ACP Tariff Policy Space in EPAs:

The possibilities for ACP countries to exempt products from liberalisation commitments under asymmetric EPAs

Final Report

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1. Executive Summary

The question asked … and the answer

This report asks one very specific question in relation to Economic Partnership Agreements (EPAs) that fulfil the stated European Union (EU) interpretation of the World Trade Organization's (WTO's) requirements for free trade areas (under Article XXIV). It is whether African, Caribbean and Pacific (ACP) states could retain policy space in relation to imports on which they currently levy high tariffs. In other words, is it inherent in EPAs that they require all high tariffs to be removed, or is this an area open to negotiation?

The answer to this question is clear:

1. if EPAs comprise a set of separate national liberalisation schedules and 'substantially all' trade is calculated on a bilateral basis it is possible for almost all the ACP states for which data are available to shield from liberalisation all the agricultural goods that they currently protect with significant tariffs; many can also shield all high-tariff non-agricultural goods as well and any liberalisation that does occur can be deferred for well over a decade;

2. if EPAs comprise a region-wide liberalisation schedule major compromises will need to be made by countries which currently have very dissimilar tariff policies, and until these are made it is impossible to determine whether or not policy space would be constrained;

3. taking points 1 and 2 together, the most 'inherently problematic' aspect of EPAs appears to be the task of creating a single liberalisation schedule for all ACP members:

    a. 'regional lists' of items to be excluded from liberalisation that simply aggregate national lists produce a misleading impression of what is required to protect sensitive areas of production; but

    b. time is very short to negotiate the intra-ACP consensus needed to produce a genuine, developmentally appropriate single list; and

    c. separate lists for each member will store up problems for subsequent regional integration.

Other relevant questions

The question addressed is a straightforward one – which is why it can be given a definitive answer. But the debate over EPAs raises other questions and it is important to understand the extent to which this report contributes to the wider debate. There are two reasons why this report does not address other important questions: some can only be answered in relation to a specific ACP state and are inevitably unanswerable in a study that considers all ACP states; others require information that will not become available until a detailed draft EPA can be analysed.

Does the exclusion of all these relevant questions make the report redundant? No. The report makes an important contribution to the discussion. It makes no sense to avoid relevant, all-ACP questions that can be answered now simply because the full picture cannot be painted until other relevant questions can be answered at some point in the future when the necessary inputs become available.

Among the critical questions that still need to be addressed when it becomes possible to do so are the following.

1. What are the genuine, developmentally sensitive items in each country that need to be excluded from liberalisation? It is clear that not all goods currently attracting high tariffs are actually developmentally sensitive (in the sense that imports damage pro-poor growth prospects) and, by contrast, that not all genuinely sensitive areas of domestic production are currently protected by high tariffs. So 'high-tariff' does not necessarily equal 'sensitive' and nor does 'agricultural'. Only an in-depth country analysis would identify the goods that countries *ought* to liberalise and to protect – following which it would be possible to determine the extent to which an EPA would constrain the latter.

2. Will the EU agree to ACP liberalisation schedules that exclude high-tariff items from liberalisation? This report does not touch on what the parties to the EPA negotiations will actually accept. All it does is to establish that there exists no inherent reason why EPAs based on the EU's definition of 'substantially all' trade should necessarily involve the removal of the high tariffs that ACP states currently apply.

3. Will EPA liberalisation have other effects on ACP states? It is well known that the removal of tariffs on 'substantially all' ACP imports must remove a large part of government tariff revenue by the time implementation is completed. This report is not intended to add evidence on this issue, given that the required action (to introduce alternative revenue sources of sufficient scope – given known implementation problems – to replace the lost revenue) is already understood.

4. Are EPAs that protect sensitive sectors economically desirable? This study explicitly is not an economic analysis of the impact of an EPA. Whether or not it is economically desirable for ACP states to exempt from liberalisation the goods on which high tariffs are currently levied (or to liberalise the rest) are questions that are not addressed.

5. What about aspects of EPAs other than the market access for goods offered by the ACP? This study does not deal with these aspects.

Because it does not address these questions the report does not *prove* that EPA commitments on market access will be benign for sensitive ACP sectors and will allow governments to retain adequate policy space – but it does show fairly conclusively that there exists no inherent reason why they should require the removal of high tariffs. Only if the parties ignore the latitude that is available need EPAs produce this effect.

The approach

The methodology for this report is based upon one developed over the past three years by the authors and tested in a number of workshops in different ACP regions. Its purpose is to establish the extent to which governments can avoid liberalising (or liberalising early) products that they particularly do not wish to liberalise. It achieves this through four sequential steps to identify:

- the proportion of each country's imports that can be excluded from liberalisation;
- the items each government might seek to exclude; leading to the creation of what we call
- an 'exclusion basket' (or exclusion list) of products that governments could avoid liberalising without jeopardising the target of 90 percent of trade being liberalised; and finally what we call
- the 'marginal tariff': being the highest current tariff on any item that must be liberalised and which indicates whether or not high-tariff goods need to be liberalised.

A rough indicator of ‘policy space’ can be derived from examining the marginal tariffs of every ACP country. Those countries in which the marginal tariff is low would appear to have considerable scope for excluding from liberalisation all goods currently facing medium or high tariffs (if the government were to choose to select these items). By contrast, in countries where the marginal tariff is high there will need to be some hard choices: not everything that faces a high tariff can be excluded from liberalisation.

Policy space under bilateral commitments

If each ACP state in an EPA has its own, unique, liberalisation schedule (that aims to remove tariffs on 90 percent of its bilateral trade with the EU) there appears to be sufficient potential scope for almost all countries to avoid liberalising any high-tariff agricultural goods and most high-tariff non-agricultural ones, and where liberalisation of high-tariff items is necessary for it to be deferred until well after 2020.

A few countries will need to liberalise hardly anything and almost two-thirds will need to liberalise 85 percent or less of their imports. Many already levy zero tariffs on a good share of this trade. The marginal tariff for most countries that have to liberalise is low – or there is evidence that they are already moving towards non-tariff taxes on imports so that the EPA will be easy to accommodate as this process progresses.

Ten countries have been identified for close scrutiny as they have marginal tariffs of 25 percent or more[1]. All except two (Central African Republic and Congo) could exclude all high-tariff agricultural items. They could also exclude many high-tariff non-agricultural items and, in principle, defer liberalisation of the rest until the later stages of the 25-year implementation period.

Policy space for regional commitments

The study demonstrates that creating ‘regional’ exclusion lists by simply aggregating the national lists of members has two effects. One is that the combined list excludes a very large share of trade (which may be the source of the argument that ‘90 percent of total trade’ is too high a hurdle for regional lists). But it also shows that the results are either a sham or will support regional integration only if carefully considered. This can be explained with the example where Country 1 has a high tariff on item X but its ACP EPA partner, Country 2, imports X duty free.

A ‘sham regional list’ would be one where X is excluded from the liberalisation schedules of both countries but Country 2 continues to import it duty free (because it is a desired import, the cost of which to consumers the government of Country 2 does not wish to increase). It is not ‘excluded’ from Country 2’s liberalisation towards the EU in any meaningful sense since it is already (and will remain) duty free.

A genuine regional exclusion list is one where Country 2 increases its tariff on X to the level of Country 1’s (in order to support producers in Country 1) – and probably Country 1 does the same on another product to help Country 2’s producers. The resulting EPA liberalisation and exclusion lists would reflect a genuinely common regional trade policy. Were the EU to be faced with such a genuinely common regional trade policy it should be respected. But it appears that this is not the case at present for all (or most) EPAs.

[1] A further eight are identified in the main text as having a marginal tariff of 25 percent or more but which, as small or island states that import a large proportion of consumed goods, have available to them options not feasible for larger states, and therefore require country-specific studies. They are Barbados, St Kitts, St Lucia, Seychelles, Kiribati, Vanuatu, Cape Verde and Djibouti.

The study suggests that it may be possible to create such a policy in several regions – but almost certainly not by end-2007. But setting in stone current differences in trade policy through a set of national liberalisation schedules is undesirable. One way to recognise the former problem and avoid the latter danger would be to agree now a framework EPA but to leave the final selection of many of the goods to be liberalised (or excluded) for further negotiation by dates established in the framework text.

2. Introduction

What the report examines

This report analyses one important feature of the *potential* provisions on market access for goods in the EPAs currently being negotiated between the EU and six groups of ACP states. It shows the extent to which ACP states could retain 'policy space' in relation to 'high-tariff imports' in EPAs that fulfil the stated EU interpretation of the WTO's requirements for free trade areas (under Article XXIV). The conclusion is that most ACP *could retain* substantial policy space.

Some words have been put in 'inverted commas' because they require further elaboration; others are in *italics* to indicate that the statements are conditional. By 'policy space' we mean the ability to continue with some existing policies in the areas that must necessarily see some change in order to fulfil the requirements of Article XXIV. By 'high-tariff products' we mean goods that currently receive a significant level of protection from imports through the application of high tariffs on imports. Evidently, 'high-tariff' is not synonymous with 'sensitive', i.e. goods for which unbridled competition between imports and domestic production is undesirable on development grounds. Some examples are given below to illustrate this point.

The words *potential* and *could retain* are in italics because none of the EPA negotiations has yet reached agreement at a sufficiently detailed level on ACP import policy to support absolute statements. We cannot say, definitively, what the effects of any final agreement will be until the details are known. We can merely show whether or not that there is an inherent requirement, based upon the EU's interpretation of Article XXIV, which would necessarily constrain the ability of ACP states to continue with their current policies of providing tariff protection to sensitive products.

What the report does not examine

In other words, we cannot look into the future and we cannot establish for every ACP state what a development-friendly trade policy should look like. We do not know on which details the EU and any given ACP state will reach a consensus (or an impasse). Nor can we identify, in cases where the current tariff structure fails accurately to reflect development policies, what changes an ACP state might wish to pursue at some undefined point in the future and which might be constrained by an EPA.

Given this, there are several very important questions that have been raised with respect to EPAs on which this report cannot throw light. In order to avoid misunderstandings, it is vital to distinguish between the sharply delineated areas in which this report does provide guidance and the others where it does not.

First, the report is focused exclusively on the tariff changes that ACP countries will need to adopt on imports of goods in order to meet the minimum requirements of an EPA (based upon the EU's interpretation of Article XXIV). It does not cover either ACP goods exports to the EU or any other facets of an EPA (such as services, non-trade issues, or the development dimension).

Nor is it possible for the report to cover the revenue-raising, rather than the 'protecting', role of ACP tariffs. The highest tariffs provide the most protection for domestic producers from import competition, but they do not necessarily yield the greatest government revenue. In order to achieve their protectionist aims they must limit imports and, hence, the number of units on which the tariff is collected. Often it is quite low tariffs that yield the greatest revenue.

When selecting which products to liberalise, and when, ACP governments will have to balance the dual role of tariffs and strike a balance between removing those that are intended primarily to raise revenue and those that are intended primarily to protect domestic producers. It is not possible in a study such as this (which covers all ACP countries and does not involve close dialogue with the governments of any) to identify where this balance will be struck. But the trade-off is clear: were governments to seek to shield from liberalisation the items with the highest tariffs, the revenue impact of the EPA will tend to be maximised, and if governments seek to mitigate the revenue impact, their capacity to exclude high-tariff items will be smaller than indicated by the analysis in this study. This increases the desirability of governments selecting from among the items currently facing high tariffs the ones that are genuinely developmentally sensitive and perhaps liberalising the others more rapidly than the medium-tariff revenue-important items.

But the revenue impact of EPAs is already well known and does not need to be restated in detail in this report. Liberalisation of 'substantially all' trade in an EPA will remove 'substantially all' tariff revenue over the full implementation period (which could be up to 25 years), whatever choices governments make over what to exclude. There is known, therefore, to be a general task (required to a greater or lesser degree according to the country and its final agreed implementation schedule) to put in place alternative sources of government revenue. This simply needs to be acted upon in each member of the EPAs once the details are known of which products will be liberalised, when.

Just as this study cannot predict where governments will strike the balance between protective and revenue-raising tariffs, its approach to the relative sensitivity of different imports has to be guided by existing, rather than desirable or future, government policy on tariffs. Evidently, some existing tariff structures do not accord with every observer's view of the areas of domestic production that most need protecting (and those for which imports are a desirable consumer, capital or intermediate good, the price of which should be kept as low as possible). For example there are cases in which tariffs are high even though the product in question is unlikely to be manufactured domestically. Nigeria has a 55 percent tariff on kites and other non-powered aircraft, balloons, dirigibles, gliders and hang gliders; St Lucia levies a 60 percent tariff on crane lorries and cement-mixer lorries; and Cape Verde has a 320 percent rate for transmission and reception apparatus for radio telephony/telegraphy/ broadcasting or television. By the same token, some goods which will compete directly or indirectly with areas of domestic production that may be sensitive face low tariffs. In Malawi and Uganda, for example, wheat is duty free, as is also maize in Malawi (and in Uganda it attracts only a 7 percent tariff); milk and cream are duty free in Rwanda and attract only a 5 percent tariff in Belize.

To reduce this problem, the study looks both at all high-tariff goods and also high-tariff agricultural goods. This is because the greatest concern has been expressed that EPAs may open ACP agricultural sectors to (possibly subsidised) EU exports. However, even for agricultural goods there is no inherent identity between 'sensitive' and high-tariff. The above examples illustrate how some basic foodstuffs may attract low tariffs at present. It is also the case that some high tariffs on processed agricultural goods reflect domestic industrial interests (such as millers) rather than farmers (for whom it might be better to protect the raw product). In Burundi, for example, the tariff on wheat (which will compete directly with domestic production of staples) is zero, but the tariff on wheat flour is 40 percent (presumably to protect the domestic millers).

Of course, if all agricultural goods could be excluded from liberalisation, we could be sure that there would be no constraint on the policy space of an ACP government (even though this would not deal with the point that for some items it is developmentally desirable for tariffs to be low or zero). In practice, though, it is possible to do this in some cases. In 43 of the 75 countries[2] all imports of Agreement on Agriculture products could be excluded without exceeding the permitted maximum. Not only is this approach not available to all countries, it takes to an extreme the healthy scepticism that current tariff structures may not be wholly developmentally coherent; it assumes that there is no relationship between tariff levels and sensitivity. It would involve excluding agricultural products on which tariffs are zero (perhaps for developmentally sensible reasons) at the expense of high-tariff non-agricultural products (that may, for example, be made by small producers using domestic raw (but not agricultural) materials).

So selection will be needed for some countries and is desirable for all even in the case of agricultural goods, and no doubt some governments will wish to exclude from liberalisation some goods on which they do not necessarily currently apply high tariffs (or defer liberalisation of them until the end of the implementation period). This is because they will assess the needs of their economy over the full 2½-decade implementation period and beyond. But this study cannot pre-judge their actions; it must assume that the items for which imports are most sensitive are the ones currently facing the highest tariff – and that those goods facing low tariffs are considered less sensitive.

3. Methodology and data sources

Methodology

The methodology for this report is based upon one developed over the past three years by the authors and tested in a number of workshops in different ACP regions. It is not designed to assess in any way the economic impact of trade liberalisation within an EPA, and consequently it does not seek to prescribe what proportion of trade should be liberalised or the products for which the economic gains of liberalisation would be greatest.

Its purpose is quite different: to establish the extent to which governments can avoid liberalising (or liberalising early) products that they particularly do not wish to liberalise. Whether these omissions/deferrals are economically justifiable is not addressed. The purpose is merely to provide an initial identification of whether or not an EPA will *necessarily* result in the liberalisation of certain goods, or whether governments retain a choice in the matter.

[2] i.e. excluding South Africa and Cuba (which do not benefit from ACP trade provisions), and East Timor and Somalia (which are not in any of the six EPA negotiating groups).

The approach is applied in four sequential steps to a set of data on ACP imports and applied tariffs (as described in the next sub-section). The **first step** is to determine what proportion of each country's imports has to be liberalised. This exercise assumes the application of the stated EU approach to the definition of Article XXIV.

The EU definition is that by the end of the implementation period 90 percent of the value of trade between the partners should be duty and quota free. This 90 percent can be achieved asymmetrically, i.e. if the EU liberalises on more than 90 percent the ACP can liberalise on less. A critically important implication of this approach is that the value of imports an ACP state must liberalise is directly related to its trade balance with the EU. A simple arithmetic example explains the point. Suppose that the EU imports €100 million of goods from an ACP state, and that the ACP state imports €50 million from the EU. The total trade between them is €150 million and 90 percent of this (i.e. €135 million) must be liberalised. If the EU removes tariffs on all of its imports from the ACP state, it is liberalising €100 million of trade. This leaves a further €35 million that must be liberalised by the ACP state in order to reach the target of €135 million of fully liberalised trade (i.e. 90 percent of the total). If the ACP state liberalises on €35 million, this is equivalent to 70 percent of its imports from the EU (of €50 million).

On this approach, the greater the trade surplus a country has with the EU the smaller the share of its imports it must liberalise to reach any given benchmark (and conversely, the greater the trade deficit the higher the share of imports that must be liberalised). We have calculated for each ACP state the value of trade that they would need to liberalise (based on 2006 figures) if (a) 90 percent of its total trade with EU is to be liberalised and (b) the EU removes tariffs on all of its imports from that country. This also establishes the value of ACP imports that need ***not*** be liberalised.

Having established the value of imports that need not be liberalised, the **second step** is to assess which items a government might seek to exclude from liberalisation. Here we have used the most definitive indicator available of each government's views on the relative sensitivity of different imports. This indicator is the current tariff applied by each government to imports from the EU. As noted above, it is not necessarily an objectively robust measure of sensitivity – but any other approach requires the authors to form their own judgement of the items that *ought to be sensitive,* which is both impractical (in a study that considers all ACP countries) and of questionable legitimacy (given that the authors have no standing in the countries concerned).

Armed with these two pieces of information, the **third step** is to create what we call an 'exclusion basket' (or exclusion list) of products that governments could avoid liberalising without jeopardising the target of 90 percent of trade being liberalised. Starting with the highest tariff, items are placed into the 'exclusion basket' until the maximum allowable share of imports to be excluded from liberalisation has been reached.

The **final step** is to express the results in a figure that can be easily understood and derived for every country. This figure is what we call the 'marginal tariff'. This is the highest tariff currently applied to any item that will be liberalised (at some point) under the EPA. For example, consider a country that has five tariff bands (of 5, 10, 15, 20 and 25 percent). If it is able to exclude all the goods that currently face tariffs of 25 and 20 percent, then the marginal tariff will be 15 percent: none of the items that will be liberalised has a tariff greater than 15 percent (though some obviously have a tariff that is lower).

This is an easily understandable measure of the potential maximum increase in competition for domestic producers from the removal of tariffs under an EPA. If a country's marginal tariff is high (say 30 percent) the EPA is likely to have an impact on domestic production. Since some high tariffs will need to be removed, in principle (and subject to the competitiveness of the markets concerned) there could be a significant fall in the price of imports from the EU. If, by contrast, the marginal tariff is only 5 percent there is unlikely to be any significant fall in the price of EU imports given that day-to-day fluctuations in the costs traders have to take into account – such as transport and the exchange rate – will often be greater than this level.

A rough indicator of 'policy space' can therefore be derived from examining the marginal tariffs of every ACP country. Those countries in which the marginal tariff is low would appear to have considerable scope for excluding from liberalisation all goods currently facing medium or high tariffs (if the government were to choose to select these items). By contrast, in countries where the marginal tariff is high there will need to be some hard choices: not everything that faces a high tariff can be excluded from liberalisation.

Data

Data for 2006 were collected from the EU's COMEXT database on EU25 total exports to and imports from each of the 75 ACP countries negotiating EPAs[3], in order to ascertain for each the trade balance (assuming, as explained above, that the EU liberalise on 100 percent of their imports from ACP countries and, hence, the value of each ACP country's imports that would have to be liberalised to achieve 90 percent liberalisation). The *proportion* of each country's imports in 2006 that it would have to liberalise were the 90 percent threshold applied on a bilateral basis ranges from a low of 0 percent for Botswana (which has such a large goods trade surplus with the EU – partly because imports are recorded as being into South Africa – that it would not actually have to liberalise anything for 90 percent of all trade to be duty free) to a high of 90 percent for Niue (which has such a large goods trade deficit with the EU that it gains nothing arithmetically from the EU's liberalisation of 100 percent of its imports).

These proportions were then applied to existing datasets on ACP imports and tariffs in order to create hypothetical lists of items to be liberalised or excluded from liberalisation. The trade data in these were derived from the EU's COMEXT database, and cover EU15 exports to ACP countries in 2003. The tariff data were aggregations to the Harmonised System 6-digit (HS6) level of the most recent national tariff line rates obtainable from UNCTAD's TRAINS database in 2005, when the datasets were compiled.[4]

For only 14 of the countries are tariff data available for all HS6 sub-heads in the nomenclature. For the others data were missing for some or many HS6 sub-heads. This is largely because these countries' tariff schedules are in the H1 (1996) – or even, in a couple of cases, the H0 (1988) – version of the HS, whereas the trade data are in H2 (2002). The proportion of trade represented by items for which tariff data were unavailable ranged between zero and 10.9 percent (see Appendix Table 1).

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[3] See footnote 2.

[4] In a few cases it was possible to update the tariff information to 2006, and data were also obtained for three countries (Cape Verde, Guinea and Palau) for which there were none in the datasets created in 2005. There are still, however, no tariff data for 11 countries (Haiti, Sao Tome, Comoros, Gambia, Liberia, Sierra Leone, Federation of Micronesia, Marshall Islands, Nauru, Niue and Tuvalu), and it was thus impossible to include them in the analysis.

Although the Pacific region is still particularly lacking in available tariff data, the datasets created in 2005 were augmented with near-complete schedules for Fiji and Kiribati obtained in the region. But although some tariffs were also obtained in the region for Cook Islands, Samoa, Solomon Islands and Tonga, they did not cover enough HS6 sub-heads to enable these countries to be included in the analysis.

As explained above, it was assumed in creating each country's exclusion list that precedence would be given to the goods with the highest tariffs, and each country's list is therefore comprised of as many items in descending order of magnitude of tariff as would 'fit' within the proportion which did not need to be liberalised.[5] All specific/compound duties were assumed to be high, and therefore excluded from liberalisation, and all items, both imported and not imported, were taken into consideration.[6] For most countries there were items with no tariff recorded in TRAINS. All were assumed to be liberalised. In compiling the lists, efforts were made to 'fill up' the exclusion list – i.e. if it was impossible to exclude some items at, say, a 25 percent tariff (because their import values were too high), but some 'space' still remained within the permitted exclusion proportion, sufficient items with a, say, 20 percent tariff were added to the exclusion list to reach the allowable proportion.

Having compiled a list of excluded items for each country, the marginal tariff was then established for each.[7] The resulting marginal tariffs range from 0 to 100 percent.

Two comparisons were then made for each EPA region of the items included on the hypothetical exclusion lists. The first covered all items, the second only those items actually imported in 2003. In each case an analysis was made of the number 'excluded' by one, two, three, etc. countries in the region, and the proportion of total imports represented.

4. The results for countries

This section describes the results of applying this methodology one country at a time. For presentational purposes, the countries are grouped in some cases in their EPA negotiating regions but the region-by-region analysis is covered in the next section.

How much liberalisation?

Tables 1 and 2 indicate the proportion of imports that ACP countries will have to liberalise in order to meet the 90 percent of trade target used by the EU as its definition of 'substantially all trade' in other fora. Table 1 summarises the position and Table 2 provides details for each ACP state.

A few countries will need to liberalise hardly anything. The largest single group (36 countries) will need to liberalise between 65 and 85 percent.

Table 1. Extent of ACP liberalisation

Proportion of import value to be liberalised	Number of ACP countries
0-10%	3
35-65%	7
>65-85%	36
>85%	29

Source: derived from 2006 data from Eurostat's COMEXT database (http://fd.comext.eurostat.cec.eu.int/xtweb/), downloaded July 2007.

5 Because tariffs are set at the 8- or 10-digit national tariff line level and the trade data are at HS6 level, there are many instances where a range of tariff applies to items within one HS6 sub-head. In these cases, the maximum tariff applicable was used. Within bands of identical tariff, items were selected for exclusion on the basis of ascending magnitude of imports.

6 This is because the form of free trade agreement most frequently used by the EU establishes that anything not specifically listed in an annex is liberalised on entry into force. This means that countries must list *all* items if they wish to exclude them from liberalisation – imported and non-imported alike. Although all non-imported items could be included in the exclusion list without any effect on the proportion of imports excluded, this has been done only if their tariff was sufficiently high to warrant it.

7 In a few cases (noted in Appendix Table 2), one large item absorbed a sufficiently large share of imports that it could not all fit in the exclusion basket, but by leaving it out the resulting marginal tariff was higher than it would have been had the item been included in the exclusion basket. To accommodate this (given the imprecision of the thresholds) the permitted exclusion proportion was stretched by *up to 5 percentage point*s to enable items to be excluded. If the item was too large to 'fit' even with this tolerance, it was assumed to be liberalised and the marginal tariff adjusted accordingly.

Table 2. Proportion of import value which can be excluded from liberalisation, by country

Country	Proportion	Country	Proportion
Angola	17.2%	Liberia	20.5%
Antigua/Barbuda	15.6%	Madagascar	25.7%
Bahamas	18.8%	Malawi	25.6%
Barbados	12.4%	Mali	10.7%
Belize	26.0%	Marshall Islands	26.6%
Benin	11.5%	Mauritania	21.9%
Botswana	100.0%	Mauritius	21.8%
Burkina Faso	10.9%	Mozambique	61.1%
Burundi	13.1%	Namibia	93.3%
Cape Verde	10.8%	Nauru	11.8%
Côte d'Ivoire	31.6%	Niger	16.4%
Cameroon	39.1%	Nigeria	25.3%
Central African Rep.	17.2%	Niue	10.0%
Chad	12.3%	Palau	11.2%
Comoros	15.4%	Papua New Guinea	94.9%
Congo	15.5%	Rwanda	13.9%
Congo Dem. Rep.	21.3%	Sierra Leone	20.2%
Cook Islands	11.5%	Sao Tome/Principe	11.4%
Djibouti	10.3%	Samoa	10.8%
Dominica	18.2%	Senegal	11.9%
Dominican Rep.	17.6%	Seychelles	20.5%
Equatorial Guinea	54.3%	Solomon Islands	24.9%
Eritrea	10.6%	St Kitts/Nevis	10.9%
Ethiopia	14.7%	St Lucia	19.2%
Fed. Micronesia	11.5%	St Vincent/Grenadines	18.3%
Fiji	33.7%	Sudan	10.7%
Gabon	17.1%	Suriname	22.2%
Gambia	11.1%	Swaziland	56.0%
Ghana	17.6%	Tanzania	15.5%
Grenada	11.7%	Togo	11.5%
Guinea	18.8%	Tonga	10.2%
Guinea Bissau	10.5%	Trinidad	36.2%
Guyana	30.6%	Tuvalu	11.4%
Haiti	11.4%	Uganda	19.2%
Jamaica	25.2%	Vanuatu	19.8%
Kenya	19.0%	Zambia	25.8%
Kiribati	11.9%	Zimbabwe	36.2%
Lesotho	42.9%		
Source: See Table 1.			

But 29 out of the 75 ACP countries included in this study (39 percent) will need to liberalise more than 85 percent of their imports.

The countries which must liberalise the highest proportion of their imports (85 percent or more) are listed in Table 3. The figures reflect what might be called 'total effort'; they do not reflect 'net effort'. Net effort reflects how far countries would need to move beyond where they are now, over an implementation period of up to 25 years, in order to reach the EPA target of liberalising 'substantially all' trade. An estimate is made below of the net effort required by those countries for which an EPA appears to be potentially problematic.

The difference between total and net effort arises in several ways. Some countries have already replaced (or are in the process of replacing) their tariffs with other taxes that would not necessarily be affected by an EPA. Many are islands, for which the replacement of a tariff by a sales tax, collected on import by the customs authorities, is a relatively simple affair (see below). Most states also levy zero duties on some imports, so that 'liberalising' these items under an EPA may restrict future policy space (by depriving the countries of the right to raise tariffs at some point in the future) but will not limit current policy space.

Table 3. Countries that must liberalise 85 percent or more of their imports

Region	Affected countries
Caribbean	Barbados, Grenada, Haiti, St Kitts/Nevis
Central Africa	Chad, Sao Tome
ESA	Burundi, Djibouti, Eritrea, Ethiopia, Rwanda, Sudan
Pacific	Cook Islands, Federation of Micronesia, Kiribati, Nauru, Niue, Palau, Samoa, Tonga, Tuvalu
SADC	—
West Africa	Benin, Burkina Faso, Cape Verde, Gambia, Guinea Bissau, Mali, Senegal, Togo
Source: See Table 1.	

The marginal tariffs

Table 4 shows for each of the ACP countries the marginal tariff that would apply if they were allowed to exclude from liberalisation the proportion of imports identified in Table 2 and their governments were to select those items with the highest applied tariffs as the goods that they wish to exclude. In 20 out of the 60 countries for which data are available the marginal tariff is 10 percent or lower (and in seven it is zero because the proportion of their imports that is already duty free exceeds the share that must be liberalised). The task of having to remove tariffs of 10 percent or lower over a period of 25 years cannot be described as an onerous obligation.

Table 4. Marginal tariffs

Country	Marginal tariff	Country	Marginal tariff
Angola	15%	Liberia	(a)
Antigua/Barbuda	20%	Madagascar	5%
Bahamas	20%	Malawi	10%
Barbados	45%	Mali	20%
Belize	20%	Marshall Islands	(a)
Benin	20%	Mauritania	13%
Botswana	0%	Mauritius	0%
Burkina Faso	20%	Mozambique	5%
Burundi	40%	Namibia	0%
Cameroon	10%	Nauru	(a)
Cape Verde	30%	Niger	20%
Central African Rep.	30%	Nigeria	20%
Chad	30%	Niue	(a)
Comoros	(a)	Palau	3%
Congo	30%	Papua New Guinea	0%
Congo Dem. Rep.	20%	Rwanda	15%
Cook Islands	(a)	Samoa	(a)
Côte d'Ivoire	10%	Sao Tome	(a)
Djibouti	33%	Senegal	20%
Dominica	20%	Seychelles	100%
Dominican Rep.	20%	Sierra Leone	(a)
Equatorial Guinea	10%	Solomon Islands	(a)
Eritrea	10%	St Kitts/Nevis	25%
Ethiopia	30%	St Lucia	25%
Fed. Micronesia	(a)	St Vincent/Grenadines	20%
Fiji	3%	Sudan	45%
Gabon	30%	Suriname	25%
Gambia	(a)	Swaziland	0%
Ghana	20%	Tanzania	25%
Grenada	20%	Togo	20%
Guinea	20%	Tonga	(a)
Guinea Bissau	20%	Trinidad	3%
Guyana	5%	Tuvalu	(a)
Haiti	(a)	Uganda	7%
Jamaica	0%	Vanuatu	25%
Kenya	25%	Zambia	15%
Kiribati	30%	Zimbabwe	10%
Lesotho	0%		

Notes:
(a) No, or insufficient, tariff data with which to compile an exclusion list.
Sources: Calculated from trade data from Eurostat 2004 and tariff schedules from UNCTAD TRAINS and regional sources.

Some of the other marginal tariffs in the table, though, are quite high. In some cases there are country-specific explanatory features which make the actual situation less constraining than would appear to be the case from Table 4. In the case of the smaller islands, in particular, where imports account for a large part of consumption, it may be possible to use a sales tax levied at point of entry as an EPA-compatible alternative to tariffs, and to provide protection to a very small number of domestically produced goods through other means. In Seychelles, for example, which has the highest marginal tariff (of 100 percent) the government has already gone a long way to replacing tariffs as a source of revenue with a general sales tax which, because the vast majority of goods that are consumed are imported, has a similar effect to tariffs. There exist alternative, administrative ways to protect domestic producers of the very small number of goods that compete with imports. Djibouti, too, is moving towards a non-tariff means of revenue collecting taking advantage of the fact that most goods are imported.

A broad indication of the distribution of marginal tariffs by region is provided in Table 5. By listing the range of marginal tariffs identified in Table 4 for the countries in each EPA region it provides a guide to which regions have the greatest policy space and which the least.

One-fifth of the countries in the Caribbean (for which data were available), for example, have a marginal tariff of 5 percent or lower, as do one-eighth of those in ESA and almost three-quarters of those in SADC. The regions which appear to have the most constraining EPAs are

Table 5. Distribution of marginal tariffs (by EPA group)

Marginal tariff	Number (percentage) of countries in region with marginal tariff shown [a]					
	Carib-bean	*Central Africa*	*ESA*	*SADC 7*	*Pacific*	*West Africa*
0%	1 (7%)		1 (7%)	4 (57%)	1 (20%)	
3%	1 (7%)				2 (40%)	
5%	1 (7%)		1 (7%)	1 (14%)		
7%			1 (7%)			
10%		2 (29%)	3 (21%)			1 (8%)
13%						1 (8%)
15%			2 (14%)	1 (14%)		
20%	7 (50%)	1 (14%)				10 (77%)
25%	3 (21%)		1 (7%)	1 (14%)	1 (20%)	
30%		4 (57%)	1 (7%)		1 (20%)	1 (8%)
33%			1 (7%)			
40%			1 (7%)			
45%	1 (7%)		1 (7%)			
100%			1 (7%)			

Note:
(a) Percentages calculated only on number of countries in each region for which tariff data to establish a marginal tariff are available. So, for example, the Pacific shares are calculated on 5 countries.

Central Africa and West Africa with, in each case, over half of countries facing marginal tariffs of 20 percent or more. The situation in the Pacific is very polarised, with the few countries for which data are available facing either very low or moderately high marginal tariffs: half have a marginal tariff of 3 percent or lower, and half have one of 25 or 30 percent.

The most-constrained countries

Of the countries in Table 4 with a marginal tariff of 25 percent or over, eight are small and/or island states. These require country-specific analyses to establish the extent to which an EPA will necessarily constrain policy space. This is because, on the one hand, tariffs may play a much more important revenue-raising function than in larger countries (as for example with St Kitts and St Lucia) but, on the other hand, they have available to them a range of options (noted above) to replace tariffs with other taxes. These include a ‘sales tax’ collected by the customs service on imports which, because the economies are small, supply a high proportion of consumption.

Although little more can be said on these states in an ACP-wide study such as this, more analysis is possible for the ten other states that would face a marginal tariff of 25 percent or more. These are Burundi, Central African Republic, Chad, Congo, Ethiopia, Gabon, Kenya, Sudan, Suriname and Tanzania. It can reasonably be assumed that some of the high tariffs in these countries are intended to protect domestic production and that tariffs cannot easily be replaced by a sales tax.

In these countries the phasing of implementation will have a great impact on policy space. Whilst the Commission has indicated that for some products liberalisation could be deferred for up to 25 years, it must be assumed that it will avoid complete ‘end-loading’ and will want some goods to be liberalised immediately and others at regular intervals. How soon would these ten countries have to start liberalising goods with a high tariff of 25 percent or more?

The possibility to defer liberalisation

There can be no definitive analysis of implementation phasing until the details of a draft EPA are known, but it is possible to identify the *potential* for these countries to defer well into the future the liberalisation of high tariff items. In most cases it is substantial.

Gabon, Kenya and Tanzania already offer duty-free treatment to a significant proportion of imports from the EU (29 percent, 49 percent and 50 percent respectively). This means that they would not necessarily need to remove any tariffs on entry into force of the EPA and could defer for some time the liberalisation of high-tariff items. The other seven countries would all have to remove some tariffs on entry into force, but would not necessarily need to remove high tariffs for many years.

In three countries (Chad, Ethiopia and Sudan) over 60 percent of imports from the EU are accounted for by goods with a tariff of 10 percent or less. These countries would not need to liberalise goods with a tariff over 10 percent until well into the implementation period – possibly as late as 2028. For three others (Central African Republic, Congo and Suriname), goods with a tariff of 10 percent or less account for nearly half of the total. They too might defer liberalisation of higher-tariff items until after 2020. Only Burundi, where goods with a tariff of 10 percent or less account for 27 percent of the total, might need to remove higher tariffs in the early middle tranches of liberalisation.

The possibility to exclude agriculture

The Terms of Reference specifically ask the study to consider the extent to which agricultural and processed agricultural goods might be excluded from liberalisation commitments. In countries with low marginal tariffs there is no need to look specifically at agriculture: all goods currently obtaining significant tariff protection could be excluded. But in the case of the ten countries with marginal tariffs of 25 percent or more, we have checked to see what would be possible if they prioritised the exclusion of agricultural goods (defined as all products falling under the WTO Agreement on Agriculture).

Five countries (Burundi, Gabon, Kenya, Sudan and Tanzania) could exclude from liberalisation every agricultural product on which they currently levy a tariff. Hence their current agricultural policy space would not be constrained in any way. Ethiopia could exclude all agricultural goods except wheat, which appears to be a desired, not a sensitive, import as it accounts for 11.4 percent of the total and faces a tariff of only 5 percent. Chad and Suriname could exclude all agricultural imports that currently face a tariff of over 10 percent.[8]

Only Central African Republic and Congo would need to liberalise agricultural goods facing high tariffs. The marginal agricultural tariff for Central African Republic is 30 percent, for Congo it is 20 percent.

5. The results by region

Whilst it is possible to make an informed 'guess' which products each country might wish to exclude from liberalisation, it is not possible to do the same at a regional level. Despite the initial hopes of the EU, it does not appear to be universally the case that the EPA groups will be attempting to set a uniform tariff schedule and exclusion basket that will apply to all of the members. In some regions (e.g. SADC) it has been decided explicitly that each country will aim to agree its own bilateral list with the EU of the products it will liberalise, those that it will not, and its phasing. Even in the cases where a regional list is being attempted there are problems.

National lists cannot simply be aggregated

A regional exclusion list cannot be simply the aggregate of all the national lists. The net result of adding together all the exclusions of all member countries is to exclude a very large proportion of imports from liberalisation: if the hypothetical national exclusion lists analysed above were added together no region would exclude less than 55 percent of its imports (West Africa) and in two cases (the Caribbean and the Pacific) the exclusions would reach 97 percent! This arises in the following way. Country 1 can easily exclude item A because it is

[8] In the case of Chad this would require increasing the exclusion basket by 0.3 percentage points – well within the limits of tolerance given annual changes in the value of trade with the EU.

imported only in very small values. But Countries 2–5 import much larger values of A so that if they, too, exclude it the share of imports that is not liberalised becomes much higher.

This points to the underlying problem, which is not simply that the figures for the share of imports excluded are unacceptably high: it is that the current tariff policies of EPA partners are not mutually compatible. If item A is an unwelcome import in Country 1 but is widely used in Countries 2–5, any outcome other than the harmonisation of the five countries' tariff policies will create problems. If the whole region excludes A from liberalisation Countries 2–5 may find that it constrains their policy space to exclude other goods that are more sensitive. If the five countries go their separate ways and exclude different goods then Country 1 will need to maintain robust customs controls on its borders with its neighbour Country 2 to avoid trade deflection, with item A being imported duty-free into Country 2 and then smuggled across the border. This will hinder rather than assist regional integration.

The conclusion is that countries need to reduce as far as they can differences between their exclusion lists. Avoiding the current difficulties by moving to separate national schedules will merely reinforce the problem by establishing binding, but different, liberalisation commitments on neighbours. But how to avoid this and still meet the EPA deadline of December 2007 – that is the problem.

It is clear that already steps have been taken in the direction of harmonisation, but that much more may be needed. It is reported, for example, that the combined ESA exclusion list runs to 2,700 lines accounting for over half of the region's imports from the EU. High though this is, it is still lower than the 90 percent of imports that ESA would exclude if the hypothetical national exclusion lists created in this study were simply added together. Evidently some rationalisation has already occurred – but not sufficient.

A certain amount of further rationalisation may be easy to achieve by the removal of 'not-very-sensitive' items (such as 'live whales' which was on the initial exclusion list of one ESA state, though it is not known whether it is on the current combined list) but it is questionable whether this will be sufficient. Reaching agreement to rationalise the exclusion lists in areas where tariffs reflect genuine differences in sensitivities may take time. Since this is probably more than remains before the December 2007 deadline for EPAs to be agreed, it would be wise to seek a solution that allows the intra-ACP negotiation to continue for as long as possible before separate liberalisation schedules are set in stone.

The extent of incoherence

The rest of this section establishes the extent to which compromise between the members of each EPA may be needed to avoid grossly incoherent liberalisation schedules. The example of ESA illustrates both that the figures in this report may overstate the extent of the current incoherence – but also that it clearly exists.

Table 6. Proportion of import value which can be excluded from liberalisation, by region

EPA region	Proportion
Caribbean	20.8%
Central Africa	26.7%
East and Southern Africa	17.6%
SADC-7	26.9%
SADC-8	20.6%
Pacific	35.5%
West Africa	20.7%
Source: See Table 1.	

Table 6 shows by region the proportion of imports that can be excluded from liberalisation through the application of a 90 percent threshold to total trade between the region and the EU. Two rows are given for SADC, one of them including and the other excluding South Africa. Because South Africa provides such a large proportion of the region's trade with the EU, and its access terms are already fixed by the Trade, Development and Cooperation Agreement (TDCA), its inclusion or exclusion from the calculation makes a significant difference. But, in either case, SADC falls within the range of proportions set by the other regions. The smallest share of trade that can be excluded from liberalisation is that of ESA (which must liberalise 82.4 percent of its imports) and the largest is that of the Pacific (which need liberalise only 64.5 percent of its imports).

These figures have been compared to what would be excluded from liberalisation if we simply add together the individual-country schedules resulting from the assumptions made by the authors: the governments choose to exclude from liberalisation the products currently facing the highest applied tariffs. As noted above, in all regions the excluded share of imports exceeds by a wide margin the allowable figures shown in Table 6.

The similarities and differences between the each of the EPA states' national lists have then been identified. Tables 7 and 8 provide for all regions the basic information on the inherent overlap between the exclusion baskets for each country compiled on the basis of their highest applied tariffs. They show, region by region, the number of items that would be excluded by just one state, by two, three … and all states. Table 7 covers all of the nomenclature, given that countries may feel the need to exclude all goods that face high tariffs even if they were not imported in a particular year (see footnote 5). As noted, the results paint a set of highly incoherent schedules.

Table 7. Regional distribution of exclusions: imports and non-imports

No. of countries in region excluding	Number of HS6 sub-heads excluding:					
	Caribbean [a]	*Central Africa* [b]	*ESA* [c]	*SADC*	*Pacific* [d]	*West Africa* [e]
1	173	1,727	435	1,179	373	597
2	287	990	587	431	1,505	425
3	2,021	43	588	203	1,921	181
4	475	66	393	226	1,246	95
5	161	109	372	704	136	14
6	80	479	327	805		3
7	113	1,674	260	745		13
8	101		248			31
9	145		316			191
10	122		481			324
11	350		391			382
12	535		358			1,012
13	195		241			179
14	95		81			
Total	**4,853**	**5,088**	**5,078**	**4,293**	**5,181**	**3,447**

Notes:
(a) No tariff data for Haiti.
(b) No tariff data for Sao Tome and Principe.
(c) No tariff data for Comoros.
(d) No tariff data for Federation of Micronesia, Marshall Islands, Nauru, Niue, Tuvalu. Insufficient tariff data for Cook Islands, Samoa, Solomon Islands and Tonga.
(e) No tariff data for Gambia, Liberia and Sierra Leone.

Table 8 covers only the products which are actually imported by the countries concerned, as a check to determine whether the incoherence arises largely because different countries import different goods from the EU. If this were the case, it might be possible to overcome the problem through the architecture of the EPA (i.e. by adopting only a positive-list approach covering actual imports). But it does not appear that it is the source of the problem: the incoherence is high in both tables. A very large number of items would be excluded by only a small number of states. In four regions (Caribbean, ESA, Pacific and West Africa) 5 percent or fewer of the total number of excluded items would be on the lists of all member countries (based on Table 7). The highest share of excluded items common to all states is Central Africa with 32 percent, followed by SADC at 17 percent (no doubt due to the fact that common SACU tariffs apply to four of the seven states).

Table 8. Regional distribution of exclusions: imports only

No. of countries in region excluding	Number of HS6 sub-heads excluding:					
	Caribbean [a]	*Central Africa* [b]	*ESA* [c]	*SADC*	*Pacific* [d]	*West Africa* [e]
1	793	1,148	950	1,217	453	598
2	516	492	584	580	68	347
3	289	312	348	305	10	205
4	204	280	256	173	—	161
5	178	207	214	75	—	162
6	91	149	171	18		137
7	94	105	117	6		148
8	71		91			169
9	46		60			154
10	30		41			121
11	21		25			124
12	12		14			76
13	6		1			15
14	1		—			
Total	**2,352**	**2,693**	**2,872**	**2,374**	**531**	**2,417**

Notes:
(a) No tariff data for Haiti.
(b) No tariff data for Sao Tome and Principe.
(c) No tariff data for Comoros.
(d) No tariff data for Federation of Micronesia, Marshall Islands, Nauru, Niue, Tuvalu. Insufficient tariff data for Cook Islands, Samoa, Solomon Islands and Tonga.
(e) No tariff data for Gambia, Liberia and Sierra Leone.

The extent of the challenge is illustrated graphically in Figures 1–6, which show the number of countries that have the same items in their exclusion baskets. If there were a high degree of coherence between countries (i.e. all or most were excluding the same items) the graph would rise from left to right, i.e. only a small percentage of HS lines would be excluded by just one or two states, and most would be excluded by all (or almost all). In none of the regions does this happen: a lot of items are excluded by just one, two or three states and few are excluded by all.

The only bright note is that in three cases there appears to be a polarisation: there is an unfortunately large group of products that is excluded by only a small number of countries, but at least another large group is excluded by many. There may be scope in these three regions (Central Africa, SADC and West Africa) to form a consensus around the products that account for the peak on the right side of the figures.

In the case of the Caribbean (Figure 1) over 40 percent of the HS sub-heads on the combined regional list of all the national lists are excluded by just three out of the 14 countries for which tariff data are available. Fewer than 5 percent are excluded by 13 or 14 of the countries, though 10 percent are excluded by 12.

In the case of Central Africa (Figure 2) a very high proportion (almost 35 percent) is excluded by just one out of the 7 countries for which tariff data are available. But here there is another group of products (again, almost 35 percent) that are excluded by all.

In the case of ESA (Figure 3) the same broad picture emerges, although there is an even broader spread over the range. Fewer than 4 percent of items would be excluded by 13 out of the 14 states for which tariff data are available.

Figure 1. Caribbean: the distribution of hypothetical exclusions (*Source*: Table 7)

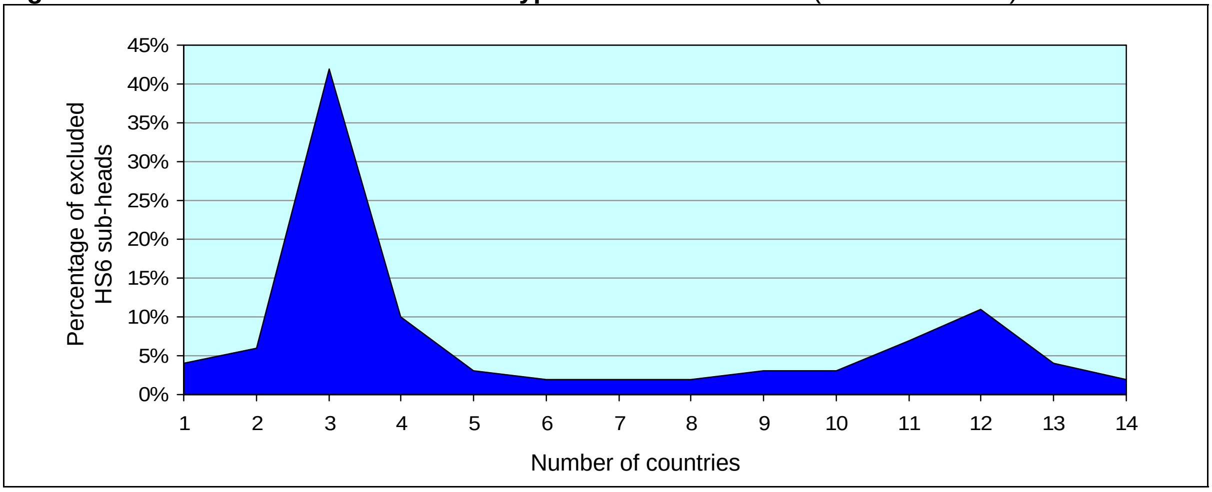


Figure 2. Central Africa: the distribution of hypothetical exclusions (*source*: Table 7)

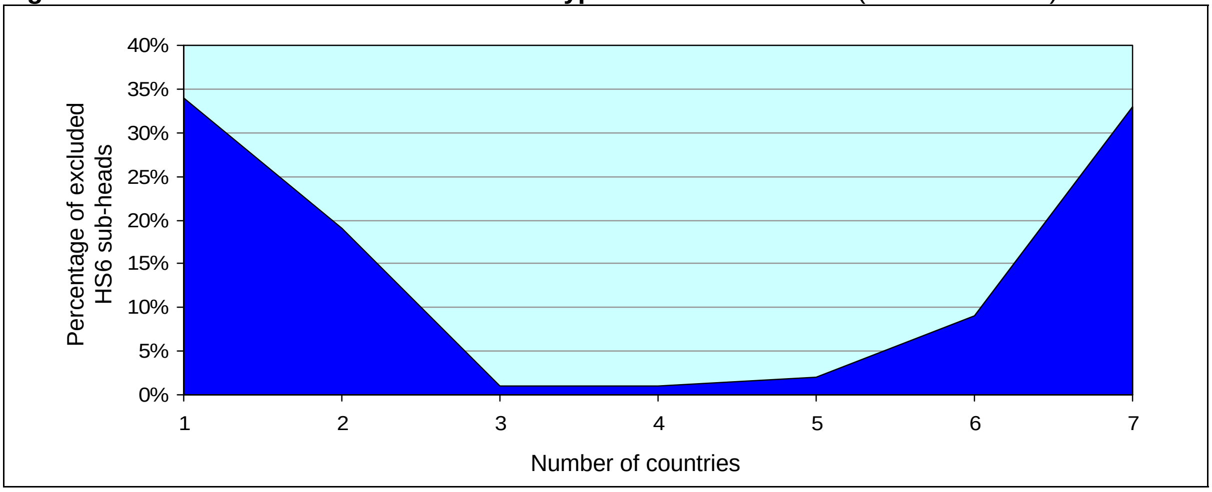
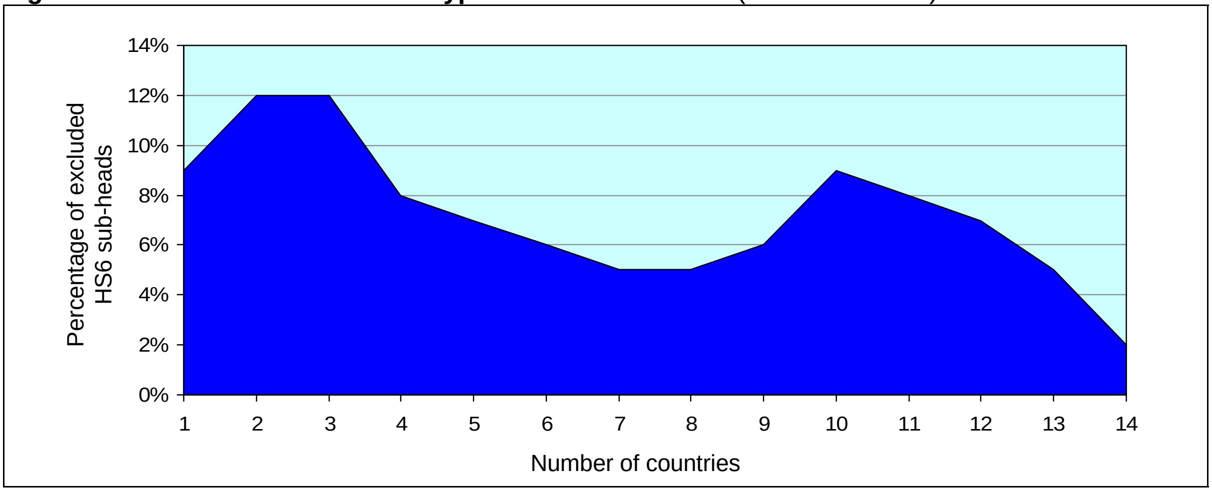
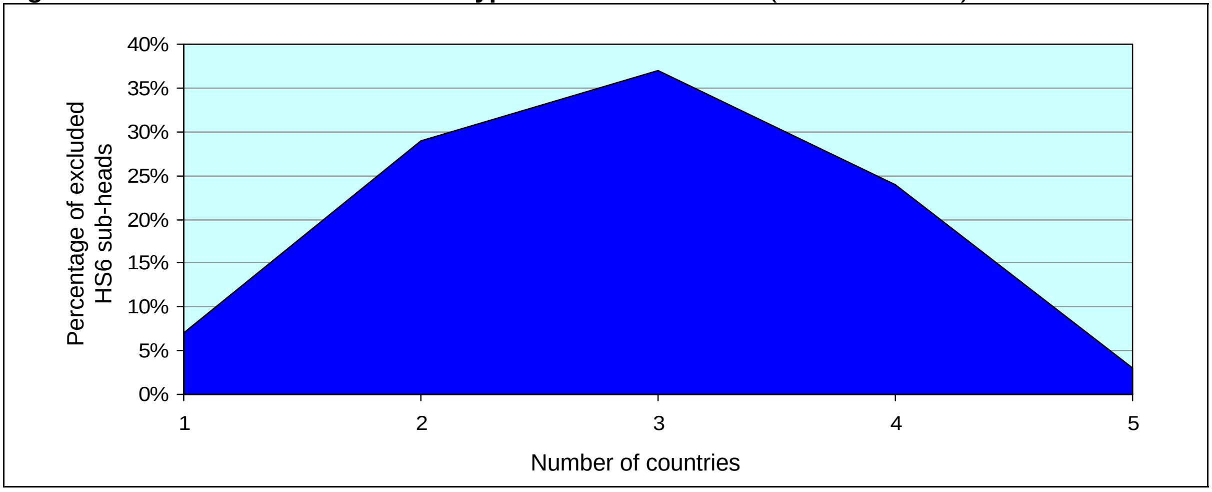


Figure 3. ESA: the distribution of hypothetical exclusions (*source*: Table 7)



For the Pacific (Figure 4) over 35 percent of items are excluded by 3 countries. The proportion that would be excluded by a larger number of states falls off sharply.

Figure 4. Pacific: the distribution of hypothetical exclusions (*source*: Table 7)



The position in SADC (Figure 5) and West Africa (Figure 6) looks rather better. Although over 25 percent of items would be excluded by only one SADC state, a high share would be excluded by five or more. This polarisation is even more marked for West Africa (Figure 6).

Figure 5. SADC: the distribution of hypothetical exclusions (*source*: Table 7)

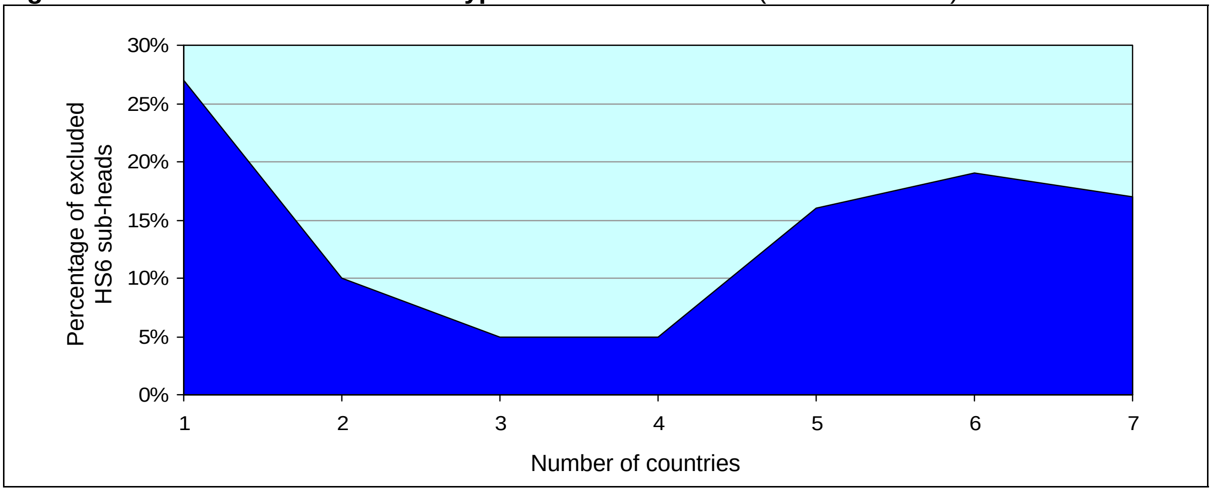
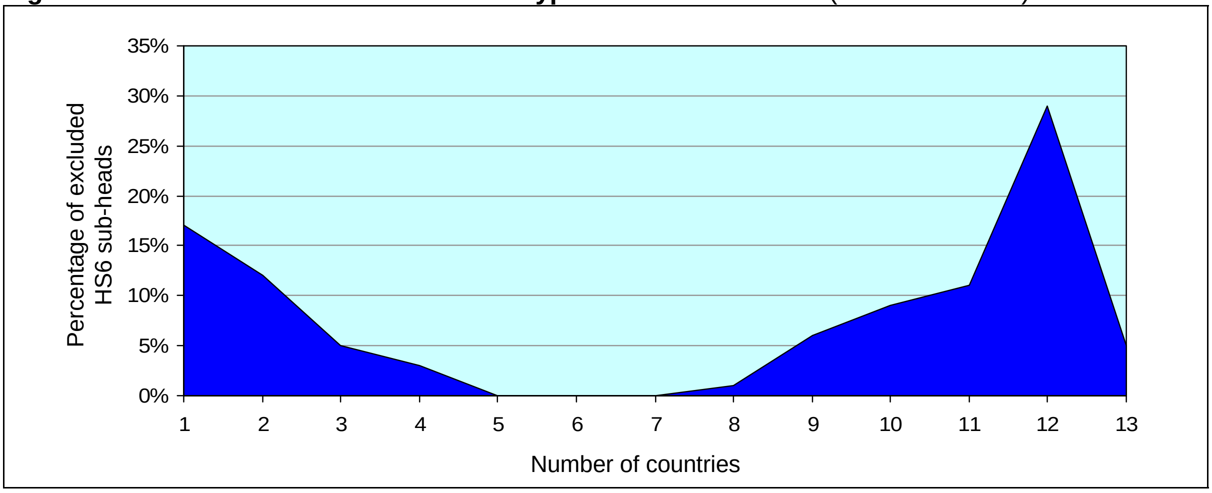


Figure 6. West Africa: the distribution of hypothetical exclusions (*source*: Table 7)



The scope for consolidation

Do the figures in Table 6 (on the share of imports that can be excluded from liberalisation) provide sufficient space for regions, or do they need to be increased: are they too low even for a reasonably consolidated list of exclusions? A broad study such as this cannot provide a definitive answer, but it can provide an indicator. To do this we have calculated how many items appearing in the exclusion baskets of several states could be excluded without breaching the limits set in Table 6.

Possibly the 'ideal' would be a situation where all goods in the exclusion baskets of around half or more of countries could be excluded. If this were the case, then it might be possible to 'fit' within the Table 6 limits by removing from the exclusion basket only items that face high tariffs in just one or two states. As explained above, this could be a desirable thing to do. It will hinder regional integration if partners maintain – for more than the 25-year implementation period – wildly different tariff structures under which neighbours liberalise very different baskets of goods, but requiring all countries to exclude from liberalisation goods that fewer than half of them would have chosen would impose on the majority of states the policies of the minority.

The Caribbean, ESA and West Africa come close to this ideal. In the case of the Caribbean, every item that is common to the exclusion baskets of eight or more (57 percent of the 14 states for which data are available) could be excluded without exceeding the 20.8 percent limit established in Table 6. Only those goods excluded by six or fewer states would need to be liberalised. In the case of ESA, items in the baskets of nine or more of the 14 countries for which data are available (64 percent) could be excluded. For West Africa, items identified by eight or more of the 13 states for which data are available (62 percent) could be excluded.

Of the others SADC is at one extreme. Only the goods in the baskets of all seven states could be excluded. In the case of Central Africa the proportion is lower: the items in the baskets of five or more of the seven states for which data are available (71 per cent) could be excluded. And in the Pacific it is the items identified for four out of the five countries for which data are available (80 percent) that could be excluded.

Even for the three regions that approach the ideal there is much hard negotiation to be done. For the others, the initial differences in tariff rates suggest that a great deal of work may be required to produce a coherent single list that meets the EU's definition of 'substantially all' trade. One way to sidestep this would be to incorporate into the EPA a set of separate national schedules each of which, when combined with the EU's full liberalisation, covers 'substantially all' bilateral trade. But, as noted above, this would store up trouble for the future.

6. Conclusions

Will EPAs *necessarily* restrict the policy space of ACP states to protect areas of domestic production currently shielded by high tariffs? The answer to this question is simple and straightforward when applied separately to each ACP state. It gets more complicated when attention turns to an EPA-wide liberalisation schedule.

Policy space under bilateral commitments

If each ACP state in an EPA has its own, unique, liberalisation schedule (that aims to remove tariffs on 90 percent of its bilateral trade with the EU) the answer to the question posed in this study is categorical: there is sufficient potential scope for almost all countries to avoid liberalising any high-tariff agricultural goods and most high-tariff non-agricultural ones, and where liberalisation of high-tariff items is necessary for it to be deferred until well after 2020.

The application of the ‘90 percent of trade’ threshold bilaterally to every ACP state (for which the data are available) shows that a few countries will need to liberalise hardly anything. The largest single group (36 countries) will need to liberalise between 65 and 85 percent of their imports. But 29 out of the 75 ACP countries included in this study (39 percent) will need to liberalise more than 85 percent of their imports.

Many of the goods that will need to be ‘liberalised’ under the EPA already face tariffs that are zero or so low as to offer no significant protection to domestic producers. In these cases EPAs may limit future policy space (but by definition this is unpredictable) but they do not limit the capacity of Governments to pursue their current tariff policies.

In 20 out of the 60 countries for which data are available the marginal tariff is 10 percent or lower (and in seven it is zero). There will be no significant impact on domestic production of removing very low (or non-existent) tariffs over a 25-year period. The closest attention is given in the report to those non-island economies which face a marginal tariff of 25 percent or more: Burundi, Central African Republic, Chad, Congo, Ethiopia, Gabon, Kenya, Sudan, Suriname and Tanzania.

In almost all cases countries can shield all agricultural high-tariff items from any liberalisation and defer for well over a decade liberalisation of non-agricultural ones. Six of the ten countries could exclude from liberalisation every agricultural product on which they currently levy a tariff (except for one item in Ethiopia which appears to be a desired not a sensitive import). Two others could exclude all agricultural imports that currently face a tariff of over 10 percent. Only Central African Republic and Congo would need to liberalise agricultural goods facing high tariffs.

Even where high-tariff (non-agricultural) goods have to be liberalised, this need not happen until well after 2020 because the countries concerned have sufficient zero or low tariff imports to fill all their earlier tranches of liberalisation. Three of the ten states with high marginal tariffs already offer duty-free status to a significant proportion of imports from the EU and four of the rest levy low tariffs (10 percent or less) on half or more of their imports. Only Burundi, where goods with a tariff of 10 percent or less account for 27 percent of the total, might need to remove higher tariffs in the early middle tranches of liberalisation.

Policy space in regions

What would a ‘single regional liberalisation schedule’ look like? The EU’s early concept of EPAs was that they would be created with country groups that had already formed a customs union or, failing that, had a well-functioning free trade area and were close to establishing a customs union. EPAs agreed with partners such as these would have had no problem with a single region-wide liberalisation (and exclusion) list. By definition, the members of the customs union would already have agreed a single common external tariff for every item in a common nomenclature. There might be differences between countries in the implementation of EPA commitments (if the common external tariff was being implemented over a transition period) but all would eventually end up in the same place.

It has not (so far) happened like this. Some EPAs have explicitly rejected a common liberalisation schedule and even those that have not done so do not have an item-by-item agreed common external tariff. This raises questions over whether any ‘single’ EPA liberalisation schedule reflects reality or is a fiction. This question needs to be answered before a judgement can be made on whether or not an EPA would limit policy space.

What, for example, is the status of ESA's common exclusion list? Some ESA countries (Kenya, Sudan and Burundi) levy high tariffs on one form of dairy product (HS 040210 – milk and cream in solid form), but Seychelles and Mauritius levy a zero tariff. If this item is on the ESA exclusion list does it mean that Seychelles and Mauritius have agreed to raise their zero tariffs to a protective level or does it simply mean that Kenya, Sudan and Burundi will keep the right to maintain their high tariffs (whilst Seychelles and Mauritius will retain their zero tariffs)? If the latter, then the 'exclusion' of HS 040210 from the commitments of all ESA states is a fiction, and imports into Seychelles and Mauritius should not be taken into account when calculating the proportion of trade that is excluded (and nor should imports into any other ESA state that levies a low, non-protective tariff that the country is willing to remove).

Until regions have agreed on the products that all will exclude (which implies that all will levy tariffs sufficiently high to protect domestic producers – or yield significant revenue) it is not possible to calculate whether or not the '90 percent of all trade' threshold limits policy space. 'Regional exclusion lists' that are simply an aggregation of national lists with a few items removed do not fulfil this criterion.

The contribution of this report to a resolution of the issue is the spotlight it throws on the scale of the task. A by-product of the methodology is to emphasise the huge differences between the tariff policies of EPA members – differences that have to be removed in large part before a single EPA-wide liberalisation/exclusion list could become a reality. The hypothetical regional exclusion baskets created in this study are not an accurate reflection of the lists regions are actually producing. But they make it clear why such regional lists as exist appear to exclude from liberalisation a very large share of imports. And they also show why the acceptance of such lists will simply store up problems for regional integration.

There exist three possible situations with different implications for the EPA process.

1. If it is genuinely impossible for countries in a region to agree a core of products that they will all protect (and exclude from an EPA) it would be better for this reality to be reflected in an EPA comprising a set of national, bilateral liberalisation schedules.

2. If it is possible to agree such a common list, but not by end 2007, it would be best to leave the actual selection of the goods that will be liberalised in each tranche (and those that will not be liberalised at all) until later, and to agree initially a framework EPA that defers agreement on exactly what will be liberalised but includes the deadlines for agreement on these.

3. If a region can agree before end-2007 a core of products that all will protect and exclude then it would be possible to sign a genuinely 'regional' EPA. At the point the exclusion list is agreed it will become possible to judge whether or not '90 percent of all trade' provides sufficient policy space.

Observation of the EPA process suggests that few regions are in situation 3 but, at the same time, the analysis in the study indicates that situation 2 may be quite common. Several regions appear to have a core of items on which over half of members currently apply sufficiently high tariffs that they are excluded from liberalisation. It would be a shame if pressure to complete all the details of EPAs by end-2007 were to result in the opportunity being lost to work through the remaining differences, and if these were to become reinforced in a set of incompatibly different, but legally enforced, national EPA schedules.

Sources

Eurostat 2004. *Intra- and extra-EU trade*, 11/2004 (CD-Rom). Luxembourg: Office for Official Publications of the European Communities.

Eurostat COMEXT database (http://fd.comext.eurostat.cec.eu.int/xtweb/).

UNCTAD TRAINS. *Trade Analysis and Information System*, accessed via the World Bank's *World Integrated Trade Solution* (WITS) (http://www.unctad.org/).

Appendix Tables

Appendix Table 1. Availability of tariff data

Region/country	# missing tariff lines [a]	Share of total imports	Region/country	# missing tariff lines [a]	Share of total imports
Caribbean			**Pacific**		
Antigua/Barbuda	499	7.5%	Cook Islands	4,426	85.0%
Bahamas	342	1.3%	Fed. Micronesia	All	
Barbados	541	5.5%	Fiji	2	0.0%
Belize	338	0.6%	Kiribati	52	0.7%
Dominica	338	9.0%	Marshall Islands	All	
Dominican Rep.	361	2.8%	Nauru	All	
Grenada	506	1.1%	Niue	All	
Guyana	376	1.4%	Palau	1	0.0%
Haiti	All		Papua New Guinea	2	0.0%
Jamaica	372	3.3%	Samoa	2,901	25.2%
St Kitts/Nevis	346	0.2%	Solomon Islands	4,037	34.0%
St Lucia	338	3.0%	Tonga	4,366	58.3%
St Vincent/Grenadines	357	0.8%	Tuvalu	All	
Suriname	345	5.3%	Vanuatu	15	0.0%
Trinidad	341	6.2%	**SADC**		
Central Africa			Angola	43	0.2%
Cameroon	343	2.5%	Botswana	0	—
Central African Rep.	343	1.8%	Lesotho	0	—
Chad	343	1.3%	Mozambique	0	—
Congo	343	2.0%	Namibia	0	—
Congo Dem. Rep.	28	0.1%	Swaziland	0	—
Equatorial Guinea	343	1.9%	Tanzania	12	0.0%
Gabon	343	1.9%	**West Africa**		
Sao Tome	All		Benin	0	—
ESA			Burkina Faso	0	—
Burundi	369	1.8%	Cape Verde	338	8.1%
Comoros	All		Côte d'Ivoire	0	—
Djibouti	791	6.7%	Gambia	All	
Eritrea	339	0.7%	Ghana	354	6.4%
Ethiopia	344	1.3%	Guinea	44	0.5%
Kenya	11	0.1%	Guinea Bissau	0	—
Madagascar	338	3.9%	Liberia	All	
Malawi	339	2.9%	Mali	0	—
Mauritius	8	0.3%	Mauritania	338	9.5%
Rwanda	349	0.8%	Niger	0	—
Seychelles	731	9.7%	Nigeria	365	10.9%
Sudan	0	—	Senegal	0	—
Uganda	5	0.0%	Sierra Leone	All	
Zambia	0	—	Togo	0	—
Zimbabwe	378	2.3%			

Note:
(a) Out of the 5,224 lines in the full HS6 nomenclature. The primary source for tariff data was UNCTAD's TRAINS database. The tariff schedules used were the most recent available when the main dataset used in this study was compiled in 2005. In some cases (all SADC, Kenya, Mauritius), though, 2006 tariff schedules have been substituted, and for some countries (Cape Verde, Guinea, Palau) data were collected for this study that were unavailable in 2005. It was also possible, to a limited extent, to augment the data on Pacific tariffs with data supplied from the region. For 15 countries the tariff data were either non-existent or insufficient to analyse for this report; these countries are shaded grey in the table.

Appendix Table 2. Treatment of countries with large import items

Country	Allowable exclusion proportion [a]	Exclusion list proportion
Grenada	11.7%	12.2%
St Lucia	19.2%	20.9%
Trinidad and Tobago	36.2%	37.3%
Cameroon	39.1%	40.4%
Gabon	17.1%	18.8%
Eritrea	10.6%	12.8%
Zimbabwe	36.2%	40.4%
Cape Verde	10.8%	12.6%
Côte d'Ivoire	31.6%	33.6%
Mauritania	21.9%	26.9%
Nigeria	25.3%	26.5%
Note: (a) According to EU data on trade balance in 2006.		