

# **Economic Partnership Agreements, Regional Integration in Sub Saharan Africa and AGOA**

**Olufemi Babarinde\***  
**Gerrit Faber\*\***

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\* Garvin School of International Management email: [femi.babarinde@thunderbird.edu](mailto:femi.babarinde@thunderbird.edu)

\*\* Utrecht School of Economics email: [g.faber@econ.uu.nl](mailto:g.faber@econ.uu.nl)

# **Economic Partnership Agreements, Regional Integration in Sub Saharan Africa and AGOA**

By Olufemi Babarinde and Gerrit Faber

## **1. Introduction**

Since 2002, the negotiations on EPAs are slowly moving forward. At the start of 2007, with only one year to go, progress towards an agreement seemed to have come to a standstill. Then, in the early Spring 2007, with less than one year to go before the lapse of the old-style Lomé preferences, the EU offered the ACP groups full Duty-free and Quota-free (DFQF) access to the EU market (Commission 2007b). This would fully apply from 1 January 2008, as part of signed EPAs. A few weeks earlier, the Commission had made it clear that: 'If we fail to put a new system in place we would have to fall back on the only legal alternative which is the EU's existing Generalised System of Preferences: this is tariff only with less generous access than under Cotonou for many and no economic governance framework.' (Commission 2007a) Thus, the EU puts the ACP before a clear choice: DFQF under EPAs or the GSP. A compromise such as a renewal of the waiver for the Cotonou non-reciprocal preferences is rejected in the same memo.

In the same weeks, the pressure on some African ACP countries to decide on the question in which regional grouping they will participate, has been on the increase. As COMESA is working towards the introduction of a customs union (CU) at 1 January 2008 and SADC has the same plan for 2010, Tanzania and Zambia will have to choose, as an economy can shift the powers on trade policy to a common institution only once. (Tralac newsletter, 3 April 2007) Thus, economic integration and EPA negotiations seem to be moving in a parallel way. The same applies for other configurations in SSA.

The result of this parallel movement will be, if completed successfully, that all or almost all SSA economies will be in CUs in the coming years, while these CUs have concluded Free Trade Areas with the EU. Many relevant questions can be asked.

First, the EU has always maintained that EPAs are an instrument to promote regional integration among ACP countries. Have EPA negotiations produced this result?

Second, CUs among SSA economies will harmonize different kinds of regulatory policies. As the EU will insist on the inclusion of many regulatory areas in the EPAs (competition policy, investment regulation, government procurement) one may assume, that there will be an upgrading of regulatory issues in the direction of the EU levels. EPAs will develop into regulatory unions. How does this relate to the regulatory systems of other trade powers, the US and China?

Third, how are the US policies towards SSA affected by EPAs? There are various effects. One may hypothesize that EPAs will lead to the situation that all economies of the region will be in one CU. Parts of their economic policies will be shifted to common institutions (see first question). This will impact upon AGOA, as this non-reciprocal system works in a bilateral way with individual countries. The conditionality of AGOA is partly economic and partly political. It will be difficult to shift these conditions for AGOA to the level of the CUs, while keeping it on the purely bilateral level is not working any longer.

Fourth, the EU will gradually get preferential access to the markets of the ACP. The US has up to now refrained from concluding FTAs with SSA economies (Lesage and Kerremans 2007). In combination with question three, one may assume that there is a growing incentive for the US to start negotiations for FTAs with SSA economies. Given the existence of EPAs and regional groupings, a US version of EPAs might be expected.

The paper is composed as follows. In the second section we will briefly indicate the background of the EPA negotiations and their projected outcome. We will analyze the link between the coming EPAs and regional integration in section three. The question of how EPAs will impact upon the relationship between selected SSA countries and AGOA will be discussed in section four. In section five we draw conclusions and summarize the main findings.

## 2. The ideas behind EPAs and regional integration in SSA

The benefits of regional integration among SSA economies have been extensively described and analyzed. The creation of bigger and more competitive markets, the improvement of connecting infrastructure, making regulation and meeting regulatory conditions of export markets cheaper by sharing cost, providing an anchor against narrow protectionist pressure groups are among the most mentioned economic benefits. There are important political benefits to be gained as well. In terms of regional political stability, regional integration may serve as a security institution of last instance. In a more peaceful setting, regional integration bodies may be more effective in international negotiations than small poor nations are.

Table 1

Intra-trade of regional integration organizations in Sub Saharan Africa, 1980 to 2004, in million US dollars.

Trade group	1980	1990	1995	2000	2003	2004
COMESA	555	889	1025	1266	1978	2619
ECOWAS	661	1532	1875	2715	2972	3910
UEMOA	460	621	560	741	1043	1370
SADC	108	1058	4124	4280	4967	6007
CEMAC	75	139	120	101	157	206

Source: UNCTAD (2005) Handbook of Statistics 2005, New York and Geneva: UNCTAD

Table 2

Intra-trade of regional integration organizations in Sub Saharan Africa, 1980 to 2004, as a percentage of total trade

Trade group	1980	1990	1995	2000	2003	2004
COMESA	5.7	6.3	6.0	4.9	6.2	6.3
ECOWAS	9.6	8.0	9.0	7.6	8.3	8.2
UEMOA	9.6	13.0	10.3	13.1	13.0	14.2
SADC	0.4	3.1	10.6	9.3	9.1	8.8
CEMAC	1.6	2.3	2.1	1.0	1.4	1.3

Source: UNCTAD (2005) Handbook of Statistics 2005, New York and Geneva: UNCTAD

This paper mainly analyses economic integration in SSA, although we are aware of the fact that political stability is often a crucial condition for successful integration.

Economic integration in Africa has a long history. Some integration bodies have their origins in the early 20<sup>th</sup> century (SACU), while most of them started in 1960s. Although most of these organizations have been equipped with working governing bodies and secretariats, 'regional integration has been broadly perceived as having produced few concrete results – despite considerable rhetoric and protracted efforts by governments, institutions and other players.' (Economic Commission for Africa 2004: 30) this is visible from the low levels of intra-trade among the member states of different integration bodies. Although there has been an increase in the absolute levels of trade among these members (table 1), this growth was generally more or less equal to their trade to all destinations (table 2).

The main reasons for these disappointing results are, first, a lack of political commitment to implement the agreed measures to liberalize intra-trade, harmonize economic policies and provide the common institutions with sufficient financial resources. The second reason is the extensive overlapping membership that produces a waste of scarce human and financial resources, besides being a symptom of lacking political commitment as well. (Martin, 1992, Faber 2005). And third, domestic institutions do not have the capacity to give sufficient technical and analytical support and to provide information to a wider public on the benefits of integration. (Economic Commission for Africa 2004)

The Cotonou Agreement has the objective to promote regional integration among the ACP group. developing countries. Art. 20 stipulates that 'ACP-EC cooperation strategies shall aim at (...) achieving rapid and sustained job-creating economic growth, developing the private sector, increasing employment, improving access to productive economic activities and resource, and fostering regional cooperation and integration. The objective of regional integration has an important implication on the cooperation measures in general and on the economic and trade cooperation in particular. The latter 'shall build on regional integration initiatives of ACP States, bearing in mind that regional integration is a key instrument for the integration of ACP countries into the world economy', according to article 35. The preparatory period for EPAs (2000-2008) should be used for reinforcing the regional integration among ACP countries, by capacity-building in the public and private sectors, for strengthening of regional organisations and for support to regional trade integration initiatives, 'where appropriate with assistance to budgetary adjustment and fiscal reform, as well as for infrastructure upgrading and development, and for investment promotion'(art. 37).

It is clear from the Cotonou Agreement that fostering regional integration is an important challenge for the transition period up to 2008 and beyond. What would be the most logic construction of an EPA? These reciprocal trade agreements are concluded by a group of ACP countries at the one hand, and the EU at the other hand. The EU has a unified position in the negotiations and in the trade policy measures it wants to incorporate in the EPA. The ACP group has two options: concluding an EPA that includes a single market access arrangement to the EU market and a separate arrangement for EU access to every member of the ACP regional group. The second option would be a common position by the regional ACP group, thus in fact operating as a CU. The first option has a number of disadvantages: first, it does not promote regional integration in the ACP group as it requires border controls in the intra-trade of the group to enforce the special arrangements each member has with the under the EPA. Second, the ACP members will weaken their negotiating positions by trying to get 'concessions' from the EU on an individual basis. Thus, the EPA negotiating process itself has in built incentives to create CUs in ACP regional groups. The next section will try to find out whether this has indeed happened in SSA.

### 3. The EPA negotiating process and regional integration in SSA

#### 3.1 West Africa

In West Africa, the Economic Community of West African States (ECOWAS) is the negotiating partner of the EU. ECOWAS was established in 1975, with the objective of creating a full economic and monetary union in order to become more self-reliant. In a report on the occasion of the 25<sup>th</sup> anniversary of the Community, the secretariat remarks that progress has been made in a number of areas (including the movement of persons and the construction of interstate roads). However, 'it is in the area of the integration of markets that the efforts of the Community have been frustrating. In fact, the trade liberalisation scheme is not yet operational as shown by the low level of the intraregional trade, which is only 11% as compared to trade with third countries. Besides, the common ECOWAS external tariff has still not seen the light of day and the economic and financial policies have not been harmonised although a framework has been established for this.' (Commission of ECOWAS 2000) Common customs documents and tariff reductions were not introduced by many member states, although it had been agreed to have abolished all internal tariff barriers at the end of 1999, in order to create an FTA. In a next phase of two years, a CET would be put in place.

The market integration in ECOWAS builds on the more progressed integration among a subset of its members that constitute the West African Economic and Monetary Union (UEMOA). These eight French-speaking African states share a common currency (the CFA franc that has a fixed exchange rate with the Euro and is supported by the French treasury), have introduced a CET and a larger degree of internal free trade than ECOWAS. (Agritrade august 2006) Although the implementation of the CET is not yet completed, UEMOA is clearly on the road to the implementation of a CU. The objective to create a CU in ECOWAS was given an impulse by the Heads of State of ECOWAS in January 2006 to introduce a CET based on the UEMO CET (put in place in 2000 in the Union). The CET has to be in function from 1 January 2008 onwards, the date on which an EPA will have to replace the former preferential regime.<sup>1</sup> Until that date, member states may derogate from the CET for particular ('list A') products. Member states are also in a position to create exceptions that stretch beyond the transitional period for a change of tariff band for particular products ('list B'). The CET as decided in 2006 has four tariff bands. A zero band for 'essential products of a social nature'; a 5 per cent band for 'essential products such as basic raw materials, capital goods and specific inputs'; a 10 per cent band for other inputs and intermediate products and a 20 per cent band for finished consumer goods. It has been reported that Nigeria would like to create a new tariff band of 50 per cent for sensitive products. (Agritrade August 2006) The internal trade liberalization in ECOWAS started as early as 1981 for unprocessed goods and handicrafts. Before 2000, tariffs on industrial products should have been broken down. This was not realized. Only recently the process was revitalized. EUMOA members have made much more progress in internal trade liberalization. The creation of a FTA was realized. (ECA 2004)

On the basis of this review of economic integration in West Africa we draw the conclusion that there is progress in the integration process. The progress that UEMOA made is spilling

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<sup>1</sup> According to the roadmap agreed in August 2004 between the delegation of West Africa and the EU on the negotiating process, this decision should have been taken one year earlier.

over to the other ECOWAS members as far as the establishment of a CU is concerned.<sup>2</sup> At the same time, the integration process is vulnerable. The position of Mauritania is not clear: as member of the Arab Maghreb Union (UMA) it might run into problems as member of the West Africa EU EPA. The transition period to the CET shows that some member states want substantial exceptions for their sensitive products, which undermines the idea of a CET.

Have EPA negotiations promoted regional integration in West Africa? The timing of the progress does not contradict a positive answer to this question: at the end of the 20<sup>th</sup> century, ECOWAS integration was stagnating or backsliding; in 2006/07 progress has clearly been made towards a CU in West Africa. The EU-West Africa roadmap adopted in August 2004 recorded the agreement to move towards a CU and led to the decision of ECOWAS members to adopt a CET and to take other measures in the area of reducing trade costs between the members.

### *3.2 Central Africa*

The Central African Economic and Monetary Union (CEMAC) is the partner for the EU to establish a Central African-EU EPA. CEMAC was established in 1994 as the successor to the Union Douanière et Économique de l'Afrique Centrale (UDEAC). CEMAC came into force in 1999 with the objective to overcome the shortcomings of the UDEAC, viz. the arrears in the payments of contribution by the member states to finance the common institutions and its activities and the non-implementation of decisions. One of the objectives of the new Union is to create a Common Market. During the first five years, the institutions of the union have been reinforced; an FTA is officially working since 2000 and the CET (formally introduced in 1993) has been reformed in 2001 and 2002 leading to a CU. The CET counts four tariff bands: a 5 per cent band for 'essential goods'; equipment and raw materials fall into a 10 per cent band; intermediate goods are levied in the 20 per cent band while general consumer goods face a 30 tariff. (Economic Commission for Africa 2004) Despite this progress, there are risks of stagnation, or even backsliding. In the Technical Negotiating Group on Customs Procedures, EPA negotiators of the EU and the CEMAC discuss regional integration as far as customs are concerned. In March 2005, CEMAC brought forward some of the problems it has in the application of its CET, 'especially in relation to the many derogations permitted' (Trade Negotiations Insights 2005:6). One year earlier, the Council of Ministers of CEMAC had presented a mixed evaluation of the realization of the objectives over the first five years. In a report on the matter, the CEMAC Executive Secretariat wrote: 'The infringements on the application of the customs laws and regulations, the tariff and non-tariff barriers to internal trade, the insufficient observation of the rules of origin and of the common decisions with respect to competition constitute dangerous deviations that could, all things considered, drag the whole edifice under construction to its breakdown.' (cited in ECDPM and Performances 2006: 21, translation by the authors) In 2006, the Council of Ministers decided to start a reform process in order to reinforce the integration process. A year later, the Council decided to introduce free movement of goods and services by 2009. Gabon and Equatorial Guinea asked more time for this.

The integration process in CEMAC has produced a CU that looks strong on paper, but has shortcomings in its implementation. The countries are united in a Monetary Union that dates back to colonial times. It could be argued that the monetary integration provides a basis for the other aspects of integration. However, it has turned out to be insufficient to guarantee a smooth phase in of a CU that is crucial for an effective EPA. The opposite may even be more to the point: monetary integration might make a CU more difficult to realize as exchange rate

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<sup>2</sup> In the area of monetary integration it less clear whether the UEMOA example will be repeated in the rest of ECOWAS.

changes are not available to cushion the restructuring of domestic economies after the introduction of trade liberalization. We conclude that without the EPA negotiating process the sense of urgency to reinforce CEMAC probably would have been less. Having said that, it is clear that a well-functioning EPA will require a stronger CEMAC than it is today.

### *3.3 East and South Africa*

The EPA partner in East and South Africa is the Common Market for Eastern and Southern Africa (COMESA). This CM is the successor to the Preferential Trade Area for Eastern and Southern Africa that was established in 1981 in the period when African continental integration was considered the long-term goal of the regional integration efforts. The central aim of COMESA is to facilitate its member states to attain 'collective and sustained development'. This is to be realized by first creating an FTA for goods and services. A CU, CM and finally a Monetary Union were planned for the future. COMESA has 19 member states.<sup>3</sup> Not all member states participate in the EPA negotiations with the EU. Egypt and Libya do not belong to the ACP group and Egypt has its own reciprocal free trade agreement with the EU. Angola and Swaziland are in the SADC negotiating group (see next subsection) while the Democratic Republic of Congo is participating in the CEMAC group.

The COMESA FTA should have been realized in 2000 according to the time schedule. For nine member states this was indeed the case (Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia and Zimbabwe). Burundi and Rwanda joined in 2004. Comoros, Eritrea and Uganda have reduced their tariffs on intra-COMESA trade by 80 per cent at the time of writing. Angola, the Democratic Republic of Congo (both zero reduction) and Ethiopia (10 per cent reduction) are *de facto* not in the FTA.<sup>4</sup> COMESA will move towards a CU by introducing a CET in 2008 (although this had been planned for 2004 at an earlier stage). The CET planned for 2004 consists of four bands: zero for capital goods, 5 per cent on raw materials, 15 per cent on intermediate goods and 30 per cent on final goods. (ECA 2004) In 2005, COMESA reported that negotiations were taking place on a convergence plan to move the common tariffs and the identification of sensitive products and exemptions.

It is generally acknowledged that COMESA is the integration body in SSA that has made most progress. (ECDPM 2006) There is a strong core of members that applies the FTA. However, the formulation and introduction of the CET is a difficult process. The introduction has been postponed now to 2008. COMESA has built a negotiating structure that is preparing common positions for external negotiations relatively effectively. One of the problems that COMESA members have to solve is the overlapping membership. Kenya and Uganda are also members of the East African Community (EAC, of which Tanzania is the third member). The EAC plans to introduce a CU with a CET in the same time frame as COMESA. Egypt and Libya are in the planned EU-Mediterranean FTA that will merge the separate agreements between the EU and Mediterranean countries. This overlapping membership complicates the introduction of a CU and a CM by COMESA, as a country can be a member of only one CU. As progress is made towards a CU in COMESA, and EPA negotiations between the EU and COMESA have agreed to complete the negotiations by the end of 2007, pressure to opt for one integration body is increasing on the double membership countries. Given the positions of

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<sup>3</sup> COMESA has seen its membership change over time. Tanzania stepped out at the end on the 90s while Angola and Namibia left the CM rather recently (checken). The club was joined by Egypt and Libya in

<sup>4</sup> Swaziland has a derogation pending the concurrence of the SACU; Libya is not mentioned in the report on the state of affairs of the FTA in COMESA. Although Angola is mentioned in the FTA report, it is not in the official list of member countries (see, e.g. COMESA 2006).

Kenya and Uganda in the ESA negotiations and the size of the COMESA compared to the EAC, it may be expected that these countries opt for COMESA. This will merge EAC with COMESA and force Tanzania to choose between SADC and COMESA. Our conclusion is, that the EPA process has supported the process of integration in COMESA; the most visible aspect of this is the pressure to end the overlapping memberships.

### 3.4 Southern African Development Community

ACP countries in Southern Africa are negotiating with the EU in a group that consists of a part of the membership of the Southern African Development Community (SADC). This Community is the successor to the Southern Africa Development Coordination Conference (SADCC). The SADC members decided to start economic integration among themselves by adopting the SADC Trade Protocol in 1996 that became operational in 2000. According to this agreement, an FTA should be in place in 2008. It has been proposed to expand the FTA into a CU by 2010 and a CM by 2015. Botswana, Lesotho, Namibia, South Africa and Swaziland are highly integrated in the Southern African Customs Union (SACU). There are no tariffs on intra-SACU trade and the CET is South Africa's external tariff. South Africa concluded a free trade agreement with the EU in 2000. The rest of SACU was drawn into this FTA without much discussion. If SADC will indeed establish a CU, a harmonisation towards the SACU will have to be introduced. The other members in the SADC negotiating group are Mozambique, Angola and Tanzania. South Africa had observer status in the EPA negotiations; the country became one of the negotiating countries in 2006.<sup>5</sup>

The SADC Trade Protocol applies for the trade between all SADC members except Angola and the Democratic Republic of Congo. Outside SACU, the level of trade integration is limited, as several members have not lived up to the tariff reduction schedules. Some very important products have been excluded from liberalisation, bringing the volume of goods that are excluded from the FTA at more than the agreed 15 per cent. (ECDPM 2006b). Non-SACU members offer more favourable access to imports from Botswana, Lesotho, Namibia and Swaziland than to imports from South Africa. South Africa will abolish all tariffs on intra-SADC trade in 1012.

The relationship between the EPA negotiations and the SADC integration process is rather complex, for several reasons. First, the SADC negotiating group for an EPA does not coincide with the members of the SADC Trade Protocol. Second, the members of the SADC Trade Protocol have different relations with the EU: SACU members are in a *de facto* FTA with the EU already; least developed members have the (non-reciprocal) option of Everything but Arms while some others are negotiating on an EPA in the ESA group (Malawi, Madagascar, Mauritius, Zambia, Zimbabwe) or in the CEMAC group (Democratic Republic of Congo). Third, the integration in the SADC area is far away from a CU, given the problems to complete the SADC FTA. Still, the EU favours the introduction of a CU before the EPA is signed. (ECDPM 2006c) This touches upon the common positions that the negotiating group will have to formulate. Up to now, the proposals by the SADC group were defensive: EBA access in the EU, and continuation of the *status quo* as far as market access for the EU in the SADC is concerned. This position does not imply continued integration among the SADC. The EU offer of EBA access in all EPAs has taken away only part of the complications, as the offer does not apply for South Africa. Perhaps most important, this offer has increased the stakes for the negotiating countries (except of course for South Africa) to arrive at an EPA. It

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<sup>5</sup> This leaves the following members of SADC in other EPA groups: Democratic Republic of Congo (CEMAC), Madagascar (ESA, SADC membership pending), Seychelles (ESA), Zambia (ESA) and Zimbabwe (ESA).



is probable that the EU will only accept an EPA that is reciprocal, for reasons of WTO compatibility. This will force the SADC negotiating group to come up with proposals that are based on common positions with respect to, e.g., the timing of preferential tariff reductions on EU products and the list of goods to be excluded from tariff reductions. The risk that each SADC member drafts its own list of sensitive products, implying the continuation of internal border controls in SADC to the detriment of integration (Stevens 2006), would be reduced. This mirrors the difficulties that the SADC Trade Protocol encounters in creating its internal FTA: the exclusions from free circulation that many member states have made for different products. In this way, EPA negotiations have been a catalyst for the progress of regional integration in the Southern Africa, although it is not certain whether the impact is sufficient to overcome the counter forces for integration. A second effect will be, that overlapping membership will become impossible. In the end, when ESA (COMESA) and CEMAC have become functioning CUs, SADC members will have to put their eggs in one basket. This will reduce one of the major barriers for SSA economic integration.

### *3.5 Conclusion*

This section has given an overview of the regional integration in SSA and tried to answer the question whether the EPA negotiations have stimulated the regional integration on the continent. For ECOWAS, we noted that the timing of progress ran parallel with the EPA negotiations. The EU-West Africa roadmap adopted in August 2004 recorded the agreement to move towards a CU and led to the decision of ECOWAS members to adopt a CET and to take other measures in the area of reducing trade costs between the members. In the case of CEMAC, without the EPA negotiating process the sense of urgency to reinforce CEMAC probably would have been less. COMESA has been making progress in economic integration in the last ten years. The EPA process has supported the process of integration in COMESA; the most visible aspect of this is the pressure to end the overlapping memberships. The SADC negotiating group has started its regional integration process rather recently (in 2000), although a subset is in the world's oldest CU (SACU). Regional free trade is still hampered by many exemptions. EPA negotiations have stalled for long periods. The EPA process has increased the stakes for the participating SSA countries to formulate a strategy for a working FTA and to abolish overlapping memberships.

The EPA negotiating process has given stimuli for regional integration in SSA. This does not mean that, once an EPA is in place, all SSA countries will be in well-functioning regional CUs. The different integration bodies are in different stages of working towards a CU. In COMESA the prospect of a CU has been embedded in the policy making of the member states. For SADC, there is a rather long way to go.

However, a parallel force has been at work in Africa for some time now, arguably even before the Cotonou Agreement entered to force in 2000, purposely to encourage further regional integration across Africa. First, in mid-1991, members of the defunct Organization of African Unity (OAU) signed a treaty in Abuja, Nigeria, pointedly to facilitate regional integration on the continent and achieve an African Economic Community (AEC) by 2031.<sup>6</sup> A key component of the strategy was to pursue regional integration via sub-continental regional integration schemes, and to do so over a 34-40-year period. This effort was subsequently followed a little over a decade later by the inauguration of the African Union (AU), the successor to the OAU, to promote continental integration by strengthening regional

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<sup>6</sup> [http://www.iss.co.za/AF/RegOrg/unity\\_to\\_union/pdfs/oau/treaties/AEC\\_Treaty\\_1991.pdf](http://www.iss.co.za/AF/RegOrg/unity_to_union/pdfs/oau/treaties/AEC_Treaty_1991.pdf)

integration at the sub-continental level. To that end, the mid-2002 Constitutive Act of the AU called on member countries to participate in sub-continental regional integration groupings. The Constitutive Act further encouraged the strengthening of sub-continental regional integration arrangements where they already existed, and that they should be created if otherwise.<sup>7</sup> In a sense, therefore, efforts by African leaders to strengthen regional integration across the African continent, nicely complements the strategy of the European Commission via the EPAs.

#### **4. SSA regional integration and AGOA**

In this section, we will discuss the broad implications of what successful conclusions of EPAs and the advancement of regional integration (RI) by SSA's sub-continental groups mean for the US and its AGOA initiative in SSA. In doing so, we will first provide an overview/background on the AGOA scheme as it appertains to promoting the development of SSA. We will then provide our analysis of what EPAs and RIs forebode for the AGOA initiative in the sub-continent.

##### *4.1 AGOA*

The AGOA was signed into law on 18 May 2000 by former US President Bill Clinton. In August 2002, the bill was re-enacted and signed into law by President George W. Bush as AGOA II, as it is widely known. *Inter alia*, the scheme provides duty and quota free access to over 1800 products, or to virtually all products from qualified SSA countries.

In order for a SSA country to participate in AGOA, the country must first be certified by the US government according to the following criteria: market-based economy; protection of private property; limited government interference; political pluralism; rule of law; rules of the global trading order; poverty reduction policies; corruption-fighting programs; and the protection of minimum (child) labor standards. Moreover, the US will not certify any SSA country whose actions violate human rights, support global terrorism, or undermine US national security.

Since its inception, various SSA countries have been certified, de-certified, and re-certified for AGOA annually on the bases of the aforementioned criteria. According to a recent report by the Office of the United States Trade Representative (USTR), AGOA has bolstered trade and investment between the US and SSA. More specifically<sup>8</sup>, US imports from SSA, under AGOA, increased by 55% to over \$14 billion during the first year of AGOA, and US direct investment in SSA increased modestly by 12% to almost \$9 billion between 2002 and 2003. In Lesotho, for instance, and consequent to the AGOA, roughly 25,000 jobs were created, 13 new factories were inaugurated, and over \$170 million were mobilized for the construction of special fabric mills. Additionally, exports from Lesotho to the US increased by 50 per cent in value from \$197 million to \$297 million between 2001 and 2002.<sup>9</sup>

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<sup>7</sup> [http://www.iss.co.za/AF/RegOrg/unity\\_to\\_union/pdfs/oau/treaties/Constit\\_Act\\_of\\_AU\\_2000.pdf](http://www.iss.co.za/AF/RegOrg/unity_to_union/pdfs/oau/treaties/Constit_Act_of_AU_2000.pdf),

<sup>8</sup> "2004 Comprehensive Report on US Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act" (USTR, May 2004)

<sup>9</sup> [www.lndc.org.ls](http://www.lndc.org.ls)

### *4.3 Impact on AGOA*

To recapitulate, EPAs are partnership agreements between the EU on the one hand, and sub-sets of ACP countries on the other, and must be in place by the beginning of 2008. The intent is to help the ACP countries develop their supply capacity via RI schemes (by pooling their scarce resources) at the sub-group level, in the hopes of facilitating the integrations of the ACP economies into the global economy. Likewise, the AGOA is a bilateral preferential access initiative that the US government has extended to qualified SSA countries (according to US terms and conditions), in the hopes of using the twin engines of trade and investment to stimulate the development of SSA. If, as reported by some studies (e.g., Babarinde and Faber, in Faber and Orbie, 2007) and as discussed above, the AGOA scheme is paying dividends for participating SSA countries, and given that ACP countries are intensifying their RI, as encouraged in the Cotonou Agreement, and as also encouraged by the Consultative Act of the African Union treaty, how then will US's development initiative in SSA—the AGOA—be affected by the imminent launch of the EU's EPAs?

On the one hand, the eligibility conditionalities/criteria of AGOA bodes well for SSA, because they demand of SSA countries to either establish or be making progress toward establishing a market-oriented economy, a rule-of-law-based society, a pluralist polity, and good governance. As long as individual SSA countries qualify for the AGOA, it is safe to conclude that they must be heading in the right direction, and other things being equal, their exports and inward FDI must be attractive. From this point of view, AGOA ultimately complements the aspirations of the EPAs and the RI schemes. Put differently, the development goals of the EU's EPAs/RIs are coterminous with those of the US and the AGOA.

On the other hand, however, if the EPAs and the AU/AEC are successful at intensifying RI in SSA among its constituent members in the manner of establishing CUs, CMs, and even EMUs, the carrot and stick underpinning of the AGOA may be in jeopardy and become untenable. The reason is simply because AGOA has a bilateral logic to it, while RI schemes like a CU, a CM, or an EMU imply the increasing coordination of economic policy and possibly the adoption of common policies (e.g., a CET) at the sub-continental/supra-national level. To the extent that the AGOA is designed to foster the development of SSA via exports and inward FDI, and if the AU/AEC are already expanding the economic space at the sub-continental level, then the pressure will mount on the US government to either discontinue the AGOA scheme, or recast it, such that it now deals with (i.e., certifies, de-certifies, or re-certifies) RI groups, rather than individual SSA country. While the former option seems rather harsh, it may be the better of the two, especially given the practical implications/difficulties of the latter. Specifically, how would the US government use its litany of criteria to certify, de-certify, or re-certify a group of countries, no matter how small the size? This will amount to a daunting challenge, particularly if, say, only one/few of its members veritably merit/warrant (de)certification. The prospect of withdrawing AGOA preferences from a group of CU or CM countries may not be quite appealing under any circumstance. It could also be counterproductive for US business/investment interests. Besides, group (de)certification is beyond the mandate of the statute that created AGOA, and congressional action may be required to amend the statute, which is unlikely under the current political climate in Washington, DC, and during the waning years of a sitting duck President.

In any event, the pressure on the US government will likely mount to transform the AGOA. Perhaps a third plausible option is for the US to float its own FTA initiative with SSA by negotiating with SSA's sub-groups. The agreements will be compatible with the WTO rules, and they are likely to result in a win-win situation for the US government, which has always

been the cornerstone of its development strategy in SSA. Besides, this idea is not without precedence, because in 2003, the US government commenced talks with the SACU about a FTA. Talks are presently suspended indefinitely.

## **5. Concluding remarks**

The Cotonou Agreement announced the transition to a new trade arrangement between the ACP group and the EU. Reciprocal FTAs (labelled Economic Partnership Agreements or EPAs) with subgroups of ACP economies are the preferred option of the Agreement. Promotion of regional integration is a clear objective of the Cotonou Agreement. EPAs are to be built on these regional FTAs and CUs. This paper first answers the question whether regional integration has progressed under the influence of the EPA negotiating process. We find that the EPA negotiating process has indeed given stimuli for regional integration in SSA. Most visible aspects are the progress towards common external tariffs and the unavoidable ending of overlapping memberships. At the same time we noted that the integration process in SSA is vulnerable for internal and external shocks. EPAs could best be built on regional CUs. The different integration bodies are in different stages of working towards a CU. The regional integration effort is also supported by continental integration plans, embodied in the African Union.

The second question that the paper addresses is how the SSA/US relationships under the African Growth and Opportunity Act (AGOA) will evolve, under the assumption that regional integration in SSA is successful. Although AGOA ultimately complements the aspirations of the EPAs and the regional integration schemes, in that both work through liberalisation of markets, tensions will arise. The reason is, that AGOA has a strong bilateral flavour in its conditionality and preferential treatment while the regional integration systems imply the increasing coordination of economic policy and possibly the adoption of common policies (e.g., a CET) at the sub-continental/supra-national level. The US government will be under rising pressure to either discontinue the AGOA scheme, or recast it, such that it would deal with CUs instead of individual countries. As it is impracticable and counterproductive to withdraw AGOA preferences from a CU if one or a few members do not satisfy the AGOA conditionality, the US might consider to float its own FTA initiative with SSA sub-groups. These groups will be the CUs that already have an EPA with the EU. This result of the EPA introduction will not only lower trade diversion effects of the regional CUs and the EPAs, it will also constitute an unexpected strong realization of the objective of regional integration among ACP countries as formulated in the Cotonou Agreement.

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