Africa and Ghana). There are problems with the assumptions made by the EU for this regionalisation. Uganda,

for instance, is a member of both SADC and EAC. Ghana would only consider participating in UEMOA if Nigeria were also to join. Seventeen countries were not included in any of these regions (see annex 10).²²⁶

The level of integration among these regions is very different, as is their dependency on the EU for trade. CARICOM was established in 1972 and is one of the most integrated sub-regions of the ACP, working on the establishment of a single Caribbean market and economy. The USA and the countries of Central and South America are the most significant trading partners, while the EU's share of trade is relatively small. Yet, in some sectors, trade with the EU is significant for CARICOM. CARICOM has trade agreements with its neighbours in South and Central America and the USA. Moreover CARICOM participates in the process of establishing a Free Trade Area for the Americas (FTAA).²²⁷

SADC was established in 1980, and has recently adopted a development integration approach. In 1996, SADC members signed a protocol to establish a Free Trade Area eight years after ratification. Only five members have to date ratified it, and the establishment of a FTA is thus unlikely to enter into force before 2008.²²⁸

The EAC is not yet established but in April 1998 the three countries, Uganda, Kenya and Tanzania, laid out their intentions to establish a customs union within five years in the Treaty for the Establishment of an East African Community. The long-term aim of the EAC is to establish a political federation. The Treaty is not yet ratified.²²⁹

The UDEAC was established in 1962, primarily as a customs union. The Treaty to establish a regional economic space, CEMAC, was signed in 1994. It establishes a monetary union, an economic union, a community parliament and a court of justice. At present, quantity restrictions have been removed and a common VAT has been put in place. But there are important limitations, springing from economic disparities in the region. Agreements within the region have a history of non- or partial implementation. The lack of progress in regional integration stems from differences in interests in the region.²³⁰

The UEMOA is unique in having achieved monetary union. The group is establishing a customs union by the year 2000. Despite achievements such as the setting up of a regional institutional framework, obstacles to regional integration persist. These relate principally to the differences in levels of development, divergent interests and the lack of resources to pay for the costs of integration. Ghana, an English-speaking country, surrounded by UEMOA countries, could be associated to UEMOA, and would consider this if Nigeria would do the same.²³¹

In the Pacific there is not a regional organisation resembling the composition of the Pacific ACP countries (PACP) and no secretariat that could carry out trade negotiations. The main problems are the lack of product complementarity, and the

large differences in size, diversification and competitiveness among them. Interest in an FTA with the EU is rather limited.²³²

8.7.2 *The impact of REPAs*

A problem in comparing the EU studies on the REPAs is that they have used different methodologies and assumptions. While some researches are based on the assumption that the alternative to a REPA is that LDCs are accorded a Lomé equivalent special GSP, and the developing countries a normal GSP, others have worked with the hypothesis that the alternative (base) would be the *status quo*. However, in general terms, the following benefits and constraints per region emerge.²³³

For the PACP a REPA is not beneficial. Five out of eight countries are LDCs and the Lomé preferences and protocols would clearly be more beneficial to them. Apart from Fiji, none of the PACP countries would increase their exports to the EU with a REPA. The EU, on the other hand, would increase its market share by 20% in the PACP. EU imports would increase by 17%. Due to the nature of the goods (sophisticated goods, chemicals), the benefits for PACP from lower prices would be marginal. A REPA will not result in a substantial increase in investments if the constraints of PACP, other than the level of import duties, are not addressed. No positive dynamic effects are expected.

Two countries of the EAC are LDCs. The EAC could make some modest gains in exports to the EU with a REPA. There would also be an increase of EU exports to the EAC. Though this could be of benefit to consumers in the EAC, losses incurred in terms of producer costs and lost tariff revenue would outweigh the benefits. In terms of dynamic effects, there could be an increase in investment in both human and physical capital in the EAC, especially in sectors producing exports. There could also be an improvement of institutions such as customs.

Three out of six CEMAC countries are LDCs. A REPA would not result in an increase of exports from the LDCs to the EU, and only slightly so for the other three. Imports from the EU would increase, but also only marginally. In terms of dynamic effects a REPA would perhaps create an impetus for trade reform and innovations.

It is expected that SADC consumers will have problems with the increased competition from the EU, and some industries would be forced to close down. The agricultural sector would be particularly vulnerable. Revenue loss and trade diversion will outweigh consumer gains. Some dynamic effects can be expected such as investor confidence.

For the UEMOA and Ghana, also exports to the EU are unlikely to increase, while the imports from the EU into the region would. Industries involved in import substitution will suffer from competition from EU products. In terms of

dynamic effects liberalisation could favour investment in UEMOA countries and a REPA could reinforce the integration process and reform the trade system in the UEMOA countries.

The exports from the countries of CARICOM and the Dominican Republic are expected to remain largely the same, while exports from the EU to the region will increase. In terms of dynamic effects a REPA would increase business confidence and investment, but only if it was implemented parallel with hemispheric liberalisation.

Additionally revenue losses can create problems in some or all regions. In the case of the EAC, it was calculated that between 12% (Kenya) to 20% (Tanzania) of tax revenues would be lost, which would be a major problem for the governments. The ACP countries could lose tariff revenues of around \$7.5 billion, and adequate external financial aid would be needed to avoid failure of the REPAS.²³⁴

8.7.3 *Isolation of LDCs from the world economy*

For all the regions it can be concluded that exports to the EU will not significantly increase, but that imports to the region will do so. The EU stands to gain. These EU imports to the REPA countries can cause serious competition, particularly in the agricultural sector and in import substitution industries. These negative consequences outweigh the gains of reduced consumer prices. By and large REPAS do not make much economic sense from the point of view of the ACP, most particularly from the LDCs.

On the other hand some of the studies expect that REPAS can have some positive results in terms of dynamic effects, particularly regarding strengthening of the regional integration processes and advancing regional institutions. Other analysts, who point out that regional integration could be undermined by the REPA negotiations, dispute this potential positive effect. These negotiations are complex and would demand much of the capacity of the ACP countries in terms of trade expertise. Moreover the internal integration process, already complex because of vast internal differences between countries within regions, would come under pressure from the differential potential effects of REPAS.²³⁵

Some of the researchers of the studies commissioned by the Commission believe that REPAS may have some dynamic effects in terms of boosting investor confidence and investment. Were more ACP countries to accept a REPA, this issue would become comparatively more important as it would potentially create a group of countries included and a group of countries excluded from Foreign Direct Investment (FDI). Since countries within regions could accept different options, the effect of attracting more FDI could be positive for some countries, but it could, at the same time, further undermine the regionalisation process, as other

countries would not enjoy the benefits of these dynamic effects, because, in overall terms, joining a REPA would not be beneficial to them.

The negotiations on the REPA will inevitably cause tension within and between regions. While the stronger ACP countries should be motor for regional development, the REPAS are in danger of promoting regional tension and impeding regional integration. As more developed regions or countries clearly have more to gain from a REPA than LDCs, there is the fear of further isolating the LDCs and driving them further out of the global economy. What is needed are strategies that support regional integration in the ACP, diminish dependence on primary products and promote diversification. At the same time the trading infrastructure, regional institutions and the macro-economic environment – including the debt stock, must be improved to enhance the economic potential of the ACP LDCs in order to attract investment capital.

8.7.4 *Lomé and the WTO*

A serious misunderstanding exists that REPAS would be WTO compatible, unlike other options. This is clearly wrong. Firstly, there are three articles applicable to the situation of trade preferences for developing countries. These are:

- Creating an FTA or customs union (Article XXIV);
- Special and differential treatment offered to developing countries (the 1979 Enabling Clause);
- A waiver (WTO article IX).²³⁶

None of these are automatically obtained, and, indeed, an argument could be made that approval for REPAS – requiring consensus in the WTO – would be much harder to obtain than either of the other two options.²³⁷ In this context it is important to make the observation that the WTO is a new mechanism and much of the assumptions made about it depend on interpretation and speculation. In that sense, the WTO should be regarded as a political space:

“WTO terms have to be understood to be accessible to alteration if appropriate alliances are created and effective interventions are pursued (...). This is the context and this is the spirit in which the WTO and its role vis-à-vis Lomé and the ACP's interests has to be viewed.”²³⁸

In responding to the concerns raised about the potential negative effects of REPAS, the European Commission has replied that the ACP does not need to worry because the next WTO Millennium Round will be a 'development round'. The Commission states:

“We therefore call for LDCs concerns to be given specific attention in all areas of the new negotiations.”²³⁹

However, this promise, or assumption, should not be used in a cost-benefit analysis of REPAS for the following reasons.

Firstly, while it was recognised that LDCs would be the net-losers of the Uruguay Round, none of the compensatory measures promised to LDCs have been realised. Agreements concerning special and differentiated treatment of developing countries were made but have not been operationalised. The volume of aid promised as compensation for the adverse effects of the Round has since declined instead of increased.

Secondly, ‘endeavour’ is not a safe base for counting gains. This is well illustrated by a comment from a European Commission official in relation to the question as to what happened to the EU promises to provide for compensation to LDCs for losses incurred as a result of the Uruguay Round:

“[T]here were many kinds of agreements made in Uruguay. Some were legally binding, others were ‘best endeavour’ agreements. These are open to interpretation. (...) the EU has fulfilled all its legally binding agreements. The best endeavour agreements are open to interpretation.”²⁴⁰

If best endeavour practices are ‘open to interpretation’, then ‘public promises’ clearly give even less guarantee or assurance.

Thirdly, if a comprehensive round focussing on ‘development’ takes place, agreement in the WTO on EU proposals will depend on whether other industrialised countries will grant at least similar treatment to LDCs. This is by no means certain, and probably highly unlikely.

Finally, while it was multilaterally decided that agriculture should be renegotiated within the WTO in a Millennium Round, no proposals for greater market access to developing countries have been identified in the discussion proposals prepared by the European Commission as an area for negotiation. Moreover, the unlevel playing field is not addressed, whereby the industrialised countries can put in place alternative protectionist measures, such as direct income support and other subsidies, but in which LDCs are not able to do so because of fiscal constraints.

The EU has recently assisted the ACP in setting up an office in Geneva in order to improve their representation in the WTO. This also raises the expectation that the EU will form an alliance with the ACP to improve the rules of the multilateral system in favour of developing countries. However, whether such an alliance will stand in the heat of the negotiations with huge interests involved, should be seriously questioned.

8.8 Conclusions

European trade policies have much greater effect on developing countries than do aid policies. It is, therefore, important that trade policies be coherent with the objectives of EU development policies. Unfortunately, the basic direction in which European trade policies are moving causes significant problems for developing countries, particularly the LDCs.

Fundamentally the problems of EU trade policies stem from the CAP. While the CAP was originally intended to create food security in Europe and to boost production, it has led to surpluses that decrease world food prices. The EU is increasingly seeking opportunities to penetrate markets in the South, and in so doing, it threatens food security in developing countries. Developing countries have little to gain from the one-sided 'liberalisation' because the EU agricultural market remains extremely well protected, particularly through the extensive and costly system of subsidisation.

Despite the objective of liberalising in accordance with WTO regulations, the current changes implemented in the CAP will not make the global market a more level playing field. On the contrary, while the competition between the EU, the USA and Japan will further increase in the next century, it is probable that reforms of the CAP may become even more damaging to domestic food security in the South. It is feared that the current CAP, which is causing grave problems for the majority of producers in developing countries, will be replaced by an agricultural policy with even more detrimental effects on the vulnerable producers and consumers in the South.

In order for the CAP to be coherent with EU policies towards developing countries, it needs to be reformed. However, the reforms proposed in Agenda 2000 do not change the current hazards that the CAP poses to developing countries. The direction of the CAP needs more fundamental change. Measures should be taken to support small and medium sized farms by a) giving support which makes possible earning of a reasonable income with prices that reflect the production costs, b) increase the quality of agricultural products and c) phasing out the policies that create surpluses. This is possible when production is focused on quality products, in an extensive production process. Those farmers that produce the most should cut production more than smaller farmers.

The policy of the EU is to engage in free trade agreements with countries or regions to increase the EU's export possibilities. At the same time, its policy is to ensure that liberalisation does not take place at the expense of its important protection measures in agriculture. This double track, often contradictory, policy is demonstrated in the context of the Union's developing relations with Asia in the

Asia-Europe Meeting. The Trade Facilitation Action Plan focuses only on non-tariff barriers to trade, while the real problems caused by the CAP and EU anti-dumping regulations have not been addressed. Moreover, no efforts have been made to make the ASEM process and the TFAP instrument conducive to social development in the ASEM developing countries.

The negotiations on a Free Trade Area with South Africa have demonstrated the difficulties that liberalisation in the context of free trade areas poses for developing countries. While South Africa already has a negative balance of trade with the EU, this is likely to be exacerbated under the FTA. It is expected that the EU will gain considerable access to the South African market, yet this is not reciprocated with a similar increase for South Africa to the EU market.

The negotiations of an FTA with South Africa have also shown that the impact on the wider region is significant. While the neighbouring countries are in a customs union with South Africa, and the proposed FTA therefore, affects them directly, they have not been party to the negotiations. EU products can enter their markets through South Africa, while their access to the EU market is denied them.

The analysis of studies on the expected effects of Regional Economic Partnership Agreements with the ACP countries shows that LDCs in particular have nothing to gain from the proposed liberalisation. Yet, the LDCs may lose in the process of negotiating REPAS. LDCs are located in regions with non-LDCs. If these countries, under pressure from the EU, were to agree to enter into negotiations on REPAS, it would undermine the regionalisation processes. As in the case of Southern Africa, the EU could gain access to the LDCs, while the LDC's access to the EU market would not be increased. Finally the REPAS would probably reduce investment confidence in those countries that would not participate.

This points to the real contradiction in current EU trade policies. In principle the ACP partners have a choice to enter into a REPA or not. But in reality these choices may not exist. Even without hard evidence of potential economic gains, countries in the South will be inclined to enter into negotiations on liberalisation in order to avoid their isolation from the world market. This will give the EU plenty of access to the South. The developing countries, for their part, will be confronted with fierce competition that will undermine their own productive capacity and threaten food security.

The strategy of the EU to push graduation and to cut options, particularly for the non-LDCs, will bring division within the ACP group. Rather than supporting regional integration, this will weaken it. In order to avoid disintegration the ACP might, therefore, consider negotiating solely at the multilateral level, in a concerted effort with the South as a whole to ameliorate the international trading system to their advantage.

The EU should develop a positive approach, and support ACP countries to build their own economic capacity as well as to strengthen their regional capacity regionally, before entering into complex negotiations. This could very well include a process focussed at the removal of non-tariff trade barriers, much like the ASEM Trade Facilitation Action Plan. The EU could further help to improve ACP capacity to adhere to standards and procedures, including Sanitary and Phyto-Sanitation (SPS). Debt cancellation will also be necessary, to diminish the dependency of HIPC countries on declining tariff revenues and aid as a major source of fiscal resources.

Rather than discussing the possible alternatives to fostering liberalisation policies in the ACP – which are rather limited at this point, the options that the EU has to support the ACP's productive capacity should be considered. Firstly, the EU could make a serious and co-ordinated effort to ensure that the WTO rules are conducive to regional integration of the LDCs and other developing countries so that the waiver for the ACP can be extended for a longer period. Secondly, if the EU is committed to liberalisation, it should begin by putting its own house in order – through a radical reform of the Common Agricultural Policy.