

# Much to lose, little to gain



Assessing EPAs from the  
perspective of Malawi

TEARFUND



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Thanks to Paul Cook, Tom Baker, Donald Mavunduse,  
Christina Weller and Sophie Powell for comments on earlier drafts.

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Tearfund is an evangelical Christian relief and development agency working with local partners to bring help and hope to communities in need around the world.

Tearfund is a member of the Trade Justice Movement, a growing coalition of organisations campaigning for fundamental changes to the unjust rules and institutions which govern international trade.

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# Contents

|  |           |
|--|-----------|
| Acronyms   | 4         |
| Executive summary                                  | 5         |
| Introduction                                       | 8         |
| <b>Section 1 EPAs: an overview</b>                 | <b>11</b> |
| 1.1 Background to EPAs                             | 11        |
| 1.1.1 Setting the scene: the Lomé Conventions      | 11        |
| 1.1.2 A new era: the Cotonou Partnership Agreement | 11        |
| 1.1.3 EPAs: reciprocal free trade deals            | 12        |
| 1.1.4 The timetable for negotiations               | 13        |
| 1.1.5 The Eastern and Southern Africa Group        | 14        |
| 1.2 EPAs: a flawed process                         | 15        |
| 1.2.1 Unbalanced negotiations                      | 15        |
| 1.2.2 Unequal negotiating capacity                 | 15        |
| 1.2.3 Surrounded by legal uncertainty              | 16        |
| 1.2.4 Disagreement over ‘development’              | 16        |
| 1.2.5 Raised hopes of more funding                 | 17        |
| 1.2.6 Additional development assistance: illusory  | 17        |
| 1.2.7 The Review: a missed opportunity?            | 19        |
| 1.2.8 Deadline looming                             | 19        |
| 1.3 The EPAs debate: increasing concern            | 20        |
| 1.3.1 ACP governments                              | 20        |
| 1.3.2 Parliamentarians                             | 20        |
| 1.3.3 Civil society                                | 21        |
| 1.3.4 UK government                                | 21        |
| <b>Section 2 Malawi, poverty and trade</b>         | <b>23</b> |
| 2.1 Background to Malawi                           | 23        |
| 2.1.1 Poverty and vulnerability                    | 23        |
| 2.1.2 Main features of the economy                 | 23        |
| 2.1.3 Overview of Malawi’s trade                   | 24        |
| 2.1.4 Trade with Europe                            | 25        |

|                  |   |           |
|------------------|---|-----------|
| 2.1.5            | Preference erosion  | 26        |
| 2.1.6            | Supply-side challenges  | 26        |
| 2.1.7            | Regional trade agreements   | 27        |
| 2.1.8            | Malawi's development strategy   | 27        |
| 2.2              | Malawi's experience: lessons to be learnt                             | 28        |
| 2.2.1            | Malawi's trade reforms  | 28        |
| 2.2.2            | Market access to Europe   | 29        |
| <b>Section 3</b> | <b>EPAs: implications for Malawi</b>                                  |           |
| 3.1              | Potential impacts of reciprocity                                      | 31        |
| 3.1.1            | Costs to livelihoods, jobs and Malawi's future industrial development | 31        |
|                  | <i>Increased exports from the EU</i>                                  | 31        |
|                  | <i>Impact on agriculture</i>  | 32        |
|                  | <i>Impact on industry</i>   | 34        |
|                  | <i>What about asymmetry?</i>  | 34        |
| 3.1.2            | Cost to regional integration  | 35        |
|                  | <i>Trade diverted away from ESA</i>                                   | 36        |
|                  | <i>Trade barriers between ESA countries reinforced</i>                | 36        |
|                  | <i>Existing regional integration processes hindered</i>               | 38        |
| 3.1.3            | Cost to government revenue  | 40        |
|                  | <i>Loss of tariff revenue</i>   | 40        |
|                  | <i>Adjustment costs</i>   | 41        |
| 3.2              | Beyond goods tariffs: other areas of negotiation                      | 42        |
| 3.2.1            | Services  | 42        |
| 3.2.2            | Trade-related areas: WTO+   | 44        |
|                  | <i>Investment</i>   | 44        |
|                  | <i>Public procurement</i>   | 45        |
|                  | <i>Competition policy</i>   | 46        |
| 3.3              | Has Malawi anything to gain from an EPA?                              | 46        |
| 3.4              | What alternative for Malawi?  | 47        |
| <b>Section 4</b> | <b>Conclusion and recommendations</b>                                 | <b>49</b> |
|                  | <b>References</b>   | <b>51</b> |

# Acronyms and abbreviations

|               |   |
|---------------|---|
| <b>ACP</b>    | African, Caribbean and Pacific countries              |
| <b>BIT</b>    | Bilateral Investment Treaty                           |
| <b>CET</b>    | Common external tariff                                |
| <b>COMESA</b> | The Common Market for Eastern and Southern Africa     |
| <b>EBA</b>    | Everything But Arms                                   |
| <b>EC</b>     | European Commission                                   |
| <b>ECOWAS</b> | Economic Community of West African States             |
| <b>EDF</b>    | European Development Fund                             |
| <b>EPA</b>    | Economic Partnership Agreement                        |
| <b>ESA</b>    | Eastern and Southern Africa                           |
| <b>EU</b>     | European Union  |
| <b>FDI</b>    | Foreign direct investment                             |
| <b>FTA</b>    | Free Trade Agreement                                  |
| <b>GATS</b>   | General Agreement on Trade in Services                |
| <b>GATT</b>   | General Agreement on Tariffs and Trade                |
| <b>GDP</b>    | Gross domestic product                                |
| <b>GSP</b>    | Generalised System of Preferences                     |
| <b>IMF</b>    | International Monetary Fund                           |
| <b>LDC</b>    | Least Developed Country                               |
| <b>MGDS</b>   | Malawi Growth and Development Strategy                |
| <b>NDTPF</b>  | National Development and Trade Policy Forum           |
| <b>NGO</b>    | Non-governmental organisation                         |
| <b>ODA</b>    | Overseas Development Aid                              |
| <b>OECD</b>   | Organisation for Economic Cooperation and Development |
| <b>REC</b>    | Regional Economic Community                           |
| <b>RTA</b>    | Regional Trade Agreement                              |
| <b>SADC</b>   | Southern Africa Development Community                 |
| <b>SDT</b>    | Special and differential treatment                    |
| <b>SPS</b>    | Sanitary and phytosanitary                            |
| <b>TDCA</b>   | Trade, Development and Cooperation Agreement          |
| <b>UNECA</b>  | United Nations Economic Commission for Africa         |
| <b>UNCTAD</b> | United Nations Conference on Trade and Development    |
| <b>WITS</b>   | World Integrated Trade Solution                       |
| <b>WTO</b>    | World Trade Organisation                              |

# Executive summary

Economic Partnership Agreements (EPAs) between the European Union (EU) and African, Caribbean and Pacific (ACP) countries pose a major threat to development and poverty reduction. The ACP countries include some of the poorest countries in the world – 39 of the world's 50 Least Developed Countries (LDCs). Yet EPAs will require the ACP to liberalise substantially all of their trade with the EU. The EU is also using EPAs to push its agenda on the so-called 'Singapore issues' that developing countries have refused to negotiate at the World Trade Organisation (WTO) for years.

The EPA negotiations are unbalanced. There is great disparity between the ACP and EU in terms of development and economic power. Also, there are fundamental differences in understanding between the ACP and EU of how the ACP-EU trade relationship can serve development purposes. ACP governments, parliamentarians and civil society are expressing increasing concern about EPAs, in terms of process, content and the potential impact on ACP economies and populations.

This report looks at EPAs from the perspective of Malawi. Malawi's stakes in EPAs are high: as the single largest market for Malawi's exports and a key source of imports, the EU is an important trading partner. For the EU, however, trade with Malawi accounts for a mere 0.01 per cent of its world trade.<sup>1</sup>

This report shows that an EPA threatens to, *inter alia*:

- reinforce Malawi's position as an exporter of low-value, unprocessed commodities, undermining the Malawian government's development strategy to 'add value' to agricultural goods and to develop a manufacturing sector
- undermine regional integration between Malawi and its neighbours
- lead to a significant loss of fiscal revenue and induce other major adjustment costs.

Given the threat that EPAs pose to development and poverty reduction and considering the concerns being raised by stakeholders across the ACP, we make a number of recommendations outlined overleaf.

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<sup>1</sup> European Commission (2006)

**RECOMMENDATIONS TO EU MEMBER STATES AND THE EUROPEAN COMMISSION (EC)**

EU member states and the EC should:

- seek a framework for ACP-EU trade that includes:
  - market access for the ACP to European markets that is no worse than they currently have, with legal certainty and the removal of certain non-tariff barriers, for example, improved Rules of Origin.
  - no requirements on ACP countries to open their markets in return. This is in order to protect livelihoods and promote food security. It would also allow ACP governments to use tariffs as part of development policy to promote diversification from low-cost commodities and develop manufacturing and industry.
  - no requirements to negotiate on the Singapore issues.
- push for Article 24 of the General Agreement on Tariffs and Trade (GATT) to be changed to incorporate special and differential treatment for developing countries in Regional Trade Agreements (RTAs) and allow for non-reciprocity in RTAs between countries at very different levels of development.
- provide increased development assistance to ACP countries to help them adjust to preference erosion, to address supply-side constraints and to build regional integration. The EU should improve the delivery mechanisms for this aid and should make clear guarantees that this assistance is in no way contingent on the signing of an EPA.
- examine all alternatives to EPAs as a matter of urgency so that developing countries have a genuine choice of whether or not to sign up to an EPA.
- ensure EPAs are a key priority of the German and Portuguese presidencies of the EU in 2007, to ensure that the ACP-EU trade relationship is one that promotes sustainable development.
- not use the deadline of the WTO waiver's expiry to pressure the ACP to sign up to trade agreements that will harm development. Proper time should be allowed in the negotiations for a new ACP-EU trade framework to ensure full consultation of all stakeholders – including civil society and parliamentarians – and to carry out full and thorough impact assessments.
- respect the regional integration processes already underway in Africa and ensure that any future ACP-EU trade framework does not undermine these processes.
- ensure that the EPA review process is transparent, comprehensive, consultative and inclusive. It should cover the structure, process and substance of the negotiations, including both trade and development aspects, and address the issues of concern to the ACP, including the provision of alternatives.



**RECOMMENDATIONS TO THE UK GOVERNMENT**

The UK government should:

- ensure that the EC hears, acknowledges and responds to the concerns of ACP governments, parliaments and civil society.
- significantly increase its efforts to influence other EU member states to produce public positions on EPAs which are at least in line with its own position. These should include provisions in relation to not forcing liberalisation, not forcing negotiations on the Singapore issues and offering alternatives.
- continue actively and publicly to raise its objections to EPAs with the European Council and the EC.
- hold the EC to account for a transparent, comprehensive, consultative and inclusive review that covers structure, process and substance of the negotiations, including both trade and development aspects.

# Introduction

The European Union (EU) is negotiating Economic Partnership Agreements (EPAs) with 75 of its former colonies in Africa, the Caribbean and Pacific (ACP). Negotiations are taking place between the EU and six regional groupings of ACP countries: four in Africa, one in the Caribbean and one in the Pacific.

EPAs are essentially reciprocal Free Trade Agreements (FTAs) between an economic giant and some of the poorest countries in the world – the ACP includes 39 of the world's 50 Least Developed Countries (LDCs). Currently, the ACP countries have preferential market access to Europe. EPAs, however, will require ACP countries to 'reciprocate' and open up their markets in return. The EU is also pushing for the liberalisation of the ACP's service sectors and for negotiations on the so-called 'Singapore issues' of competition policy, investment and government procurement, issues rejected by developing countries at the World Trade Organisation (WTO) for years.<sup>2</sup>

EPAs mark a fundamental change in ACP-EU trade relations and the stakes for developing countries are extremely high. However, there is a woeful shortage of official and thorough impact studies to assess the real costs of EPAs on livelihoods, development and the environment in ACP countries.<sup>3</sup> The EPA negotiations are due to be concluded by the end of 2007 but as the deadline draws near, fundamental concerns and questions remain unaddressed. As Mamadou Diop, Minister of Trade for Senegal, remarked in November 2006: *'We are forced to admit that our development needs and concerns have not been taken on board as they ought to be by the European Union.'* Referring to the lack of adequate impact assessments, he said: *'Obtaining a road map without prior assessment of possible EPAs' impact on our economies is nonsensical and still it is a fact.'*<sup>4</sup>

This report looks at the EPAs debate from the perspective of Malawi, a landlocked LDC in Southern Africa. What issues does Malawi face in negotiating an EPA? What might the impact of an EPA be on Malawi? Will an EPA support and promote Malawi's development strategy?

Tearfund acknowledges that there are problems with trying to assess impact given that EPAs are still under negotiation and the final content is not yet known. However, the European Commission's (EC's) negotiating mandate and its approach to EPAs so far give us a clear indication of the EC's vision for what an EPA will and will not include. Thus, whilst it is only possible to go so far with a detailed impact assessment at this stage, it has been possible to look broadly at what the potential impacts – both costs and benefits – are to Malawi from signing up to an EPA as envisaged and pursued by the EU.

2 The fourth 'Singapore issue', trade facilitation, is being negotiated at the WTO.

3 In 2004, the government of Malawi commissioned a study (Imani, 2004) with the objective *inter alia* to assess and analyse the fiscal, economic and social effects of an EPA on Malawi. However, due to data limitations the author concluded that 'a

*meaningful impact assessment study of the productive sectors was not possible'.*

4 Mr Mamadou Diop, Minister of Trade, Senegal, speaking at a conference hosted by the South Centre, *EU-ACP Trade Relations: The Development Challenge of EPAs*. Brussels, 12 October 2006

This report also looks beyond the impacts on Malawi to issues that are of relevance to the ACP as a whole and as such contains discussion, conclusions and recommendations of relevance to the EPA debate more generally.

We begin with a section on the background to EPAs and follow this by critiquing the process of negotiations and the EC's general approach to EPAs. We also highlight some of the key concerns and questions being raised by stakeholders across the ACP. In Section 2 we focus on Malawi, beginning with a general overview of the economic and social context and looking at Malawi's past experience of trade. In Section 3 we assess the implications for Malawi of a reciprocal EPA, asking what Malawi has to gain and lose. Section 4 provides a conclusion and recommendations.

## Methodology

To inform this report, quantitative and qualitative research was carried out in Malawi by Temwa Gondwe, Trade Project Manager for the Malawi Economic Justice Network, and researcher Collins Magalasi. This research is referenced in this report as Gondwe and Magalasi (2006).

The qualitative research comprised 35 semi-structured interviews with a range of stakeholders in Malawi including donors, private sector organisations, farmers' organisations, academics, NGOs and the government of Malawi (the Ministry of Agriculture, the Ministry of Finance, the Ministry of Economic Planning and Development, the Ministry of Trade and Private Sector Development and the Malawi Investment Promotion Agency). The researchers also facilitated focus group discussions with small-scale rice farmers and cotton farmers, and smallholder tea growers, fish farmers, sugarcane growers and miners. Policy staff from Tearfund participated in a number of these interviews in Malawi.

The research involved a literature review and quantitative assessment and analysis of the potential impacts on government revenue and trade flows. A partial equilibrium modelling methodology was used – the World Bank's World Integrated Trade Solution (WITS). We acknowledge the weakness of a partial equilibrium model in failing to consider the dynamic implications of tariff dismantlement. However, as the objective was to look specifically at the potential impact on Malawi, a general equilibrium model was not appropriate.

The analysis considered the scenario of reciprocity, with Malawi liberalising 100 per cent of its imports from the EU. We acknowledge that Malawi is unlikely to have to liberalise to this extent. However, at time of writing it is still unclear what product coverage and implementation time frame will be expected of Malawi. Given this uncertainty it is still useful to determine the direction of the impact using an economic modelling tool for a full liberalisation scenario. This simulation is similar to that done by Karingi et al (2005) for the United Nations Economic Commission for Africa (UNECA) which this report also refers to. Gondwe and Magalasi (2006) also used methodology developed by the Institute for Development Studies (IDS) to assess tariff revenue loss using an 80 per cent liberalisation scenario.

In addition to the research in Malawi, Tearfund met with staff from the European Commission's Directorate General for Trade (DG Trade) and DG Development, and spoke to staff from the UK's Department for Trade and Industry and the Department for International Development to inform the report.

We also use a wide range of secondary data, including a number of studies on the impact of past trade reform on Malawi. We make use of trade and poverty statistics from a number of sources, including UNDP, UNCTAD and the EC.

We draw on a number of other quantitative studies that have been undertaken to assess the possible impacts of the trade liberalisation aspect of EPAs on ACP countries. We look at the specific results for Malawi, and analyse them alongside the findings of the qualitative research undertaken in Malawi. Again, we acknowledge the limitations of some of the economic modelling exercises: they are generally constrained by the limited availability of data and most only look at the static effects of EPAs.<sup>5</sup> That said, the studies have generated useful information on what the impacts and effects of EPAs might be. Where the studies or data sources used currencies other than Euros, we have converted them to Euros using the exchange rate on 1 December 2006.

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5 Karingi et al (2005) do look at the dynamic effects through analysing the impact of EPAs on production, employment and demand in regard to factors of production. However, data

limitations meant that the analysis looks at sub-Saharan Africa as a whole and not by region or country.

# 1 EPAs: an overview

## 1.1 Background to EPAs

### 1.1.1 Setting the scene: the Lomé Conventions

Since 1976, the trade, aid and political relationship between the EU and its former colonies, the ACP, has been governed by a series of conventions – known as the Lomé Conventions.<sup>6</sup>

In recognition of the very different levels of economic development experienced by EU and ACP countries, the Lomé Conventions gave the ACP non-reciprocal trade preferences to European markets i.e. they had better access to European markets than other developing or developed countries, without having to ‘reciprocate’ (offer market access to the EU) in return. ACP countries were only obliged to treat imports from the EU no less favourably than from other sources. However, these trade provisions were increasingly challenged by WTO members because they were seen to discriminate against non-ACP developing countries and hence to be incompatible with WTO rules.<sup>7</sup>

The fourth and final Lomé Convention was signed in 1996 and expired in 2000, but under a ‘waiver’ granted at the WTO, its provisions will govern trade between ACP countries and the EU until December 2007.

### 1.1.2 A new era: the Cotonou Partnership Agreement

In 2000, a new deal – The Cotonou Partnership Agreement (from now on referred to as the Cotonou Agreement) – was signed to replace the Lomé Conventions. It has the principal objectives of reducing and eventually eradicating poverty, consistent with the objectives of sustainable development and the gradual integration of ACP countries into the world economy.<sup>8</sup> It establishes a comprehensive framework for future ACP-EU relations.

As with its predecessors, the Cotonou Agreement covers economic and trade cooperation, development cooperation (aid) and political cooperation. Within the area of economic cooperation and trade, it provides for negotiations of new trade agreements – Economic Partnership Agreements – between the EU and ACP. The aim of future trade cooperation is *‘fostering the smooth and gradual integration of the ACP States into the world economy, with due regard for their political choices and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the ACP countries.’*<sup>9</sup>

6 The first three Conventions were five-year agreements; the fourth spanned ten years.

7 Under the WTO’s ‘Enabling Clause’, countries can only provide preferences to developing countries as a whole or just to LDCs and not to other groupings such as the ACP. However, in a case brought by India challenging the anti-narcotics tranche of the

GSP, the WTO’s Appellate Body confirmed that differentiation within the GSP is possible provided it is related to objective and internationally accepted difference in circumstance responding *‘to a widely recognised development, financial [or] trade need’*.

8 Cotonou Partnership Agreement, Article 1 (2)

9 Cotonou Partnership Agreement, Article 34 (1)

### 1.1.3 EPAs: reciprocal free trade deals

A key feature of EPAs is that they are to be compatible with WTO rules. The current WTO provisions governing Regional Trade Agreements (RTAs) are found in Article 24 of the General Agreement on Tariffs and Trade (GATT). However, Article 24 was principally designed to cover agreements between developed countries and has no special and differential treatment (SDT) provisions for developing countries. It is thus highly inappropriate for trade agreements between such economically disparate parties as the EU and ACP.

According to WTO rules there is no requirement for EPAs (or any other FTA) to cover anything except trade in goods (i.e. no requirement to cover services, intellectual property, investment etc). If services are included, they would have to meet the requirements of Article 5 of the General Agreement on Trade in Services (GATS), which governs services in RTAs. This provision explicitly recognises the special circumstances faced by developing countries and allows for some flexibility.

Article 24 of the GATT states that both tariff and non-tariff barriers must be eliminated (not just reduced) on 'substantially all trade' between the members of the FTA. At present most countries agree a working definition of 'substantially all trade' as equating to approximately 90 per cent of trade. However, there is no legally agreed definition of 'substantially all trade' nor any agreed methodology for measuring it; no working party has ever approved or disapproved an FTA on these grounds, and no dispute panel has directly decided it. The WTO's Appellate Body observed in passing that substantially all trade is *'not the same as all the trade... [but] something considerably more than some of the trade'*.<sup>10</sup> Article 24 is equally vague on the time frame over which an FTA should be implemented – this should be *'within a reasonable length of time'*. The agreed interpretation is ten years except in exceptional circumstances.<sup>11</sup> However, there is no clarity on the legal status of this interpretation. Thus there is considerable uncertainty around the meaning of Article 24.

The EU will allow for an asymmetrical approach to calculating 90 per cent of the total average value of trade in EPAs and the ACP may also be given a slightly longer time frame in which to liberalise. For example, in its Trade, Development and Cooperation Agreement (TDCA) with South Africa, the EU agreed to liberalise around 95 per cent of its imports from South Africa over a period of ten years, while South Africa undertook to liberalise 86 per cent of its imports from the EU over 12 years. Thus the ACP countries will be able to select a certain number of products to include on a 'sensitive list' that will be protected from liberalisation.

It is not yet clear what degree of asymmetry the EC will allow in EPAs. In 2004, the EC informally suggested that countries in Eastern and Southern Africa would have to liberalise around 80 per cent of their trade in an EPA.<sup>12</sup> In meetings that Tearfund and other NGOs have held with the EC, different figures have been alluded to by different Commission officials. At time of writing, neither the scale of market opening nor the transition period in which market opening will take place has been decided for any region.

10 WTO Appellate Body *Turkey – Restrictions on Imports of Textile and Clothing Products*. WT/DS34/AB/R, ILM 39 (2000) 159, para 48

11 WTO legal text: Understanding on the Interpretation of Article 24 of the General Agreement on Tariffs and Trade 1994

12 Maeten (2004)

### 1.1.4 The timetable for negotiations

EPA negotiations between the EU and ACP began on 27 September 2002 with the aim of concluding in 2007 and the new deals coming into force in 2008.<sup>13</sup>

Phase I of the negotiations took place at an all-ACP level, on general issues of common interest to all ACP states and on the framework of an EPA. Phase II saw the launch of substantive negotiations. In this second phase, the negotiations are between the EU and six regional groupings of the ACP: four in Africa, one for the Caribbean and one for the Pacific (see Box 1), in order for regional EPAs to be negotiated with the EU.

In terms of the negotiating machinery, the EC (Directorate General for Trade) is mandated by the EU member states to negotiate on behalf of the EU, and Regional Secretariats negotiate on behalf of each ACP regional grouping. The EU and ACP have set out their overall aims and objectives in 'negotiating directives' often referred to as the 'negotiating mandate'. The EC's negotiating directives have been agreed by EU member states, the Regional Secretariats' by ACP member states. Each region is negotiating its own EPA text and proceeding at its own pace.

**Box 1**  
The six EPA regions  
(LDCs in italics)

|  |  |
|--|--|
| <b>SADC</b> (SOUTHERN AFRICAN DEVELOPMENT COMMUNITY) | <i>Angola, Botswana, Lesotho, Mozambique, Namibia, Swaziland, Tanzania.</i>  |
| <b>CEMAC</b> (CENTRAL AFRICA)                        | <i>Cameroon, Central African Republic, Chad, Congo (Republic of), Democratic Republic of Congo, Equatorial Guinea, Gabon, Sao Tome and Principe.</i>   |
| <b>ECOWAS</b> (WEST AFRICA)                          | <i>Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Togo.</i>   |
| <b>ESA</b> (EASTERN AND SOUTHERN AFRICA)             | <i>Burundi, Comoros, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Uganda, Zambia, Zimbabwe.</i>   |
| <b>PACIFIC</b>                                       | <i>Cook Islands, Fed. Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu</i>   |
| <b>CARIBBEAN</b>                                     | <i>Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Surinam, Trinidad and Tobago.</i> |

13 Cotonou Partnership Agreement, Article 37 (1)

### 1.1.5 The Eastern and Southern Africa Group

Malawi is negotiating an EPA as part of the Eastern and Southern Africa (ESA) grouping. ESA launched Phase II of its talks in February 2004 in Mauritius. The ESA internal negotiating structure consists of two levels: ministerial and ambassadorial. The bulk of technical work is done by the Regional Negotiating Forum (RNF), which comprises experts from ESA member states and regional organisations and meets every three to four months. ESA is negotiating in six 'clusters': market access, agriculture, services, fisheries, trade-related issues and development.

Each ESA country, including Malawi, has established a National Development and Trade Policy Forum (NDTPF) which is tasked with developing national negotiating positions to be used by the country representatives at the RNFs. The NDTPF is both multi-sectoral (agriculture, trade, investment, services, etc) and in theory representative of the public and private sectors and non-state actors involved in trade and development work.

Following the RNF in Sudan in August 2006, ESA submitted a draft EPA text to the EC for comment. Some of the comments it received are noted in Box 2. These help provide a clear indication of what an ESA EPA, as envisaged by the EC, will look like. The EC rejected a number of measures aimed at protecting the weaker economies of the LDCs in the ESA group and measures seeking to ensure that liberalisation policies are tied closely to the development levels of a particular country. In short, for the EC, an EPA is a reciprocal FTA that will require ESA countries to liberalise substantially, regardless of how their economy develops. ESA began text-based negotiations with the EU in September 2006.

**Box 2**  
EC comments on  
ESA draft EPA text

| ESA draft text   | EC response   |
|--|---|
| LDCs to be exempt from tariff liberalisation commitments in the EPA.   | Not acceptable.   |
| Economic reforms by ESA countries to be based on the countries' development, measured by benchmarks derived from national and regional development plans.  | Not acceptable.   |
| A regular review process to assess progress towards development benchmarks. If development benchmarks have not been achieved, ESA countries may apply for the derogation of tariff reductions and have the flexibility to raise as well as reduce tariffs. | <i>'As it is formulated, this review clause is not acceptable. While we are not against well defined review clauses, we think that they should be limited in their scope and mainly aimed at accelerating or extending liberalisation'.</i> |
| LDCs' market access under the Everything But Arms (EBA) initiative should be bound and made contractual. <sup>14</sup>   | Not acceptable.   |

<sup>14</sup> Under EBA, LDCs have duty- and quota-free access to Europe's markets for all products except arms and munitions. The only

other exceptions are sugar and rice for which LDCs will be given duty- and quota-free access in 2009.



## 1.2 EPAs: a flawed process

*'We urge the European Commission to... desist from exerting pressure at the highest political level by taking advantage of the information gap that may exist between the negotiators and the political leadership...'*

ACP Council of Ministers, May 2006 <sup>15</sup>

The process of negotiating EPAs is fraught with difficulties. There are fundamental areas of disagreement between the ACP and EU and significant imbalances in power and capacity between the two sides. There are also key questions surrounding the legality of EPAs which remain unanswered. This section examines some of the major concerns relating to the process of EPA negotiations.

### 1.2.1 Unbalanced negotiations

From the start, the EPA negotiations have been extremely unbalanced. The dependence of Malawi and most other ACP countries on the EU for market access and development assistance makes it difficult for them to resist aspects of EPA negotiations which may be against their interests, let alone be able to promote their own interests. In addition, as the quote above suggests, the EC is not deterred by the fact that the ACP contains some of the poorest countries in the world: it insists on pursuing a 'business-as-usual' tough negotiating approach and is putting immense pressure on ACP countries to negotiate on its terms.

The UK parliament's International Development Select Committee has expressed concern over the EU's approach: *'We are concerned that the EU is approaching the negotiations with the ACP as if they were a game of poker. The Commission is refusing to lay its cards on the table and to dispel the ACP's fear that it stands to lose more than it will gain. While this may be acceptable behaviour for partners with comparable hands, it is unnecessary and unwelcome in the current negotiations. The ACP is negotiating under considerable duress and the EU approach emphasises the unequal nature of the negotiation process.'*<sup>16</sup>

### 1.2.2 Unequal negotiating capacity

Trade negotiations are by nature extremely complex and countries require vast technical and human resource capacity to negotiate adequately. Gondwe and Magalasi (2006) conclude that EPAs have put considerable additional strain on an already stretched Malawian trade negotiating team. Malawi's EPA negotiations are led by the Ministry of Trade and Private Sector Development (MTPSD). The Ministry has only two experienced negotiators responsible for all of Malawi's trade negotiations (EPAs, WTO, COMESA, etc). One full-time officer is assigned to coordinate consultations and input from other key ministries, civil society organisations and private sector forums.<sup>17</sup>

<sup>15</sup> ACP Council of Ministers' Declaration, ACP/25/006/06, Port Moresby, May 2006

<sup>16</sup> House of Commons International Development Select Committee (2005)

<sup>17</sup> Gondwe and Magalasi (2006)

Civil society and private sector organisations interviewed in Malawi expressed concern that the MTPSD has very limited capacity to negotiate a favourable trade agreement for Malawi through EPAs. The workload is simply too vast for the limited resources available. Arguably linked to the issue of capacity, many stakeholders from civil society and the private sector in Malawi felt that there has not been enough debate at the national level, nor has there been enough consideration about what the impact will be on livelihoods, employment and poverty.<sup>18</sup>

### 1.2.3 Surrounded by legal uncertainty

Article 37 (7) of the Cotonou Agreement states that EPAs have to conform to WTO rules 'then prevailing'. However, there is great uncertainty around the legal interpretation of GATT Article 24 (see Section 1.1.3). The rules pertaining to RTAs are subject to negotiations under the Doha Round at the WTO. It is highly unlikely that these negotiations will be completed before the conclusion of a new ACP-EU trade regime and therefore a number of questions arise: how can WTO-compatible EPAs be concluded when WTO compatibility is unclear and remains a moving target? Would the new ACP-EU trade regime have to be adjusted again if the WTO rules were later modified? No clear answers have been given.

It is also unclear whether the regional groups of countries negotiating EPAs will sign up to EPAs as a bloc or whether individual countries will sign separately. The ESA grouping, for example, has no legal status. Is it therefore possible for 'ESA' as a bloc to sign up to an EPA? Again, this is an area of legal uncertainty which prompts questions that are not yet being answered.

### 1.2.4 Disagreement over 'development'

The Cotonou Agreement is clear: EPAs are to promote sustainable development and contribute to poverty eradication in ACP countries.<sup>19</sup> Both the EU and ACP have said that EPAs are to be 'tools for development'. However, there is serious disagreement between the parties on the practical implications of what this means. For the EC, the development component of EPAs is a process driven by trade liberalisation, regional integration and more stringent trade and investment rules. These will lead to greater efficiency, attract investment and promote development.

However, ACP governments hold that this viewpoint ignores the structural deficiencies and supply-side constraints that they face. For the ACP, development implies *inter alia* the provision of special and differential treatment, more effective access to Europe's markets and binding commitments on EU development support to help them deal with supply-side constraints and adjustment to EPAs.

ACP governments argue that EPAs need to address the factors that have stopped them from taking advantage of the preferential access to Europe's markets that they have had over the past 30 years. There are number of constraints and hindering factors: for example, supply-side constraints and inability to meet SPS standards. Rules of origin are also an

18 Gondwe and Magalasi (2006)

19 The Cotonou Agreement, Article 34 (1)

important factor. These are supposedly to avert the situation whereby products from countries which are not beneficiaries of a preferential trade agreement are routed through beneficiary countries to exploit the preferences. However, they can limit the export capacity of countries that rely on components of products from other countries. The complex administrative burden they carry also acts as a barrier to exports.

Unless the issues raised by ACP governments are addressed, EPAs will not act as tools for development. However, the EC refuses to listen to such arguments and continues to forcefully push forward its agenda for the substantial opening of ACP markets.

### 1.2.5 Raised hopes of more funding

When asked what gains EPAs were likely to bring to Malawi, many of the Malawian government officials interviewed on Tearfund's behalf said that the gains would come through increased aid to address supply-side constraints and to help to meet sanitary and phytosanitary (SPS) standards.

The ACP has been clear from the start of the EPA process on its need for development assistance: its guidelines for the negotiations state that the *'development component is essential to an EPA... trade liberalisation entails for ACP countries certain economic costs such as the fiscal impact and adjustment costs, and capacity requirements that need to be addressed. Unless these are addressed, the benefits of an EPA for the ACP would be unrealisable and the EU would be the beneficiary of ACP trade liberalisation.'*<sup>20</sup>

Europe's approach to the issue of development assistance, however, has been both contradictory and misleading. While the EC has implied strong links between aid and EPAs, raising the hopes of Malawi and other ACP countries of an increase in much-needed funding, it has gradually become clear that these hopes are misplaced and that the EC will not provide any new funds in the context of EPAs.

### 1.2.6 Additional development assistance: illusory

The EC has said that the costs of implementing and adjusting to EPAs will come from the 10th European Development Fund (EDF), the EU's main mechanism for providing development assistance to ACP countries. €22.7 billion has been pledged for the 10th EDF that will begin in 2008. However, it was estimated that €21.3 billion was needed to fund the costs of the existing aid portfolio before consideration of any EPA-related financing.<sup>21</sup> That means that if the EDF is to provide new funds for EPAs, these are funds that are going to have to be diverted from other areas such as health and education.

As part of the EPA process, Malawi has produced a 'development matrix', outlining the challenges and constraints Malawi would need to overcome in order to trade effectively and competitively, and suggesting the solutions to overcome these. The matrix calculates that the total amount of finance needed for Malawi to address its supply-side constraints is more than €8 billion.<sup>22</sup> This figure doesn't include the adjustment costs that EPAs will entail.

20 ACP Guidelines for the Negotiation of Economic Partnership Agreements, ACP/61/056/02, Brussels, 5 July 2002

21 Oxfam International (2006)

22 Gondwe and Magalasi (2006)

However, Malawi is only expected to receive €300 million in the 10th EDF. This will be for five years beginning in 2008.<sup>23</sup> Not only does this fall far short of what is needed, any money that was used for this purpose would entail diverting funds away from other vitally important areas.

In addition to concerns over the amount of EDF funds, there are significant problems with the process of the EDF, not least the time it takes to commit and disburse resources. During the last five-year cycle (2001–2006), the EU promised €15 billion to ACP countries through the EDF but only 28 per cent of this money had been disbursed by the end of the cycle.<sup>24</sup> Moreover, the EC's own assessments of the time frame required for full deployment of existing 9th EDF resources in Botswana, Lesotho and Swaziland show that it will take between 9 and 17.5 years to disburse existing EDF funds and between 7 and 14.7 years even to sign contracts for the implementation of specific project activities.<sup>25</sup> Even if there was more money in the EDF or it was felt justified to divert EDF money away from social spending, the time delay in aid delivery poses major problems in the context of EPAs.

In October 2006 the EU reiterated a commitment to 'aid for trade' support to developing countries, some of which could be used for EPA-related adjustment costs. However, it is not clear how the EU will follow through on these vague commitments and there are serious doubts as to whether this money is in addition to aid that has already been committed. According to Glenys Kinnock MEP: *'This [Aid for Trade] is not new money. It is a recycling and a relabelling of existing aid commitments. Talk of increased amounts of EPA-related assistance under the next European Development Fund is equally disingenuous. Again, I fear we will see the redirecting of development aid towards the priority the Commission gives to its trade and regional integration objectives.'*<sup>26</sup>

ACP countries have had many broken promises of increased aid in the past: now they want binding commitments on development assistance. They have called for the establishment of an EPA financing facility with the aim of avoiding the burdensome procedures of the EDF and the diversion of social funds.<sup>27</sup> The EC, however, has rejected this suggestion.

Malawi and other ACP countries need substantial amounts of aid to enable their producers, industries and services to compete effectively both domestically and globally and this aid should be delivered in an effective way. It should not be dependent on whether or not they sign up to an EPA and the EU should make clear guarantees in this regard.

23 Gondwe and Magalasi (2006)

24 Oxfam (2006)

25 Section 6 'Performance Appraisal, Mid Term Review Conclusions, CEC' cited in Goodison (2006)

26 Glenys Kinnock MEP, letter to the *Financial Times*, 30 November 2006

27 ACP Council of Ministers' Declaration, ACP/25/006/06, Port Moresby, May 2006

### 1.2.7 The Review: a missed opportunity?

The Cotonou Agreement provides for a Review of the EPA negotiations in 2006. Given the fears and concerns expressed by stakeholders in ACP countries, the Review provides a real opportunity to address these questions and assess whether EPAs are the ‘tools for development’ that they are held to be. The EC openly admitted it wanted the Review to be ‘light’. The ACP, however, argued that it should be *‘all-inclusive and consultative with all stakeholders including non-state actors and parliamentarians and should be conducted at national and regional levels’*. It should include, ‘inter alia, *the structure, process and substance of the negotiations, the trade and development dimensions, as well as the capacity and preparedness to conclude EPAs’*. The ACP called for development benchmarks to be developed and alternatives to EPAs to be fully explored in the Review.<sup>28</sup>

In April 2006 the European Council stated that the EPAs review should be *‘formal and comprehensive with participation from the ACP side’* and that it should cover *‘both trade and development aspects of the EPAs, including cross-cutting issues affecting the development prospects of all ACP countries’*.<sup>29</sup> It was the EC alone that wanted the Review to be a quick and light process so negotiations proper could progress rapidly.

In July 2006 a terms of reference for the Review was agreed by the ACP-EU Committee of Ambassadors. Some of the ACP’s concerns were incorporated. The Review was to be comprehensive, consultative and inclusive and would cover structure, process and substance of the negotiations, including both trade and development aspects. The ACP’s call for alternatives to be considered and development benchmarks to be drawn up, however, was not accepted by the EC.

The Review began in September 2006 and is expected to be completed by Spring 2007, but from the start it has lacked transparency and there is little evidence to date that it is consultative or inclusive. The EC appears to be ignoring repeated calls from the ACP and the clear mandate from the European Council for the Review to be consultative and comprehensive. Yet it is a vital opportunity to address the fundamental concerns and questions raised above. In the time that remains of the review process, it is imperative for the EU and ACP to ensure that this is not a missed opportunity.

### 1.2.8 Deadline looming

The deadline for the expiry of the ACP waiver and hence the conclusion of EPA negotiations is drawing closer. However, it is important that this deadline is not used to pressure ACP countries into signing up to deals that will harm their development. The fundamental issue is whether the trade framework on the table will promote development. If not, then more time will be necessary to agree pro-development alternatives.

28 *Ibid*

29 EU Council Conclusions on Economic Partnership Agreements, Luxembourg, 10 April 2006

## 1.3 The EPAs debate: increasing concern

Parliamentarians and civil society from across the EU and ACP, as well as ACP governments themselves are expressing fundamental concerns about EPAs, many of which are explored in this report in relation to their implications for Malawi. The following quotes and statements reflect the level of discontent.

### 1.3.1 ACP governments

- In April 2006, the African Union trade ministers expressed their *'profound disappointment at the stance taken by negotiators of the European Commission in so far as it does not adequately address the development concerns that must be the basis of relations with Africa. We urge our negotiating partners to clearly demonstrate the development content of the proposed agreements...'*<sup>30</sup>
- The same month the ACP Ministers of Finance and Economic Affairs urged the EU to *'put the development dimension first in the EPA negotiations, and allow each ACP State and Region the flexibility to make its own decisions on the timing, pace, sequencing and product coverage of market opening in line with an individual country's national development plan and poverty reduction strategies.'*<sup>31</sup>

Individual ACP ministers have also become increasingly vocal:

- *'When EPAs make our concessions to Europe more than we are making to the rest of the world in the WTO Doha Round, then to make poverty history, you have to also make EPAs history.'* (Dr Mukhisa Kituyi, Kenya's Minister for Trade and Industry, July 2005)<sup>32</sup>
- *'This type of trade liberalisation between unequal partners has historically proven to be an ineffective development tool and even counterproductive. Such a policy of trade liberalisation could inhibit our countries' ability to reduce poverty and ensure sustainable development.'* (Ato Girma Birru, Ethiopia's Minister of Trade and Industry, November 2006)<sup>33</sup>

### 1.3.2 Parliamentarians

- The UK parliament's International Development Select Committee in its report on EPAs in 2005 concluded: *'We share the belief that fair trade can be a vital force in the fight against global poverty. We are unconvinced, however, that the current Economic Partnership Agreement (EPA) negotiations will produce such an outcome.'*<sup>34</sup>
- The ACP-EU Joint Parliamentary Assembly in November 2006 expressed *'its concern over the current EU proposals for free trade with ACP countries under the Cotonou EPAs leading to the liberalisation of trade, including trade in agricultural products, and considers that this policy might cause problems to ACP countries' development, relating in particular to food security and development of local industries.'*<sup>35</sup>

30 African Union Trade Ministers' Declaration on EPAs, Nairobi, 14 April 2006

31 Declaration from the 3rd Meeting of the ACP Ministers of Finance and Economic Affairs, ACP/81/031/06, Brussels, 28 April 2006

32 Dr Mukhisa Kituyi, Kenyan Minister of Trade speaking at Traidcraft 'Real Trade: Real Lives' conference, London 2005

33 Ato Girma Birru, Minister of Trade and Industry, Ethiopia, speaking on 2 November 2006 at the opening of the 9th ESA RNF, UNECA Building, Addis Ababa

34 International Development Select Committee (2005)

35 ACP-EU Joint Parliamentary Assembly Resolution on the review of negotiations on Economic Partnership Agreements (EPAs), ACP-EU 3958/06/fin, Barbados, November 2006

### 1.3.3 Civil society and farmers' unions

- In March 2006, a statement from civil society groups from across Africa declared that: *'[EPAs will] expand Europe's access to ACP markets for its goods, services and investments; expose ACP producers to unfair European competition in domestic and regional markets, and increase the domination and concentration of European firms, goods and services; thereby lead to deeper unemployment, loss of livelihoods, food insecurity and social and gender inequity and inequality, as well as undermine human and social rights; endanger the ongoing but fragile processes of regional integration among the ACP countries; and deepen – and prolong – the socio-economic decline and political fragility that characterises most ACP countries.'*<sup>36</sup>
- In August 2006 the Malawi Farmers Union issued a statement on EPAs *'urging the government and its partners in the Southern and Eastern African region to seriously reconsider the implications of these new trade deals before signing the deal with the European Union.'*<sup>37</sup>

Concerns have been voiced loud and clear, and questions are being raised repeatedly. However, the EC carries on regardless, pushing forward its own agenda despite the massive differences between its approach and that of the ACP, ignoring the fundamental questions and concerns being raised.

### 1.3.4 The UK government

The UK government has taken some welcome steps in response to concern expressed about EPAs. In March 2005 it released a public position on EPAs, announcing that developing countries should have the right to choose the pace, sequencing and product coverage of EPAs and rejecting the Singapore issues unless a developing country group asks that they be included.<sup>38</sup>

In October 2006, ahead of a meeting of EU trade ministers in Luxembourg, UK Development Minister Gareth Thomas and Trade Minister Ian McCartney wrote to the EU Trade Commissioner Peter Mandelson, expressing their concern about the current state of the EPA negotiations and calling for the EU to allow ACP countries *'as much time as they reasonably need to open their own markets, while providing effective safeguards to prevent unfair competition from subsidised European products undermining African products on their own doorstep'*. The ministers also said that it was not acceptable *'to oblige ACP countries to negotiate rules on investment, competition and government procurement, unless they specifically request it'*.<sup>39</sup>

However, to date, the UK remains a lone voice and other member states have failed to express similar concerns. Moreover, neither the EC's mandate nor approach to the negotiations has changed. Moving forward, it is now critical that the UK steps up the political priority it gives to EPAs and increases pressure on other member states to follow suit and challenge the EC's actions.

36 *A Global Call for Action to Stop EPAs*, Harare, March 2006. For full statement see [www.bilaterals.org/article.php3?id\\_article=4297](http://www.bilaterals.org/article.php3?id_article=4297)

37 Quoted in *The Nation* newspaper, 16 August 2006, Malawi

38 DTI/DFID (2005)

39 Letter from Gareth Thomas and Ian McCartney to Peter Mandelson, 13 October 2006

**Summary**  
SECTION 1

The process of negotiating EPAs is fundamentally flawed. Negotiations are between two highly unequal partners in terms of political and economic strength and negotiating capacity. There are key questions of legality that remain unanswered. There is fundamental disagreement between the ACP and EU over how EPAs should support development and whether additional assistance should be provided as part of EPAs. The Review appears to have failed in accessing the process and substance of negotiations comprehensively; as the deadline for completion negotiations draws closer, there is concern that this will be used as a further lever to pressure the ACP into signing up to unfair deals. Concerns about the process and content of EPAs have been raised by stakeholders across the ACP but negotiations carry on regardless and the EC continues to push forward its agenda. While the UK government has voiced concern about EPAs it has failed to influence other member states or the EC. It must now raise the political profile of EPAs and ensure that the EU hears, acknowledges and responds to the concerns being raised.



# 2 Malawi, poverty and trade

## 2.1 Background to Malawi

### 2.1.1 Poverty and vulnerability

Malawi is one of the poorest countries in the world, ranking 166 out of 177 countries on the UN's Human Development Index in 2006. Its gross domestic product (GDP) is approximately €1.43 billion – less than half the profit of supermarket chain Tesco in 2004–2005.<sup>40</sup> GDP per capita is merely €112. Even when this figure is adjusted to make it comparable between countries,<sup>41</sup> it is only €487 – less than what the average UK consumer spends on Christmas gifts each year.<sup>42</sup> Many women, men and children in Malawi are extremely poor (see Box 3) and many suffer from food insecurity. Over the last five years, Malawi has faced periodic food shortages, with millions of people needing to rely on food aid. Many men and women lack access to productive assets and opportunities for economic empowerment.

#### Box 3 Poverty and vulnerability in Malawi

Source: Statistics  
from the UN's Human  
Development Report  
2006

- 65 per cent of Malawi's 12.6 million inhabitants live below the poverty line.
- Life expectancy at birth is 39.6 years.
- Access to adequate healthcare is a major challenge: there are only two doctors per 100,000 people; one in ten babies dies at birth, two more will die before they are five.
- While primary education is free, class sizes are very large; only 25 per cent of young people enrol in secondary school (far fewer complete their secondary education); 36 per cent of adults are illiterate.
- Almost 30 per cent of people lack sustainable access to an improved water source; 40 per cent lack access to improved sanitation.
- 34 per cent of people are undernourished.
- The HIV and AIDS pandemic is a catastrophic challenge: approximately one in seven people in Malawi is HIV-positive.

### 2.1.2 Main features of the economy

- Malawi's economy remains heavily dependent on rain-fed agriculture. The sector contributes just less than 40 per cent of GDP and employs 81 per cent of the total labour force.<sup>43</sup> It accounts for more than 90 per cent of export earnings.<sup>44</sup>

40 BBC news online, *Tesco profits break through £2bn*, 12 April 2005

41 The Purchasing Power Parity exchange rate takes into account differences in the value of currencies so that the value of goods is directly comparable between countries.

42 BBC news online, *Christmas gift spending 'to soar'*, 15 November 2006

43 UNCTAD (2006a)

44 Mbekeani (2005)

- The industrial sector remains small, having shrunk considerably since the 1980s. The share of industry in GDP has declined from 31.5 per cent in 1992<sup>45</sup> to 14.9 per cent in 2003.<sup>46</sup>
- The service sector has grown and is now the main contributor to GDP, accounting for 46.7 per cent.<sup>47</sup> However, its contribution to employment remains small with agriculture continuing to be by far the greatest income-earner for most Malawians.

Malawi's economic growth performance over the last few decades has generally been weak. While recent years have seen a concerted effort by the government to bring about stability in the economy and to stimulate economic growth, Malawi's economy remains extremely vulnerable on several counts. Its dependence on a small basket of raw agricultural exports (see below) makes it vulnerable to fluctuations in world commodity prices, and its dependence on rain-fed agriculture means that it is also extremely vulnerable to changing climatic conditions. Malawi is highly dependent on Overseas Development Aid (ODA), receiving €359.17 million in 2004, around a quarter of total GDP.<sup>48</sup>

### 2.1.3 Overview of Malawi's trade

Malawi's exports are dominated by unprocessed, low-value agricultural commodities. The main export crop is tobacco, accounting for around half of Malawi's total goods and services exports,<sup>49</sup> followed by sugar, tea and cotton. Manufacturing exports account for only 10 per cent of total exports. These include textiles and clothing and, to a lesser extent, furniture and processed food products.<sup>50</sup> Malawi's main export markets are the EU (40.5 per cent), the USA (15.7 per cent), South Africa (10.4 per cent), Egypt (6.6 per cent) and Japan (5.3 per cent).<sup>51</sup>

Malawi's imports are dominated by manufactured goods and industrial equipment. Again, there is high concentration in a few major goods (5 per cent of the tariff lines under which Malawi imports goods accounted for 73 per cent of the value of imports in 2003).<sup>52</sup> Key imports are vehicles (and parts), petroleum fuels, various types of machinery, fertiliser, packaging materials, pharmaceuticals, iron and steel, wheat flour and cement. In terms of imports, Malawi's main trading partner is South Africa (45.2 per cent) followed by the EU (12.8 per cent), India (7.3 per cent), Tanzania (4.6 per cent) and Zambia (4.1 per cent).<sup>53</sup>

It is important to note that the regional market (the Common Market for Eastern and Southern Africa – COMESA) is increasingly becoming an important export and import market for Malawi (see Chart 1). Intra-COMESA trade increased by 10 per cent in 2004 and a further 9–10 per cent in 2005, bringing the total such trade to €4.1 billion or 7 per cent of the total global trade of COMESA member states.<sup>54</sup>

Malawi has a six-band tariff structure (0, 5, 10, 15, 20, 25), with 60 per cent of the lines at 10 per cent or less. Rates of zero or 5 per cent apply to 'necessities' and rates of 10 per cent to intermediate goods. The maximum duty rate applied to consumer goods is 25 per cent.<sup>55</sup>

45 Mbekeani (2005)

46 UNCTAD (2006a)

47 *Ibid*

48 UNDP (2006)

49 UNCTAD (2006a)

50 Mbekeani (2005)

51 UNCTAD (2006b)

52 Zgovu and Kweka (2006)

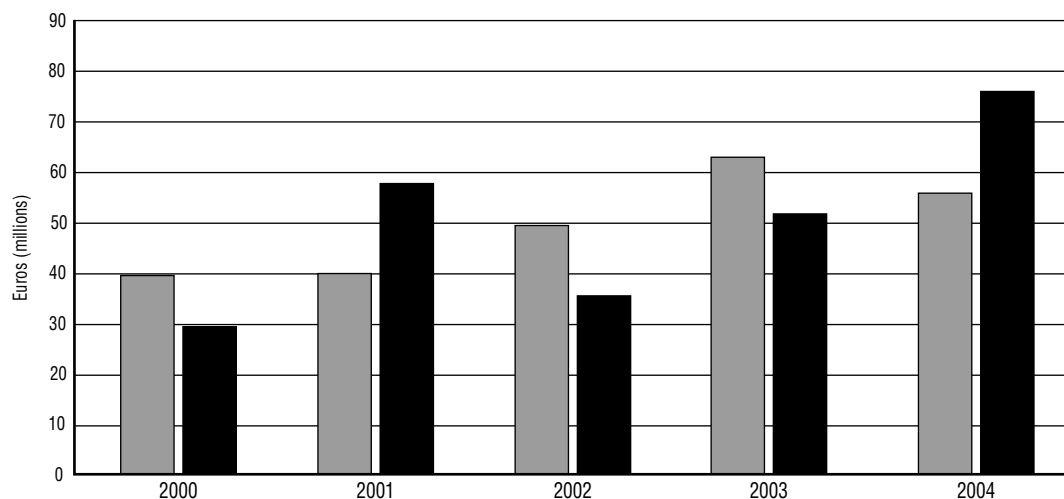
53 UNCTAD (2006a)

54 COMESA (2006)




**Chart 1**  
Malawi's trade with  
COMESA members  
2000–2004

imports   
exports 

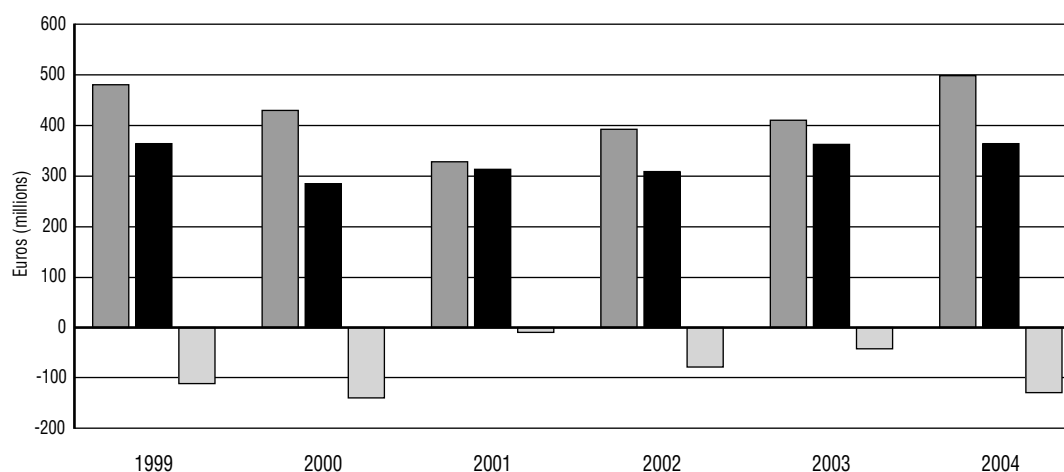
Source: COMESA <sup>57</sup>



**Chart 2**  
Malawi's trade deficit  
1999–2004

imports   
exports   
deficit 

Source: UNCTAD <sup>58</sup>



The applied average MFN tariff rates on manufactured goods and agricultural products are 13.7 per cent and 12.2 per cent respectively.<sup>56</sup>

For years, Malawi's imports have exceeded its exports (see Chart 2) and as such it faces a sustained trade deficit, largely financed by the inflow of donor funds.

### 2.1.4 Trade with Europe

In the grand scheme of the EU's trading, Malawi is pretty insignificant: trade with Malawi accounts for just 0.01 per cent of EU world trade.<sup>59</sup> However, from Malawi's perspective, the EU is an important trading partner: it is the single largest market for Malawi's exports and a key source of imports. Thus, the stakes in EPAs are much higher for Malawi than for the EU.

55 WTO 2002

56 Mbekeani (2005)

57 COMESA website: [www.comesa.int/trade/information/external/intra/Intra%20comesa%20trade](http://www.comesa.int/trade/information/external/intra/Intra%20comesa%20trade)

58 UNCTAD statistics website: <http://stats.unctad.org>

59 European Commission (2006)

Malawi exports predominantly raw agricultural commodities to the EU. In fact, 97 per cent of exports to the EU are made up of just three commodities: tobacco (69 per cent), sugar (16 per cent) and tea (12 per cent).<sup>60</sup> The EU is also the source for a number of key imports for Malawi (13 per cent of total imports come from the EU). These are predominantly higher-value capital goods.

As an LDC Malawi benefits from the EU's Everything But Arms (EBA) initiative, an extension of the EU's Generalised System of Preferences (GSP). Under EBA, Malawi has duty- and quota-free access to Europe's markets for all products except arms and munitions. The only other exceptions are sugar and rice for which LDCs will be given duty- and quota-free access in 2009. As with the GSP, the EBA initiative relies on the WTO's 'Enabling Clause'. This allows countries to accord '*differential and more favourable treatment to developing countries without according such treatment to other contracting parties*', as long as the criteria for granting preferences to some and not others are '*objective and transparent*'. EBA is a unilateral preference scheme. It is not negotiated and thus developing countries have no say over its content; it is not contractual and therefore the EU could withdraw it at any time. In addition, it has particularly onerous rules of origin.

### 2.1.5 Preference erosion and loss of guaranteed commodity price

The preferential access to Europe's markets granted to Malawi as an ACP country for the last 30 years is disappearing. The EU is negotiating bilateral trade agreements (directly on issues of improved market access) with Latin American countries which will undermine ACP preferences. In October 2006, the EC announced a new programme of bilateral negotiations. Negotiations have already begun with Central America, and will soon start with the Andean region, India and others. EU CAP Reform will also lead to harsh losses in Malawi's sugar sector. The sugar industry contributed between 5 and 6 per cent of Malawi's GDP and around 14 per cent of total export earnings in 2005.<sup>61</sup> Almost 50 per cent of Malawi's export sugar revenue is derived through guaranteed market access into the EU market at a higher price than the world market price.<sup>62</sup> This special market access and high prices are to be phased out. Malawi needs support to help adjust to this. To date, however, the EU has failed to make adequate and binding commitments in this regard.

### 2.1.6 Supply-side challenges

Malawi's ability to trade in a way that will promote development is constrained by crippling supply-side constraints. As a landlocked country, transport costs are extremely high, accounting for up to 40–60 per cent of total production costs.<sup>63</sup> Malawi also suffers from poor infrastructure, unreliable public utilities and production inefficiencies. In addition, exporters struggle to meet the sanitary and phytosanitary (SPS) measures required to export to many countries.

60 European Commission (2006)

62 *Ibid*

61 Gondwe and Magalasi (2006)

63 *Ibid*

### 2.1.7 Regional trade agreements

Malawi is a member of a number of regional integration arrangements including the Common Market for Eastern and Southern Africa (COMESA), the Southern Africa Development Community (SADC) Trade Protocol and bilateral trade agreements with Zimbabwe, South Africa, Botswana and Mozambique.

### 2.1.8 Malawi's development strategy

From 2002 to 2005, the Malawi Poverty Reduction Strategy (MPRS) provided the overarching development framework for the Malawian government and donors. Its goal was to achieve *'sustainable poverty reduction through empowerment of the poor'* and it was structured around four pillars: sustainable pro-poor growth, human capital development, quality of life of the most vulnerable and good governance. The MPRS was criticised in some quarters (especially the private sector and government think-tanks) as lacking a focus on economic growth.<sup>64</sup> The document expired in June 2005 and at time of writing, its successor – the Malawi Growth and Development Strategy (MGDS) – is in its final stages of completion. The MGDS is a five-year strategy and identifies five broad themes: sustainable economic growth, social protection of the most vulnerable people, social development, rehabilitation and development of infrastructure and provision of good governance.

Key trade-related components of the strategy include the following:

- A focus on the following sectors to increase employment and bring about economic growth:
  - MINING** – a focus on increased production and value-addition.
  - INTEGRATED COTTON INDUSTRY** – with the aim of increasing production of garments made from locally woven cotton cloth as opposed to imported synthetic fabrics.
  - MANUFACTURING** – the objective being to lay the foundation for manufacturing to 'take off'.
  - AGRO-PROCESSING** – with a particular focus on tea, cotton, tobacco and sugar.
  - PRIVATE SECTOR GROWTH** – with the aim of increasing the number of firms which are producing goods that are competitive in terms of prices and quality in regional and international markets; also, an increase in domestic firms producing for export and the domestic market.
  - TOURISM** – with the aim of establishing Malawi as a principal and leading eco-tourism destination in Africa and increasing domestic tourism.
- Agricultural activity will be improved to promote food security, and the productivity of rural communities and businesses will increase to boost employment and income.
- Regional integration is also recognised as a key element in achieving sustainable economic growth.

It is clear that trade, both domestic and international, has a major role to play in Malawi's development and the right trade policy is critical to Malawi's economic growth and poverty reduction. This report aims to assess whether EPAs will help or hinder the Malawian government in achieving these aims.

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<sup>64</sup> *Ibid*

## 2.2 Malawi's experience: lessons to be learnt

Discussions about the potential costs and benefits of EPAs to Malawi need to be set in the context of Malawi's past experience with regard to trade. They should be informed by the impact of past trade reforms and the impacts of the past trade relationship with Europe. We must also take into account the position in which Malawi now finds itself as a result of these measures.

### 2.2.1 Malawi's trade reforms

Malawi embarked on a path of trade liberalisation in the late 1980s, a route initially imposed by the International Monetary Fund (IMF) and World Bank's structural adjustment policies, later reinforced by the multilateral trade negotiations at the WTO.

During the 1990s, non-tariff barriers were removed and tariffs reduced. Malawi's applied tariffs were reduced from an average of 30.7 per cent in 1994 to 13.1 per cent in 2001.<sup>65</sup> The rationale championed by the international institutions and donor governments was that lower tariffs would lead to increased competition, production and economic growth. Agricultural marketing policies were also liberalised including the removal of price controls and subsidies for farmers.

Various studies have recorded the largely negative impact of these liberalisation reforms forced on Malawi.<sup>66</sup> In terms of the impact of import liberalisation, Malawi's manufacturing sector suffered a great deal as a result. A study carried out for UNCTAD found that total manufacturing production shrank from an annual average of €404.2 million during the period 1989–1991 to €221.7 million in 1998.<sup>67</sup> Exports of manufactured goods halved from €6 million in 1988 to €3 million in 2001. According to the UNCTAD study's author, *'This is a reflection of the negative impact of liberalisation on local manufacturers, who failed to compete with imports in the domestic market and did not have enough capacity to produce for exports. Consequently, most of them were forced to close down.'*<sup>68</sup>

More than 40 manufacturing companies folded between 1994 and 2002.<sup>69</sup> With each factory that closed, many jobs were lost. In the textiles sector, for example, 40,000 people were laid off.<sup>70</sup> Backward linkages affected farmers who produced the raw materials the factories used. Many farmers lost important markets for their crops. Loss of livelihood and employment increased the poverty and vulnerability of those directly affected who were unable to find other sources of income. It is also important to consider the impact that such deindustrialisation had on the wider economy negatively affecting Malawi's population more broadly.

65 Mbekeani (2005)

66 See MEJN (2005), Mbekeani (2005), Tussie and Aggio (2003)

67 Mbekeani (2005)

68 *Ibid*

69 Malawi Confederation of Chamber of Commerce and Industry (2002), cited in Gondwe and Magalasi (2006)

70 Gondwe and Magalasi (2006)

An argument often used in favour of trade liberalisation is that it leads to cheaper consumer goods such as food products, electronic products and clothes. It has been difficult to assess whether this was the case in Malawi. One study suggests that consumers did not benefit because various taxes meant that the final purchase price of imported products either remained the same or increased.<sup>71</sup> One respondent interviewed in Malawi suggested that there may have been price decreases but in terms of the goods affected (electrical products etc) it would seem that only the elite benefited from any price cuts.

Since these trade liberalisation reforms were imposed on Malawi by the IMF and World Bank, most Malawians have become poorer and more vulnerable to food insecurity. The promised increase in production, trade, economic growth and poverty reduction has not materialised. Instead, Malawi has experienced deindustrialisation, unemployment and increased dependence on low-value raw commodities. Even the World Bank admits that while Malawi carried out its structural reforms during the 1990s *the full macroeconomic stability and sustainable growth proved elusive. All the social and education indicators deteriorated. Infant mortality rates, adult illiteracy, malnutrition and poverty remained very high.*<sup>72</sup>

There are many factors that have contributed to Malawi's poverty. Poverty is complex and multi-faceted and discussions such as this risk over-simplifying the problem. However, the rapid trade liberalisation imposed upon Malawi during the last few decades must take its share of the blame for the situation in which Malawi now finds itself. Yet further liberalisation is being imposed on Malawi through EPAs.

## 2.2.2 Market access to Europe

As explained above in Section 2, under the Lomé Agreements and the Cotonou Agreement, Malawi, as an ACP country, has had preferential access to the EU market for most of its goods. As an LDC, Malawi also enjoys duty-free, quota-free market access for most exports under the EU's Everything But Arms (EBA) initiative. However, these preferences have not improved Malawi's capacity to compete in global markets and Malawi remains dependent on the export of a few low-cost commodities. Key reasons for this are the deindustrialisation discussed above, non-tariff barriers and the critical supply-side constraints and production inefficiencies that Malawi faces.

This experience must inform the debate about EPAs: unless Malawi addresses the factors hindering its ability to trade and export, theoretical market access is of little use. As Dr Aliyu Modibo Umar, Minister of Commerce for the Federal Republic of Nigeria, puts it: *After all, if 30 years of non-reciprocal free market access into the EU did not improve the economic situation of the ACP, how can a reciprocal trading arrangement achieve anything better?*<sup>73</sup>

71 Mbekeani (2005)

72 World Bank (2003b)

73 Mr Aliyu Umar, Minister of Commerce, Nigeria, speaking at a conference hosted by the South Centre, EU-ACP Trade Relations: The Development Challenge of EPAs, Brussels, 12 October 2006

**Summary**  
SECTION 2

Malawi is one of the poorest countries in the world: most of its men, women and children are extremely poor, facing food insecurity and lacking access to productive assets and economic empowerment. The economy is heavily dependent on agriculture. Its exports are dominated by unprocessed, low-value agricultural commodities while it imports mostly manufactured goods. Europe is its largest export partner and an important source of imports. Malawi faces severe challenges in trade in the form of, *inter alia*, preference erosion, loss of guaranteed prices for its sugar exports, and major supply-side challenges. Regional trade is growing in importance for Malawi and is a key element of Malawi's development strategy. Other important components are the increase in agro-processing and the development of a manufacturing sector.

Malawi has liberalised substantially over the past few decades but remains extremely poor and food insecure. The manufacturing sector was particularly hard hit by the tariff reforms. Manufacturing production halved between the early 1990s and 1998, and continued to contract thereafter. While Malawi has had preferential market access to the EU over the past 30 years, it has been unable to take advantage of this due to supply-side constraints and production inefficiencies *inter alia*.



# 3 EPAs: implications for Malawi

## 3.1 Potential impacts of reciprocity

*'Given the possible adverse effect of reciprocity on domestic production and fiscal stability in ACP States, the latter cannot a priori accept to provide reciprocity in EPAs with the EU.'*

ACP Guidelines for EPA negotiations <sup>74</sup>

This section considers the potential impact of a reciprocal EPA on Malawi, bearing in mind Malawi's social and economic circumstances, the impact of previous trade policies on Malawi and the unbalanced nature of the negotiations. We look at the impact in terms of livelihoods, jobs and Malawi's future industrial development. Then we examine what an EPA will mean for Malawi and other ESA countries in terms of their regional integration. Finally, we assess the effects on government revenue through loss of tariff income and other adjustment costs. This section addresses the impacts of reciprocity only in terms of trade in goods. We cover services and trade-related issues in Section 3.2.

As stated in the methodology in the introduction to this report, we recognise the problems with assessing the impacts of EPAs when their final form is not known. We also acknowledge the limitations of the quantitative analysis we use, including the fact that the analyses often assume a 100 per cent liberalisation scenario. However, it is important to note that, while asymmetry does allow for Malawi to protect certain sectors from liberalisation, this principle also gives rise to substantial problems (as explained below) and Malawi will be unable to protect every sector it wishes to.

### 3.1.1 Costs to livelihoods, jobs and Malawi's future industrial development

#### Increased exports from EU

The quantitative studies assessed all show that the EU stands to gain significantly in terms of increased exports into Malawi's market, both through trade creation and trade diversion. For example, Zgovu and Kweka (2006) find that Malawi's imports from the EU will increase by 36 per cent. Karingi et al (2005) calculate that the EU's trade gain will be in the region of €16.3 million. Gondwe and Magalasi (2006) calculate a gain of €19.3 million.

Increased imports from the EU are likely to have significant impacts on Malawian producers as the more efficient EU producers and exporters supplant producers who have not yet built up their capacity to produce competitively and who are not yet benefiting from economies of scale.

<sup>74</sup> ACP Guidelines for the Negotiations of Economic Partnership Agreements, ACP/61/056/02, Brussels, 5 July 2002

Some studies show that consumers could gain from lower prices from cheaper imports (the so-called welfare gain). However, they conclude that this gain is low when compared with the potential losses in terms of livelihoods, employment and policy space (see below). It is also important to note that in countries such as Malawi where the labour force is mostly agricultural, there is no clear distinction between consumers and producers. The benefit of some cheaper products being available is likely to be negated by lack of purchasing power due to a low earnings or unemployment. In addition, the models assume that tariff cuts will automatically translate into a proportionate reduction of prices, while the likelihood is that some of the cut would be appropriated by producers and/or the importers.<sup>75</sup>

### **Impact on agriculture**

As explained in Section 4, agriculture is the backbone of Malawi's economy, with most poor people relying on it as a source of both subsistence and livelihood. Small-scale farmers and farmers' associations from a cross-section of industries (tea, cotton, coffee, tobacco, sugar) were interviewed for this report. The problems they faced were similar across the board – low selling prices, lack of access to value-adding activities, problems in accessing markets and high costs of inputs (fertilisers and seeds). In terms of exporting, the problems cited by farmers' associations were high transport costs, poor infrastructure and difficulties in meeting SPS standards *inter alia*.

In terms of agricultural exports to the EU, Malawi is unlikely to benefit from an EPA as it already has duty-free, quota-free market access under EBA. This scenario will only change if the impediments that Malawi currently faces in exporting such as production inefficiencies, supply-side constraints, rules of origin, SPS standards etc are addressed. It appears these barriers will not be lifted through EPAs (see Section 1.2). Many exporters in Malawi feel that realistically they do not have the capacity to expand exports into the EU market and that the regional market (COMESA) is a more realistic and achievable goal. They see the regional market as a 'springboard' on which to build their capacity before they can take on the EU market competitively.<sup>76</sup> Yet EPAs threaten to harm even these regional markets (see below).

As we've seen, Malawi exports predominantly low-cost raw agricultural commodities to the EU and imports much higher-value finished products. To move away from a reliance on commodities whose prices are low and highly volatile, Malawi needs to add significant value to its products before exporting. Yet as we explain below, an EPA is likely to hinder this. Thus, in terms of agriculture, an EPA threatens to reinforce and 'lock in' the scenario whereby Malawi exports cheap low-cost commodities to the EU and imports high-value goods.

In addition, Malawi's agriculture may well be threatened by farm goods (in particular wheat and dairy products) entering from the EU and undercutting local producers. Europe's farmers benefit greatly from subsidies under the Common Agricultural Policy, giving them an immensely unfair advantage over Malawi's farmers. Yet the EC has made it clear that Europe's subsidies cannot be discussed in EPAs. Crucially, an EPA will also further undermine the ability of the government of Malawi to use agricultural tariffs to protect livelihoods and food security in the future.

75 Cali and te Velde (2006)

76 Gondwe and Magalasi (2006)

## CASE STUDY

### Cotton and textiles

Since independence, cotton has been an important cash crop for Malawi. Production peaked in the 1970s and 1980s with a major proportion of cotton sold to domestic textiles companies and the remainder exported as lint. Following Malawi's deindustrialisation and the downsizing of the textile industries, production shrank rapidly during the 1990s. Of the cotton produced, the bulk of seed cotton has been ginned and then exported as lint. Following a concerted effort by the government, production picked up again in 2000 and by 2005, cotton production had increased although it was still less than half that achieved in the 1980s.<sup>77</sup>

Under the present trade regime with Europe, Malawi has duty- and quota-free access to the EU for exports of yarn, fabric and clothing. However, the industry has been unable to exploit this access because of lack of capacity and supply-side constraints.

It is estimated that more than 250,000 people in Malawi (2 per cent of the population) are dependent on cotton: these include smallholder farmers, their families and farm workers; the employees of ginneries and mills; and garment manufacturers.<sup>78</sup>

Currently, the situation cotton farmers face in marketing and selling their cotton is dire. Tearfund met with cotton farmers in Karonga, in the far north of Malawi, whose profit from cotton growing for the year was MKw 3450 (€19.91). Adams Kaudu, a cotton farmer, told us: *'Buyers come with too low prices. The farmer is the servant of the buyer. We need to buy maize, take our children to school, buy clothes. It's not enough.'*

Yet cotton has the potential to provide a decent livelihood for farmers in Malawi such as Adams. The MGDS highlights the Integrated Cotton Industry as a potential high-growth sector for Malawi. The medium-term aim is the development of a local textile industry in order to increase production of garments made from locally woven cotton cloth as opposed to imported synthetic fabrics. This would provide jobs in mills and factories, and decent livelihoods for small-scale farmers.

To implement this development plan, and to build its capacity to compete effectively in a global market, Malawi will need to use a number of tools including tariffs and other measures to support and protect infant industry. EPAs threaten to deny Malawi such policy space.



*Adams Kaudu,  
a cotton farmer  
from Karonga,  
northern Malawi.*

77 *Ibid*

78 Interview with Ministry of Agriculture cited in Gondwe and Magalasi (2006)

**Impact on industry**

Section 2.2.1 has described the decline of Malawi's manufacturing sector since the early 1990s, due in large part to the fast-paced liberalisation policies imposed on the government of Malawi from the late-1980s onwards. We have also seen that the EU exports predominantly manufactured goods into Malawi and thus increases in exports as a result of EPAs are likely to be largely in manufactured goods. This will have a detrimental impact on Malawi's manufacturing sector as its domestic industries struggle to withstand competition from EU imports.

Data for the industry and manufacturing sector in Malawi is scarce, but according to the United Nations Industrial Development Organisation (UNIDO) the sector was employing 82,913 employees in 2001.<sup>79</sup> Based on an approximate family size of six members per household in Malawi, this translates to around 500,000 Malawians benefiting directly from the sector (4 per cent of the population). However, further liberalisation through EPAs puts these jobs at risk. Based on Malawi's past experience of deindustrialisation, many people interviewed in Malawi for this report fear that EPAs will lead to increased unemployment. The Malawi Chamber of Trade Unions (MCTU), for example, expressed grave concern about the threat to jobs if Malawi was to undertake more trade liberalisation on European goods and services.<sup>80</sup>

Moreover, the impact goes far beyond current employment. Policy space that Malawi and other ACP countries have fought so hard to maintain at the WTO risks being lost through EPAs. Malawi is trying to revive its manufacturing sector. The MGDS recognises industry and manufacturing as key to the country's development. The aim is for Malawi to move away from exporting raw materials to manufacturing and adding value. To do this a variety of policy measures – including tariffs – may need to be adopted to protect and support these industries. Malawi needs to retain the policy space to raise and lower tariffs according to its development strategies and priorities. Yet an EPA would prevent the government of Malawi from using tariffs in this way and in so doing threatens to hinder Malawi's future industrialisation efforts.

**What about asymmetry?**

As we explained in Section 1.1.3, the EU will allow for an asymmetrical approach to calculating 90 per cent of the total average value of trade and the ACP may be given a slightly longer time frame in which to liberalise. However, Tearfund does not believe that this will provide a pro-development deal for Malawi. Firstly, the government of Malawi will have to determine what it protects from liberalisation and what it includes on its 'sensitive list'. Decisions will have to be based on an assessment of existing production and trading patterns, as it is very difficult to predict how these patterns will change over time. There are a number of factors to consider and difficult choices to be made: Should the main factor be tariff revenue, and therefore the government protects the highest revenue earners? Should its rationale be food security and the protection of staple foods? Should it try to protect the few industries Malawi has? Or be thinking about future industrial development? Choices in favour of one criteria mean losses in other areas.

The EU may alter the time frame slightly. However, even if it was extended to 20 years, it is impossible to predict Malawi's situation two decades from now. The extent to which

<sup>79</sup> This is likely to be an underestimate as much economic activity by the informal sector in Malawi goes unrecorded. <sup>80</sup> Gondwe and Magalasi (2006)

Malawi and other developing countries liberalise their trade should be based on their development needs and be in line with their national development strategies; it should not be determined by imposed time frames and product coverage.

Secondly, ESA countries need to agree regional positions on which products to liberalise or protect if they are to attain a common external tariff (CET), which is the EC's aim in EPAs. Countries in ESA have different priorities for the products they will select for exclusion from liberalisation. Stevens and Kennan (2005) analysed the regional overlap of products to be exempted between ESA countries and found it to be rare. Major compromises will be necessary if ESA is to reach a common position. In the end, Malawi may have little choice in what it can protect. If, however, ESA decides not to reach a regional position and each country develops its own sensitive list of products to protect, this could have major implications on regional integration as the next section shows.

### 3.1.2 Cost to regional integration

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

The Cotonou Agreement, Article 35 (2)

Malawi and other African countries have recognised the benefits of regional integration and are in the process of developing Regional Economic Communities (RECs). Regional trade agreements can bring benefits such as promoting the pooling of resources, increased intra-regional trade and investment, enabling countries to add value to products and greater diversification. Regional integration is a key development strategy for Malawi, as highlighted in the MGDS. Private sector respondents interviewed in Malawi for this report also underlined its importance as a means to help them build their capacity to trade competitively and profitably before attempting to compete further afield. For example, Simon Itaye, Chairman of Malawi's National Working Group on Trade Policy, said, *'Logistically alone, we do not see the EU as a profitable market... we would rather concentrate on our neighbours before we can think of anyone else or anywhere else to trade.'*<sup>81</sup> This is because Malawi's 'neighbours' are countries at much more comparable levels of development. Opening markets and trading with countries in the region will allow Malawi's industries and agriculture to grow and build up competitiveness in order to compete effectively in global markets.

Regional integration is a stated EU objective of EPAs. The EU's aim is to reinforce the process of regional integration amongst the ACP, with the idea that bringing the EU into the equation will help 'lock-in' the reforms underway and force countries to choose between regional economic groupings when they are members of more than one. The EC is clear that this by-product of a reciprocal free trade deal with the EU should be one of the key areas of 'gain' for ACP countries from EPAs.

<sup>81</sup> *Ibid*

ACP governments, civil society in the global North and South and the EC all agree that regional integration is a good thing. However, there are significant differences in understanding as to how this can be attained and whether EPAs, as reciprocal FTAs, will contribute to or harm this process. The evidence is increasingly proving the latter.

### Trade diverted away from ESA

Above we highlight the major increase in imports from the EU that Malawi is likely to experience as a result of EPAs. The study by Karingi et al (2005) of the United Nations Economic Commission for Africa (UNECA) finds that this result is common to all countries in the ESA region. Yet a significant proportion of the EU's trade gain comes from trade diversion from other ESA countries. For example, producers in Malawi exporting to Zambia would risk losing their market to European exporters. Chart 3 shows the growth in imports by source following tariff dismantlement in favour of EU imports into ESA countries. As with all ESA countries, Malawi's imports from ESA and the rest of the world decrease, while imports from the EU increase significantly.

For Karingi et al (2005), this leads them to the conclusion that reciprocity *'will pose serious implications for deepened regional integration in Africa'*. Indeed, *'unless there are clear mitigating measures, the EPA could seriously undermine the gains that have been achieved so far in the integration process of the region'*.<sup>82</sup> Similarly, Zgovu and Kweka (2006) in their study on the impacts of a reciprocal EPA on Malawi and Tanzania conclude, *'The overall increase in imports from the EU will pose a real threat to domestic and regional import-competing production and thus undermine the importance of intra-regional trade.'*

Thus, the ESA EPA is likely to have significantly negative effects on current trade between ESA countries and on their potential to build future regional markets.

### Trade barriers between ESA countries reinforced

Research by Chris Stevens of the Overseas Development Institute (ODI) shows that EPAs may result in countries having to reinforce rather than eliminate barriers to trade between them.<sup>83</sup> The effects for Malawi are dependent on whether ESA creates a customs union or an FTA because this in turn determines whether a regional position on which products to protect needs to be reached or whether ESA countries can determine their own sensitive lists. A customs union must have a CET for most products on which tariffs will be removed. However, as explained above, this is likely to prove extremely difficult for ESA to agree. The alternative would be for ESA to form an FTA in which countries' liberalisation schedules do not have to be harmonised. In an FTA, countries could determine their own list of sensitive products to protect. However, this would result in new incentives to keep rigorous border controls. To illustrate the point, the following example is used: if country A chose to include flour on its sensitive list and so exclude it from liberalisation but country B did not and liberalised trade in flour, there is a danger that traders would circumvent country A restrictions by transporting flour from Europe across the border from country B. The research concludes that to avoid this, either the tariff difference between A and B must be sufficiently small to make such trans-shipment commercially unviable, or rigorous border controls must be maintained to prevent trans-shipment. This clearly harms intra-regional trade and has the added impact of undermining country B's milling industry.

82 Karingi et al (2005)

83 Stevens (2006)

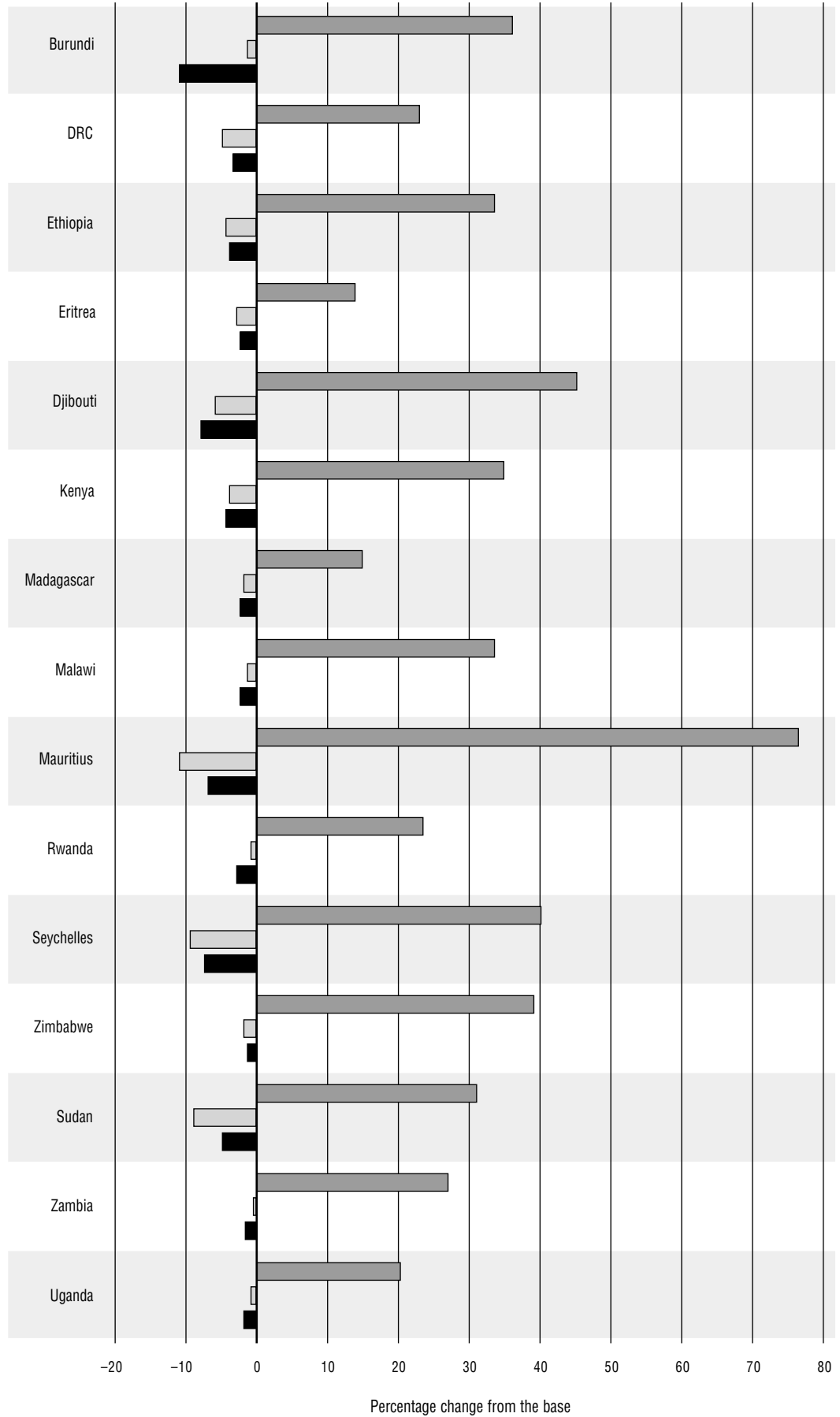
84 The benchmark against which the future change was measured

was the last year with available complete trade statistics on commodity flows and applied tariffs. For all countries the benchmark dates fell between 2001 and 2003.

**Chart 3**  
Export effect of EPAs  
for ESA countries<sup>84</sup>

EU exports ■  
ESA exports □  
ROW exports ■

Source: Karingi et al  
(2005)



Stevens' research shows that of the goods that it is assumed Malawi will retain tariffs on, Zambia will protect only 57 per cent. The problem is even more serious the other way: of the products that Zambia will protect, Malawi will protect only 4 per cent. Stevens' research then focuses in on goods of more than €500 per ton as it is assumed that these goods are of sufficient value to encourage significant cross-border trade. Even once lower-value goods are taken out of the equation there is still the potential for cross-border trade and hence increased border controls in a significant proportion of the items Malawi may wish to protect. This will harm Malawi's current trade with its neighbours and will limit the potential of intra-regional trade to develop in the future.

**Existing regional integration processes hindered**

Regional integration processes in Africa are complex and many countries are members of more than one economic grouping. Box 4 shows the key economic groupings for countries in Eastern and Southern Africa. Malawi is a member of both COMESA and SADC, as are a number of countries in the region. The ESA group, which exists only for the purpose of negotiating an EPA, has both COMESA and SADC members and the SADC EPA grouping contains the remaining SADC members.

The ESA grouping does not correspond to any pre-existing trading group. While all 15 ESA members belong to COMESA, Egypt and Libya are members of COMESA but are not negotiating EPAs. Angola, Swaziland and DRC are members of COMESA but are negotiating in other EPA groupings.

Integration within COMESA is proceeding at varying speeds but all members have agreed to work towards a customs union in 2008. SADC is working towards an FTA in 2008 and a customs union in 2010. The East African Community (which comprises Kenya, Uganda and Tanzania) launched its customs union in 2005.<sup>85</sup>

The overlapping membership of various regional integration organisations with diverging integration agendas is clearly a key challenge for countries in the region. It is impossible for a country to be a member of two customs unions at the same time<sup>86</sup> and, as SADC and COMESA move towards becoming customs unions, Malawi will have to choose between them.<sup>87</sup>

Regional integration in Africa is important. However, it is complex both economically and politically and Malawi and other countries in the region need time to clarify their integration agenda before entering into regional agreements with the EU. Regional integration should take place at an internally driven pace, not one imposed by the EU.

The African Union has expressed grave concern about the impact of EPAs on regional integration in Africa.<sup>88</sup> Because the EPA groups constitute parallel institutions and arrangements to the recognised RECs, the adoption of CETs by 1 January 2008 is inconsistent with the time frames set by some of the RECs in Africa. Furthermore, adoption of CETs by each of the negotiating groups *'would amount to a de facto re-configuration of the RECs and their membership. This could well disrupt the process of economic integration under the Treaty establishing the African Economic Community...'*

85 This is further complicated by the fact that Kenya and Uganda are negotiating EPAs as part of ESA but Tanzania has opted for SADC.

86 Unless they have a unified trade policy and both adopt the same common external tariff.

87 As will Mauritius, Zambia, Democratic Republic of Congo and Zimbabwe.

88 African Union (2006)



**Box 4**

Regional economic groupings in Eastern and Southern Africa

COMESA *The Common Market for Eastern and Southern Africa*

SADC *Southern Africa Development Community*

SACU *Southern Africa Customs Union*

EAC *East African Community*

|              | COMESA | SADC | SACU | EAC | ESA EPAs grouping | SADC EPAs grouping |
|--------------|--------|------|------|-----|-------------------|--------------------|
| Angola       | ●      | ●    |      |     |                   | ●                  |
| Egypt        | ●      |      |      |     |                   |                    |
| Madagascar   | ●      | ●    |      |     | ●                 |                    |
| Sudan        | ●      |      |      |     | ●                 |                    |
| Burundi      | ●      |      |      |     | ●                 |                    |
| Eritrea      | ●      |      |      |     | ●                 |                    |
| Malawi       | ●      | ●    |      |     | ●                 |                    |
| Swaziland    | ●      | ●    | ●    |     |                   | ●                  |
| Comoros      | ●      |      |      |     | ●                 |                    |
| Ethiopia     | ●      |      |      |     | ●                 |                    |
| Mauritius    | ●      | ●    |      |     | ●                 |                    |
| Uganda       | ●      |      |      | ●   | ●                 |                    |
| Kenya        | ●      |      |      | ●   | ●                 |                    |
| Rwanda       | ●      |      |      |     | ●                 |                    |
| Zambia       | ●      | ●    |      |     | ●                 |                    |
| Djibouti     | ●      |      |      |     | ●                 |                    |
| Libya        | ●      |      |      |     |                   |                    |
| Seychelles   | ●      |      |      |     | ●                 |                    |
| Zimbabwe     | ●      | ●    |      |     | ●                 |                    |
| DRC          | ●      | ●    |      |     |                   |                    |
| Botswana     |        | ●    | ●    |     |                   | ●                  |
| Lesotho      |        | ●    | ●    |     |                   | ●                  |
| Mozambique   |        | ●    |      |     |                   |                    |
| South Africa |        | ●    | ●    |     |                   | observer           |
| Tanzania     |        | ●    |      | ●   |                   | ●                  |
| Namibia      |        | ●    | ●    |     |                   | ●                  |

The African Union has also expressed strong concern about regional integration between the four African groupings. The fact that the four African groupings could end up signing significantly different EPAs with the EU *'would complicate the process of economic integration in Africa, if the different member states end up locked into obligations with the EU of an indefinite duration that are inconsistent with the programmes for building the African Common Market'*.<sup>89</sup> It's clear that there is much concern that EPAs will hinder rather than help regional integration processes that are underway.

### 3.1.3 Costs to government revenue

#### Loss of tariff revenue

Trade taxes in the form of import duties contribute about 12 per cent of Malawi's total revenue base (excluding grants).<sup>90</sup> Taxes from trade with the EU represent 5 per cent of total tariff revenue.<sup>91</sup> The studies show that Malawi is likely to lose around €6.1 million per annum in tariff revenue on the EU imports that were previously taxed.<sup>92</sup> While at first glance this figure may not seem extortionate, for a country as poor as Malawi, this represents a significant contribution to the revenue base. To put it in context, Malawi's national budget allocations for 'protected pro-poor expenditure on agriculture' (food security initiatives, agricultural extension, technology generation and technical services) for the past three years has been around €5.28 million annually.<sup>93</sup> This sum is in addition to the revenue loss arising from diverted trade towards the EU. This is likely to be substantial, with one analysis stipulating that such revenue loss could amount to around €45.3 million.<sup>94</sup>

Malawi is likely to find it difficult to replace the lost revenue. The adjustment costs of undertaking tax policy and administration reforms are significant in terms of both finance and human resources. Recent empirical evidence suggests that low-income countries have struggled to recover trade tax revenue lost as a result of trade liberalisation – only 30 per cent has been recovered through other taxes.<sup>95</sup> If Malawi was unable to raise revenue in other ways, there would have to be a reduction in fiscal expenditure with the likely knock-on effects on social spending. It is poor women, men and children in Malawi who will be hardest hit by the loss of government revenue. The government's capacity for spending on education, health, water and sanitation is already woefully inadequate. Any further decrease in its budget will worsen this problem.

The studies also assess revenue loss for a scenario whereby Malawi liberalises 80 per cent of its trade with the EU having selected a sensitive list of products to protect. The revenue loss for this scenario is, of course, lower (€1.28 billion).<sup>96</sup> However, the 20 per cent of product lines in these scenarios have been selected on the basis of tariff income – i.e. those that are currently the highest income-earners. There are many other factors (such as livelihoods, food security, industrial policy etc) that a government may choose in selecting a list that would mean the tariff loss would be higher. In addition, as explained above, it is highly unlikely that Malawi will be able to include every product it wants on its sensitive list.

89 African Union (2006)

90 Imani (2005)

91 Zgovu and Kweka (2006)

92 Imani (2005), Karingi et al (2005), Gondwe and Magalasi (2006)

93 Gondwe and Magalasi (2006)

94 IMANI (2006) cited in Gondwe and Magalasi (2006)

95 Baunsgaard and Keen (2005)

96 Gondwe and Magalasi (2006)

**Adjustment costs**

EPAs also present other significant impacts on government revenue. Research by the Commonwealth Secretariat focuses on the cost of implementing remedial measures needed to minimise the adjustment costs incurred by EPAs.<sup>97</sup> The study calculates the costs of programmes to mitigate the adverse effects of four areas of adjustment:

**FISCAL ADJUSTMENT** – the costs arising from the need to replace tariff revenue loss

**TRADE FACILITATION AND EXPORT DIVERSIFICATION** – the cost of redeploying assets (capital, labour, skills and land) away from import-competing sectors towards new export activities

**PRODUCTION AND EMPLOYMENT ADJUSTMENT PROGRAMMES** – to assist with the adjustment experienced by workers and firms

**SKILLS DEVELOPMENT AND PRODUCTIVITY-ENHANCEMENT SUPPORT PROGRAMMES** – to increase the competitiveness and productivity levels in preparation for the full implementation of EPAs.

The results for the whole ACP and for Malawi alone are shown in Box 5. The figures are the estimated overall costs for a minimum level of restructuring adjustment support required by ACP countries over ten years, with 60 per cent being front-loaded in the first five years. For Malawi, the total estimate is €135 million. This would represent a significant drain on scarce resources.

**Box 5**  
EPA-incurred  
adjustment costs

Source: Milner (2006)

| Adjustment need                                    | Cost to ACP  | Cost to Malawi |
|--|--------------|----------------|
| a) fiscal adjustment                               | €3.3 billion | €40 million    |
| b) trade facilitation and export diversification   | €2.1 billion | €45 million    |
| c) production and employment adjustment            | €1.5 billion | €20 million    |
| d) skills development and productivity enhancement | €2.3 billion | €30 million    |
| Total  | €9.2 billion | €135 million   |

<sup>97</sup> Milner (2006)

## 3.2 Beyond goods tariffs: other areas of negotiation

The EC's vision for EPAs goes far beyond the lowering of goods tariffs. The EC is also pushing for the liberalisation of ACP countries' service sectors under EPAs, as well as the inclusion of trade-related areas, the so-called 'Singapore issues', which have been rejected by developing countries at the WTO for years. This section explores these other areas of negotiation, looking primarily at process issues in terms of the EC's approach but also the potential longer-term implications for Malawi.

### 3.2.1 Services

*'On negotiations in services, we have noted the intention of the European Community to seek extensive opening of African services sectors. We... underscore the absolute need for a carefully managed sequencing of services liberalisation in line with establishment of strong regulatory frameworks. We therefore shall not make services commitments in the EPAs that go beyond our WTO commitments and we urge our EU partners not to push our countries to do so. We expect and call upon the European Community to open up its services sectors in favour of African countries to satisfy, as the barest minimum, the requirements under Article 5 of GATS of substantial sectoral coverage and elimination of substantially all discrimination.'*

African Union trade ministers, April 2006 <sup>98</sup>

While under the Cotonou Agreement and WTO rules, EPAs do not have to include services, ESA is negotiating services as part of an EPA. However, at the time of writing, the services negotiations under the ESA EPA are not far-advanced and there is a lack of clarity on what will be included.

The WTO rules pertaining to services in RTAs are in GATS Article 5, which includes special and differential treatment for developing countries and states that regional agreements ought to have 'substantial sectoral coverage'. GATS requires services liberalisation to be agreed on a case-by-case opt-in basis (or 'positive-list' approach), rather than on a blanket basis. However, a working paper of the WTO suggests that *'it should be expected that EPAs encompassing services are more ambitious in their objectives and go well beyond the GATS in terms of liberalisation'*.<sup>99</sup> Indeed, the EC's EPAs negotiating mandate is fairly aggressive when it comes to services stating that negotiations on services should *'begin in all sectors by 2006 at the latest'*.<sup>100</sup>

The EU represents around a quarter of total world exports in commercial services. With talks at the WTO now stalled, the EC is using EPAs to push forward its agenda for European services companies.

98 Nairobi Declaration On Economic Partnership Agreements (EPAs), African Union, 14 April 2006

99 Janson (2005)

100 Recommendations authorising the Commission to negotiate Economic Partnership Agreements with the ACP countries and regions. Agreed by the EU General Affairs Council 17/06/02.

There has been very little analysis of the implications of including services in the EPA negotiations and this report does not seek to assess impact in this regard. However, a few points of caution can be raised. Firstly, Malawi needs to maintain flexibility in the policy tools it can choose to use related to services. For example, it may wish to protect its infant services industries as part of a diversification strategy away from reliance on low-cost raw agricultural commodities. Malawian services industries risk collapse if faced with unequal competition before they've had the opportunity to grow and develop. Furthermore, maintaining effective domestic industries is an important tool for promoting competition.

Secondly, Malawi's 'sensitive service sectors' – essential services such as water and healthcare – are of vital importance. There has been great concern over the pressure on developing countries to liberalise such sectors through the GATS Agreement and increasing evidence to show that governments need to exercise tight control if they are to ensure universal access to these essential services for their populations. Liberalisation of essential services can result in higher prices for consumers and concentration of services in urban areas. The consequence is often that poor people are unable to access them.

For Malawi to reap the benefits of market access opportunities and increased competition from services liberalisation, and to mitigate the potential negative impacts, certain conditions need to be in place. Of critical importance is the existence of adequate supporting regulatory frameworks and institutions to ensure development objectives are met. However, Malawi's regulatory frameworks and institutions need strengthening significantly before such aims can be assured. Other important factors are a supportive physical infrastructure, and sufficient supply capacity and competitiveness. Again, these are areas in which Malawi needs substantial development and without which services liberalisation could have serious repercussions.

A further area of concern relates to the impact on regional integration. As with goods, the economic structures, regulatory capacity and relative importance of different services sectors vary from country to country. Yet the EC wants the ESA group to adopt a set of common commitments in services. This is highly problematic and as with goods is likely to seriously undermine regional integration efforts.

The important issue is that Malawi should not be forced to liberalise its services sectors through EPAs. The Malawian government should be allowed the policy space to make decisions as to the coverage, pace and sequencing of services liberalisation. It should not have to go beyond the commitments made at the WTO. Thorough impact assessments are needed to analyse the implications of liberalising services through EPAs before any commitments are made.

There is one area of services liberalisation that is unlikely to go beyond what has been agreed in the WTO GATS negotiations, and that is market access for the 'temporary movement of natural persons' from ACP countries to the EU (i.e. the temporary movement of labour – which comes within Mode 4 of the GATS Agreement). Yet Mode 4 is an important area of offensive interest for Malawi. The movement of workers from developing to developed countries is an extremely sensitive issue, and more research is needed on the relationship between movement of people and poverty reduction. However, this case in point epitomises the general thrust of the negotiations: the EC is determining the agenda depending on what suits its own interests.

### 3.2.2 Trade-related areas: WTO+

*'On the issues of investment policy, competition policy and government procurement, we reiterate the concerns we have raised at the World Trade Organisation, leading to their being removed from the Doha Work Programme. We reaffirm that these issues be kept outside the ambit of EPA negotiations.'*

African Union trade ministers, April 2006 <sup>101</sup>

At the WTO the EU has tried to force developing countries into negotiations on the so-called Singapore issues of investment, competition policy and transparency in government procurement. Developing countries have consistently rejected this agenda. For example,

- In June 2003, 77 developing countries, including more than half of the members of the WTO, made public statements urging that the Singapore issues should not be included in the Doha Round.<sup>102</sup>
- In September 2003, the WTO Ministerial in Cancún, Mexico, collapsed. A key factor in the collapse was the EU's insistence that the Singapore issues be included in the Ministerial text.
- In June 2005 the African Union stated: *'We reaffirm the position of African countries that, except for trade facilitation, the other three Singapore issues of investment, competition policy and transparency in government procurement should remain outside the ambit of the WTO Doha Work Programme and EPA negotiations.'*<sup>103</sup>

Despite this opposition, and the fact that there is no WTO requirement to include trade-related areas in regional trade agreements, the EC continues to push aggressively for negotiations on the Singapore issues in EPAs, insisting that there will be *'no EPA without investment rules and full reciprocity'*.<sup>104</sup> Some of the reasons against the inclusion of such issues in EPAs are outlined below. In addition, there are also concerns that negotiations on these issues would place a large burden on the already over-stretched negotiating capacity of ACP countries and that the implementation costs of any new agreements would be very high.

#### Investment

The EC is pushing for rules-based investment agreements in EPAs, arguing that such agreements will help developing countries attract more investment, which would in turn lead to increased economic growth. However, the evidence suggests otherwise. Taking into account FDI flows from OECD members to 31 developing countries over 20 years, in addition to research by UNCTAD, the World Bank found that *'countries that had concluded a BIT [Bilateral Investment Treaty] were no more likely to receive additional FDI than were countries without such a pact'*.<sup>105</sup> Much more important in influencing FDI are factors such as weak physical, social and administrative infrastructure; the costs of asset development; vulnerability to shocks; and lack of business support services.<sup>106</sup>

101 African Union Trade Ministers' Declaration on EPAs, Nairobi, April 2006

102 CAFOD (2003)

103 African Union Ministerial declaration on EPAs, Cairo, June 2005

104 Karl Falkenberg, Deputy Director-General of Trade at the European Commission, Accra, Ghana, 29 June 2006

105 World Bank (2003a)

106 UNCTAD (2000)

Furthermore, when foreign investment does take place under rules-based agreements, its impacts are by no means automatically developmental. Indeed there are many potential costs and such agreements have in the past limited the ability of developing country governments to manage foreign investment to serve their development interests.<sup>107</sup>

Malawi needs investment – both domestic and foreign. However, the EU's proposals for rules-based investment agreements of the investor protection variety in EPAs would lead to rules that determine the way in which Malawi and other ESA countries can select and regulate foreign investors.<sup>108</sup> In the past, developed countries, including the UK have systematically discriminated between domestic and foreign investors in their industrial policy. Using a range of instruments including limits on ownership, insistence on joint ventures with local firms and performance requirements on exports or local employment, they have enabled domestic firms to reach a level of competitiveness that allows the benefits of non-discrimination to outweigh the costs.<sup>109</sup> However, a rules-based investment agreement threatens to deny Malawi this freedom. The government's control over the entry of foreign investors and types of investment into the country would be curtailed and its ability to give preferential treatment to local firms, or to channel foreign investment in certain directions, would be limited.

Transparent and sound legally secure frameworks for investment are important, and Malawi needs the financial resources to make the necessary reforms to build such frameworks. However, Malawi and other ACP governments also need to retain the flexibility to adapt policies as their economies develop. A rules-based investment agreement as proposed by the EU risks locking in policy frameworks that will prevent Malawi from using the policy tools it needs to support development in the future.

### **Public procurement**

The EU is pushing hard for the inclusion of public procurement in EPAs. Given the potential size of the market for EU companies, this is a clear offensive interest of the EU. However, a government's ability to procure from firms of its own choice is a major macroeconomic instrument for developing countries.<sup>110</sup> Public procurement practices can be used as a tool for development. For example, they can be used to direct expenditure to locally produced materials, or to target certain groups or communities that are marginalised economically. Alternatively where foreign firms are invited to bid, a government may choose to give the award to firms from particular countries (for example, other developing countries). Liberalisation of public procurement within an EPA would limit and even prohibit the use of this tool by the government of Malawi.

107 Christian Aid et al (2006)

109 Chang and Green (2003)

108 See Christian Aid et al (2006) for a full discussion on EPAs and investment.

110 See Stiglitz J (2004)

**Competition policy** Competition law and policy are necessary and beneficial, for example, to curb the mega-mergers and acquisitions that threaten the competitive position of local firms in developing countries. However, locking competition policy into trade agreements risks curbing the right of governments to provide advantages to local firms and to help them develop and become more competitive. It also risks preventing each country from having the flexibility and choice to select a competition model appropriate to their economic and social development needs which can be adapted through time in response to changing conditions.

The choice of investment framework, public procurement policy and competition law should rest with ACP countries. They should not be forced to negotiate these issues as part of EPAs.

### 3.3 Has Malawi anything to gain from an EPA?

Section 3.1 shows the potential effects that an EPA could have on livelihoods and employment in Malawi, threatening to increase Malawi's dependence on the export of low-value raw commodities and resulting in the inflow of cheap, subsidised European farm goods undercutting local producers. Moreover an EPA poses a real threat to Malawi's weak manufacturing sector and could severely hinder Malawi's future industrialisation efforts. Malawi needs the policy freedom to develop its own self-driven policies that deliver economic growth and poverty reduction: an EPA will significantly reduce this policy space both in terms of tariff policy and other policies to regulate investment and to support domestic industry and firms (through negotiation of the Singapore issues). The ESA EPA is also likely to have significant negative effects on current trade between ESA countries and on their potential to build future regional markets. This undermines a fundamental development strategy that African governments have embarked on in regional integration programmes. An EPA will also result in significant revenue loss for Malawi: through tariff revenue loss on current imports from the EU and on imports diverted to the EU from elsewhere, and through adjustment costs.

Potentially, Malawi faces huge losses. Gains, on the other hand, are hard to find. EPAs will not help Malawi address its supply-side constraints: there will be no binding commitments of additional development assistance. In terms of market access, Malawi, as an LDC, already has duty-free and quota-free access to the European market through the Everything But Arms (EBA) initiative. An EPA may improve market access in terms of offering better rules of origin and would offer more legal certainty of market access. However, the price to pay in terms of jobs, livelihoods and future development prospects would be very great.

What Malawi and other ACP countries may also see as a gain from an EPA is the avoidance of the political or diplomatic ramifications of **not** signing up to one, most notably the potential loss of development aid. The fact that this is a consideration is a scandal and the EU should make firm commitments to ACP countries that they will not lose aid as a result of rejecting an EPA.

Malawi has much to lose and little to gain from an EPA. The losses outlined above all represent substantial blows to the Malawian economy as a whole, but more importantly the effects will be felt most by poor people: the men and women who will lose livelihoods and



employment and those who will remain trapped in the vulnerable position of producing low-cost commodities. Moreover, if Malawi is unable to boost its economy by developing agro-industry and manufacturing, its government will be unable to improve basic services such as hospitals and schools, or provide safe water and sanitation. Here again, it is poor people who will feel the worst effects.

### 3.4 What alternative for Malawi?

*'The ACP-EU Joint Parliamentary Assembly... recall that the Cotonou Agreement provides that in the event that a country or region does not wish to sign up to an EPA/FTA it should not find itself worse off in terms of market access; calls on the Commission to examine all alternative possibilities, which include improved rules of origin, including non-reciprocal arrangements, in accordance with Article 37 (6) of the Cotonou Agreement.'*

ACP-EU Joint Parliamentary Assembly, 2006<sup>111</sup>

This report has shown that Malawi has little to gain and potentially a huge amount to lose from entering into an EPA with the EU. As an LDC, Malawi can in theory opt out of an EPA and remain with the duty-free, quota-free access it has under the EU's EBA initiative instead.

However, as it stands, the EBA is a unilateral preference scheme: it is non-contractual and could be amended or withdrawn at any time by the EU without negotiation or notification. It thus offers no legal certainty to Malawi. For the EBA to be a developmental alternative to an EPA it would need to be made contractual at least. It also has onerous rules of origin that act as a restraint to exports: these would need to be addressed. Also, opting for EBA may pose a substantial risk to Malawi's integration in the region: if Malawi decided not to sign an EPA, but its neighbours did, it would still feel the effects of EU imports entering its markets unless it put in place robust and costly border controls to prevent trans-shipment. This would clearly act as a harmful and costly disincentive to regional trade integration.

Article 37 (6) of Cotonou commits the EU to examine all alternative possibilities for non-LDC countries in order to provide a new framework for trade that would be *'equivalent to their existing situation'*. ACP governments have called for the EC to provide them with alternatives. For example, in April 2006, African trade ministers formally called for alternatives to EPAs to be *'fully explored'* in the review of EPAs.<sup>112</sup>

Commentators have suggested a number of options for alternative EPAs and alternatives to EPAs.<sup>113</sup> There are two main routes: to change the WTO rules (Article 24 of GATT) to allow for non-reciprocal EPAs, or to work towards WTO-compatible alternatives to reciprocal EPAs. To date, however, the EC has adamantly refused to explore alternatives.

111 ACP-EU Joint Parliamentary Assembly, ACP-EU 3958/06/fin, Barbados, November 2006

112 African Union Trade Ministers' Declaration on EPAs, Nairobi, 14 April 2006, Paragraph 15

113 Bilal and Rampa (2006)

For Malawi and other developing countries to make an informed choice of whether to sign up to an EPA, they need to be able to consider what other options are available. The EU needs to explore all possible alternatives to the current free-trade EPAs that are on the table.

**Summary**  
SECTION 3

In terms of liberalisation of good tariffs, a reciprocal EPA threatens to reinforce Malawi's position as an exporter of low-value agricultural commodities. It will deprive the Malawian government of policy space to use tariffs to protect livelihoods and food security and to foster the growth of a manufacturing sector. It is likely to have significantly negative effects on Malawi's trade with other countries in the region and undermine ongoing regional integration processes. An EPA also threatens to lead to the loss of tariff revenue and to incur significant adjustment costs. The EU is also pushing forward its agenda in negotiations on services and the Singapore issues. ACP governments should not be forced to liberalise their service sectors and should have the freedom to decide upon an investment framework, public procurement policy and competition law suitable for their context. They should not be forced to negotiate these issues as part of EPAs. All in all, there is a great deal at stake for Malawi in EPAs. There are substantial potential losses and few potential gains. However, the EU is refusing to explore alternatives to reciprocal EPAs.

# 4 Conclusion and recommendations

The Cotonou Agreement between the EU and ACP has the principal objectives of reducing poverty and promoting sustainable development of the ACP countries and their gradual integration into the world economy. However, in the grossly unbalanced negotiating dynamic between the EU and the ACP, the EC is using EPAs to force liberalisation commitments onto ACP countries, far beyond what they have committed at the WTO, and to force their agenda on the long-resisted Singapore issues. This report, using Malawi as a case study, has shown that while EPAs are cloaked in the language of partnership and development, they will not contribute towards these ends. We have seen that Malawi has little to gain and much to lose from an EPA with the EU. An EPA threatens to undermine the development strategy of the Malawian government, locking Malawi into exporting low-value agricultural commodities, and undermining its ability to foster the development of agro-industry and manufacturing. It also threatens to harm regional integration within ACP areas.

From the start of the EPA negotiations, ACP governments have raised serious questions and concerns over both process and content, many of which are highlighted in this report. However, negotiations continue while fundamental questions remain unresolved and major concerns are left unaddressed.

Given the harm that EPAs pose to development and poverty reduction and the concerns being raised by stakeholders across the ACP, we make the following recommendations.

## RECOMMENDATIONS TO EU MEMBER STATES AND THE EC

EU member states and the EC should:

- seek a framework for ACP-EU trade that includes:
  - market access for the ACP to European markets that is no worse than they currently have, with legal certainty and the removal of certain non-tariff barriers, for example, improved Rules of Origin.
  - no requirements on ACP countries to open their markets in return. This is in order to protect livelihoods and promote food security. It would also allow ACP governments to use tariffs as part of development policy to promote diversification from low-cost commodities and develop manufacturing and industry.
  - no requirements to negotiate on the Singapore issues.
- push for Article 24 of the General Agreement on Tariffs and Trade (GATT) to be changed to incorporate special and differential treatment for developing countries in Regional Trade Agreements (RTAs) and allow for non-reciprocity in RTAs between countries at very different levels of development.

- provide increased development assistance to ACP countries to help them adjust to preference erosion, to address supply-side constraints and to build regional integration. The EU should improve the delivery mechanisms for this aid and should make clear guarantees that this assistance is in no way contingent on the signing of an EPA.
- examine all alternatives to EPAs as a matter of urgency so that developing countries have a genuine choice of whether or not to sign up to an EPA.
- ensure EPAs are a key priority of the German and Portuguese presidencies of the EU in 2007, to ensure that the ACP-EU trade relationship is one that promotes sustainable development.
- not use the deadline of the WTO waiver's expiry to pressure the ACP to sign up to trade agreements that will harm development. Proper time should be allowed in the negotiations for a new ACP-EU trade framework to ensure full consultation of all stakeholders – including civil society and parliamentarians – and to carry out full and thorough impact assessments.
- respect the regional integration processes already underway in Africa and ensure that any future ACP-EU trade framework does not undermine these processes.
- ensure that the EPA review process is transparent, comprehensive, consultative and inclusive. It should cover the structure, process and substance of the negotiations, including both trade and development aspects, and address the issues of concern to the ACP, including the provision of alternatives.

## RECOMMENDATIONS TO THE UK GOVERNMENT

The UK government should

- ensure that the EC hears, acknowledges and responds to the concerns of ACP governments, parliaments and civil society.
- significantly increase its efforts to influence other EU member states to produce public positions on EPAs which are at least in line with its own position. These should include provisions in relation to not forcing liberalisation, not forcing negotiations on the Singapore issues and offering alternatives.
- continue actively and publicly to raise its objections to EPAs with the European Council and the EC.
- hold the EC to account for a transparent, comprehensive, consultative and inclusive review that covers structure, process and substance of the negotiations, including both trade and development aspects.

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