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EUROPEAN UNION'S ECONOMIC PARTNERSHIP
AGREEMENTS WITH AFRICA, CARIBBEAN AND PACIFIC
COUNTRIES: A CASE OF MARKET POWER EUROPE?

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Abstract

Since 2002, the European Union (EU) has been engaged in negotiating new reciprocal regional Free Trade Area (FTA) agreements with African, Caribbean and Pacific (ACP) countries in a framework of Economic Partnership Agreements (EPAs). This paper uses qualitative methodology to assess the extent to which negotiations of EPAs by the European Union with the ACP regional blocs are compatible with Market Power Europe thesis and how trading engagements of the EU is perceived by African countries.

The paper argues that the nature and content of EU's EPA with the ACP countries is consistent with the MPE concept. This concept posits that EU's single market, its enormous regulatory and institutional regime and its interest's contestation arena are characteristics that enable the Union to engage in conscious and unconscious 'externalisation' of its internal market-related and social policies and regulations.

The paper begins with a discussion on the global roles of the EU and proceeds with explanation of the Market Power Europe (MPE). Prior to conclusion, the paper evaluates the EPA negotiations on the basis of MPE and gives theoretical contribution to the MPE concept.

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List of Abbreviations

ACP	Africa, Caribbean and Pacific countries
ACP-EU JPA	ACP-EU Joint Parliamentary Assembly
CAP	Common Agricultural Policy
CARIFORUM	Caribbean countries economic Forum
CCP	Common Commercial Policy
CEMAC	Economic and Monetary Community of Central Africa
CPA	Cotonou Partnership Agreements
ECOWAS	Economic Community of West African States
ESA	Eastern and Southern Africa
EU	European Union
EAC	East African Community
EBA	Everything But Arms
ECSC	European Coal and Steel Community
EPA	Economic Partnership Agreements
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GSP	Generalised Schemes of Tariff Preferences
LDC	Least Developed countries
MPE	Market power Europe
SADC	Southern African Development Community
PACP	The Pacific ACP countries
REPA	Regional Economic Partnership Agreement
TCB	Trade-related Capacity Building
TFEU	Treaty on the Functioning of the European Union
UNECA	United Nations Economic Commission for Africa
WTO	World Trade Organisation

European Union's Economic Partnership Agreements with Africa, Caribbean and Pacific Countries: A Case of Market Power Europe?¹

1.0. Understanding the EU's Global Presence

The *sui generis* nature of the European Union in the international arena has left scholars – especially those in International Relations, Public Administration, Public Policy and International Political Economy – scrambling to label it in accordance with their perspectives. This is because while the Union is not exactly a traditional international organisation it is also not a Westphalian state. The EU system is characterised by elements of inter-governmental relations of sovereign Member States as well as supranational institutions which deal exclusively with transferred policy competences and in some cases shared responsibility among the Institutions in collaboration with national governments. This part of the paper gives a brief overview of how the EU's identity has variously been defined.

The EU has attracted many identities across the world. From a traditional international relations perspective, Johan Galtung (1973) predicted that the European Community, and now Union, was becoming a *Superpower* to establish a "Eurocentric World" and "Unicentric Europe" (cited in Whiteman, 2002:5; Smith, 2005). On his part, Zimmermann (2007) described the EU as a *Realist Power* asserting that the Union's actions are to a larger extent guided by geo-economics and mercantilist considerations. There are a number of other conceptions of the EU as a power. For instance, some view the EU as a *Quiet superpower* (See Moravcsik, 2002 and 2009), a *Small Power* (See Toje Asle, 2010), and a *Middle Power* (See Orbie Jan ed., 2008).

On the other hand, from an idealist perspective the EU has also been described in various ways. For instance, the Union is termed a *Civilian Power* (Duchêne 1972). This distinguishes the power of the EU from a Westphalian state's military power in the international system² (See Whitman, 2002:3-6).³ Ian Manners (2002) on his part conceived the EU as a *Normative Power*. Thus moving beyond the civilian-military

¹ Market Power Europe is a concept of EU power identity developed by Dr Chad Damro of The University of Edinburgh in 2010. This paper is in contribution to my PhD Research on EU External Trade Actions in the framework of EXACT Marie Curie Initial Training Network (<http://www.exact-training.net/>). I am grateful to Miguel Haubrich, Nicole Koenig and Leonhard Den Hertog for their useful comments.

² Provisions on the Common Foreign and Security Policy and the European Defence and Security Policy as enshrined in the Lisbon Treaty cast doubt on EU identity as a pure civilian power.

³ See Manners (2001) for a critique of this conception of the EU.

dichotomy of EU power to consider the Union's ideational power in the form of principles and values, and its willingness to disregard the Westphalian state's tradition of power (see Manners, 2002: 239).⁴ *Gentle Power* is yet another phrase coined by Padoa-Schioppa (2001) to describe the EU on the basis that it does not use military instruments nor instruments of policing on its citizens (See Merlini, 2001). Under this category of perspectives, the EU has another identity as *Ethical Power* by which it promotes itself as an agent of "doing good" in the world (Aggestam, 2008:2). All these power identities of the EU have been asserted; they have been challenged and are still open for future exploration in literature.

Using Normative Power Europe as a point of departure, Damro (2010, 2011) has conceived the latest description of the EU in the global arena as *Market Power Europe (MPE)*. This conception forms the basis of this paper. It proceeds from the premise that the EU's identity in the world is primarily a Market; and that this market entity (EU) is also endowed with regulatory capacity and an arena for internal and external interest group contestations in the process of policy preference formation. These characteristics enable the EU to engage in the "externalisation" of its internal market-related and social regulations to other international players it interacts with. The next section presents an overview of the MPE concept after which the EU-ACP trade relationship is concisely discussed. In the ensuing section, MPE is used as a framework to analyse the Economic Partnership Agreement to determine how consistent the EU's positions in the EPAs are with the MPE identity. The paper ends with a consideration of the challenges confronting the EU in this century in relation to the Union's cooperation with the ACP countries.

2.0. Market Power Europe

The core argument of MPE is that the interplay of the EU's important market power in addition to its enormous institutional capacity, coupled with its arena of interest contestation, enables the Union to engage in the 'externalisation' of its internal policies and regulations using measures such as persuasion, coercion and sanction, the details of which are elaborated below.

2.1. European Union as a Single Market

Damro (2010, 2011) concurs with previous observations that "the European single market represents the EU's *material existence* and the most salient aspect of its presence in the international system" (2011: 7, citing Allen and Smith, 1990). In the international system, the EU is mostly seen on the basis of its economic integration, which commenced in the 1950s with the European Coal and Steel Community (ECSC) and has

⁴ See Manners, 2002:242-245 for EU normative bases and instruments used for their diffusion.

spilled over into other sectors of European economies, thereby creating an unprecedented regional integration model in the world.

It has been argued that the EU's expansive single market size and trade volume serve as an attraction to the rest of the world economies, through which the Union exerts its influence for convergence of standards (See Drezner, 2007, cited in Damro, 2011:7-8). The most recent statistics of EU global trade by Eurostat, the statistical institution of the Union, confirms the assertion that fundamentally, the EU is a world trade leader with enormous influence on global trade standards as conceived by the MPE concept.⁵

2.2. European Union as Regulatory Institution

The next feature of MPE is the network of regulations and institutions composed in the European Union system. This feature involves the identification of EU institutions and actors as well as the definition of areas of their competence and rules and procedures guiding decision making (See Damro, 2011:8-11). Similar to the view of the EU as a regulatory state (Majone, 1994, 97), Damro argues that the concept of MPE takes into consideration the factors enshrined in the EU system that breeds positive and negative integrations in the Union (Damro, 2011:8-11). The EU system thus internally creates economic and social regulations which have a direct impact on its external relations. As such MPE is conceptualised to consider how the EU is able to generate regulations and how it is able to externalise them. These are attributed to three characteristics of the EU's regulatory system, namely its regulatory expertise and regulatory coherence and finally its sanctioning authority, through which the Union is able to impose costs to third parties playing foul of its standards (Damro, 2011:11). MPE uses these three features under the EU's regulatory regime to explain the Union's ability to export its internal economic and social policies intentionally through measures at its disposal, or unintentionally by an indirect inducement on third parties.⁶

2.3. European Union as an Arena of Interest Contestation

The third and final key feature of the MPE concept is on the dynamic aggregation of internal interests that become the policy position of the EU in its external dealings. Damro exposes that "because the EU is a regulatory institution that is open to public consultation and influence, it also serves as an arena in which various groups compete for regulation that serves their interests" (2011: 10). MPE therefore considers the different types of regulations⁷ and how they are developed internally

⁵ See Eurostat, 2010:470-484 for many details.

⁶ See Smith, 2003 cited in Damro (2011:14) for list of EU measures of externalisation.

⁷ Categories of regulations identified are social, economic, and information asymmetries (see Young 2006, cited in Damro, 2011)

within EU policy and decision-making systems. Under this same interest contestation, consideration is given to external interest groups who equally influence policy outcomes within the EU polity.

Under the MPE, the Union's engagements in externalisation activities are treated as the dependent variable. Externalisation is thus defined as when EU institutions and actors attempt to influence other actors in the international community to adhere to the set of regulations similar to those pertaining to the EU single market area (See Damro, 2011:10-12). The act of externalisation is deemed to have taken place when the other actors comply with the said regulations in the actual sense. MPE in that logic is a two-stage process involving an attempt on the part of the EU to transfer policies and institutions and an actual impact on third parties (ibid). In the following section, the three key features of MPE are applied to the case of the ongoing Economic Partnership Agreement to test the empirical validity of its assumptions. In the first instance, an historical overview of the EU-ACP EPA negotiations is deemed beneficial.

3.0. Economic Partnership Agreements

The European Union (EU) has a long history of trading with the ACP countries, with the purpose of fostering the smooth and gradual integration of the ACP states into the world economy and promoting their sustainable development thereby contributing to poverty eradication (See Patel, 2007). Trading between the two blocks since the post-colonial era has been characterised by a preferential trade strategy in favour of the ACP states because their share of global trade value obtained is negligible (See Brühlhart, 2007; Lorand, 2008 for details).⁸

With the inception in 1995 of the World Trade Organisation (WTO), the offering of preferential market access to some members of the WTO and not to others is in contravention of the WTO principle of Most Favoured Nation clause, amounting to discrimination. The European Union and the ACP countries obtained a WTO waiver to correct this in 2001. When the Cotonou Partnership Agreements (CPA) reached in 2000 between EU and ACP states, the negotiation of a new trade strategy compatible with WTO rules was conceived to replace the decades-old trade regime

In the CPA, a timeframe was set for the EU to begin negotiations with the ACP countries for Regional Economic Partnership Agreement (REPA) in an attempt to comply with a WTO rule on equal treatment for all

⁸ See the 2009 industrial report of the UN Industrial Development Organisation for detailed statistics on African trade.

members of same economic standing (See Hinkle *et al.*, 2006: 267-268). Therefore, since 2002 the EU commenced negotiations for new EPAs designed as Free Trade Agreements (FTAs) with reciprocity principle with 77 African, Caribbean and Pacific (ACP) countries.

The EU-ACP negotiations of the EPA first began at the level of all ACP groups, to determine the general principles and some key conditions of the negotiations. At that time, the EU began negotiations with individual regional economic blocs. These ACP regional blocs include: Economic Community of West African States (ECOWAS); Eastern and Southern Africa (ESA); Economic and Monetary Community of Central Africa (CEMAC); Southern African Development Community (SADC); East African Community (EAC); the Caribbean Forum (CARIFORUM) and the Pacific ACP (PACP), with each negotiating for a separate Regional EPA with the Union of 27 Members.

On the basis of the negotiation proposal from the EU, the major components of the EPA include the following structure: first the establishment of regional Free Trade Areas (FTA) with ACP regions; secondly, the EPAs involve the liberalisation of 90% of the total value of trade between the EU and the ACP, whereby the EU liberalises 100% of its trade and the ACP liberalises 80% of its trade. It also has 10-12 year period of full implementation of liberalisation by the ACP countries.⁹ Finally, the Union's EPA proposal demands the inclusion of binding rules on investment, government procurement and competition policy (what is popularly known as the *Singaporean issues* in the WTO circle) (For details see Hinkle and Newfarmer, 2005; South Centre, 2008; Stevens *et al.*, 2008a and 2008b). On the whole, the same negotiation proposal templates are given to all the regional blocs with recognition of some regional peculiarities. An attempt is now made to analyse the consistency of EPAs as part of the European Union trade policy with the "Market Power Europe" concept.

4.0. EPA as Case for Market Power Europe?

There is a perception that, the EU is imposing its market interest and regulations on ACP countries through the EPA negotiations.¹⁰ This is examined in this section using the MPE concept. It begins with *What the EU says* in its official communications on trade in general and on EPA negotiations specifically. This is then followed by a look at *What the EU does*.

⁹ After long negotiations, some EPAs now cover the 25-year period of full liberalisation.

¹⁰ See for instance report by Griffith Mari *et al.*, 2007.

4.1. What the EU Says

As a single market unit, the existence of the European Union is defined and maintained by provisions enshrined in its Treaties that have evolved from the 1950s when European integration first commenced. Part 5 of the current Treaty on the Functioning of the European Union (TFEU) consolidates all the Treaty provisions on the Union's external action, chiefly, its trade and commercial policy and its development and humanitarian cooperation with the rest of the world. The Common Commercial Policy (CCP) of the Union, which is the main focus here, is codified in Article 206 (TFEU). It states that,

“by establishing a customs union in accordance with Articles 28 to 32¹¹, the Union shall contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.” (Article 206, TFEU)

This Treaty provision establishes the main trade goal of the European Union – an internal integration of markets and progressive liberalisation of international trade in goods and services including foreign direct investment. Even in more specific terms, Article 207:1 (TFEU) explains the global trade policy of the EU or its scope and intend. It states that,

“The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of external action” (Article 207:1).

It is therefore observed that the Union's internal market liberalisation and regulations are accompanied by an external dimension, as it actively seeks a similar liberalised and regulatory environment for European firms to operate within in the wider world. This position of the Union is equally seen in its other official documents and communications, some of which are discussed below.

¹¹ Articles 28-32 stipulate the establishment of a custom union, with free movement of goods, persons, custom union tariffs and the roles assigned to the European Commission to oversee the functioning of the custom union.

It is worthy of mentioning at this stage that the observation of EU externalisation of its market-related policies to the outside world is true in its relationship with the ACP countries. The need to remove discriminatory trade policy in favour of the ACP countries in response to the WTO rule, did not necessarily warrant reciprocity in market access with the myriads of trade policy-related issues and the attendant debates that have characterised the EU-ACP EPA negotiations. There are alternative policy actions that could have been taken by the EU to meet the same WTO compatibility. Hence, the Union's desire to externalise its liberalised market regulations to the ACP countries and the rest of the world is the independent variable that explains the EPA negotiation provisions put forward by the EU.

The ground for externalisation was laid in the Cotonou Partnership Agreement reached in 2000 between the EU and the 77 ACP countries; establishing a framework for the negotiation of Economic Partnership Agreements (EPAs). Article 37, clause 1 of that agreement reads;

"Economic Partnership Agreements shall be negotiated during the preparatory period which shall end by 31 December 2007 at the latest. Formal negotiations of the new trading arrangements shall start in September 2002 and the new trading arrangements shall enter into force by 1 January 2008, unless earlier dates are agreed between the Parties" (art. 37:1, Cotonou Partnership Agreement).

Through this Agreement, the EU primarily sought to rectify its WTO contradictory bilateral trade preferential treatment of the ACP states. However, at the same time the Union proposed a comprehensive agreement which shall cover both trade in goods and services as well as rules on foreign direct investment, competition policy, trade facilitation, and some aspects of intellectual property rights (See Hinkle *et al.*, 2006:268). Most of these policies and regulations have been the basis of the Union's own integration project and as such, are as well entrenched as EU internal trade and market policies. From this point the evidence of MPE started evolving. The EU succeeded in including binding provisions that will commit all ACP states and their sub-regional bodies to negotiate an EPA, that covers market and trade policies that are practised in the EU. The parties were committed to undertake reforms and build institutions during the transitional period from 2002 to 2007 in order to give way to the new trade regime to commence on 1 January 2008

In 2001, around the same time that the Cotonou Partnership Agreement with the ACP states were commencing, in its White Paper on how the EU could contribute to governance beyond its borders, dubbed; *Strengthening Europe's Contribution to World Governance*, the European Union began exhibiting MPE behaviour as argued by Damro. Part three of

this White Paper discusses the deliberate strategies the Union ought to take to contribute to global governance;

“The Union’s first step must be to **reform governance successfully at home in order to enhance the case for change** at an international level. The objectives of peace, growth, employment and social justice pursued within the Union must also be promoted outside for them to be effectively attained at both European and global level.” (Commission 2001:26)

It is thus observed that the Union has been a pace setter on many fronts of global issues, although unfortunately incoherently; it is for this reason that there was the need for concrete internal reforms to be able to present a single and consistent voice on the world stage. These internal principles and practices of peace and economic growth through regional integration, social justice and employment are serving as the direct or indirect backbone in EU-ACP EPA negotiations. However, the challenge has been that not all of these principles are shared by the side of the ACP. There are some reservations on the real interest of the EU in the promotion of these regulations and values.¹²

In a Communication in 2006, *Global Europe – Competing in the World*, the EU conveys its quest for externalisation of market policies to the rest of the world, of which ACP states are “scapegoats”, as they do not constitute significant trade partners of EU. The EPA negotiations and the unchanging demands of the EU on what policies, regulations and principles should be enshrined in them give much credence to MPE in practice. This strategy identifies the need for the EU to ensure global trade rules on investment, trade in service, intellectual property right, public procurement and competition in order to protect the interest of European firms abroad. This Commission communication directly indicates the use of Free Trade Agreements as a strategy to push the multilateral trade agenda;

“Free Trade Agreements (FTAs), if approached with care, can build on WTO and other international rules by going further and faster in promoting openness and integration, by tackling issues which are not ready for multilateral discussion and by preparing the ground for the next level of multilateral liberalization. Many key issues, including *investment, public procurement, competition, other*

¹²See for instance the Declarations of African Union Conference of Trade and Finance Ministers in January 2007 and in April 2008 on EPAs respectively. Available at: http://www.africa-union.org/root/au/AUC/Departments/TI/EPA/DOC/EPA_Declaration_Final_English.pdf and at: http://www.acp-eu-trade.org/library/files/AU-Ministers-of-Trade-and-Finance_EN_030408_AU_Addis-Ababa-Declaration-on-EPA-Negotiations.pdf

regulatory issues and IPR enforcement, which remain outside the WTO at this time can be addressed through FTAs". (Commission, 2006:9, emphasis mine)

The insistence on having these market regulations in the EPA negotiations with the ACP economic blocs is therefore not coincidental. The EPA between the EU and the Caribbean community (CARIFORUM) covers all trade in goods, trade in service, investment rules, competition policy, intellectual property, public procurement and development cooperation.¹³ All these regulations are now binding on both partners in the agreement and originated from the EU. MPE is thus visibly in display in the CARIFORM EPAs as well as all the other ACP negotiations.

The single market aspect of MPE is further manifested with a 2007 EU document, *Single Market for 21st century Europe*. In this official policy document, the EU reviews and rolls out how an integrated Europe with its single market could respond to globalisation and continue its role as global pace setter;

"the single market is a powerful lever to bring the benefits of globalisation to Europeans. It must maximise its potential as a springboard for businesses entering global markets, an attractive location for investors and a global leader in setting benchmarks for rules and standards." (Commission, 2007a:4)

This indicates deliberate and indirect strategies by the Union to adjust its market policies to lead and benefit even more from globalisation and set global market principles.

MPE – analysis of processes of conscious and unconscious externalisation of EU Market policies – is further concretised with an accompanying staff working document to the *Single Market for 21st century Europe*, entitled *The External Dimension of the single Market Review-Staff Working Document*.¹⁴ This working document elaborates on three pillars by which MPE is pursued;

"The way forward must build upon three pillars. Firstly, we must expand the "competitive space" of the Single market beyond its borders. Secondly, we must expand the "regulatory space" of the EU beyond its borders and at the same time open it up to the outside world. Finally, we must ensure that the positive effects of globalisation reach EU citizens". (Commission, 2007b:8)

¹³ See more details of the CARIFORUM-EC EPA at:

http://trade.ec.europa.eu/doclib/cfm/doclib_results.cfm?docId=137971

¹⁴ For details see http://ec.europa.eu/citizens_agenda/docs/sec_2007_1519_en.pdf

Although in this document, the ACP group of states are not mentioned categorically as targets, the negotiations of the EPAs have followed the logic and aims of the similar external aggressive market opening and global trade rule convergence of the EU, thereby, using the EPA with the ACP states to set global standards.

The latest and even most ambitious strategy of MPE is communicated in *Europe 2020- A European Strategy for Smart, Sustainable and Inclusive Growth*.¹⁵ This 2010 Commission Communication contains policy proposals that the Union is to implement in response to the global economic meltdown. It incorporates internal measures to mitigate the defects of the EU single market with external tools that seek the protection of European interests abroad.

“The EU must assert itself more effectively on the world stage, playing a leading role in shaping the future global economic order through the G20, and pursuing the European interest through the active deployment of all the tools at our disposal.” (Commission, 2010:21)

These tools with which the Union will seek to achieve its “smart, sustainable and inclusive growth” are embedded in the MPE concept. However, whilst the EU undertakes internal growth reforms as well as external economic instruments, the ACP countries who are being nudged to open up their markets in reciprocity to the EU, like all other countries are also rethinking their routes to development by entertaining reservations on market liberalisation – and rightly so.¹⁶ The protracted EPA negotiations may thus not be over soon.

4.2. What the EU Does

Apart from analysing what the European Union says in its official communications and declarations by institutions and officials (discussed above), MPE also analyses the specific actions of the EU in its relations with third parties.

EU as Single Market:

First, as a single market, the EU acts as the world setter of standards; safeguarding consumer protection, food and product safety standards, environmental safety standards, financial regulations, accounting and public procurement, among others. From this perspective, the EU – in its relationship with the ACP countries in the framework of the

¹⁵ See the full document here: http://eunec.vlor.be/detail_bestanden/doc014%20Europe%202020.pdf

¹⁶ For analysis of a rethinking of European foundation of regional integration in Africa , see the article by Peter Draper at <http://www.voxeu.org/index.php?q=node/6161>

EPA negotiation – seeks to externalise its internally developed and tested regulations and values as standards for them to emulate consciously and unconsciously. For instance, during the ACP-EU Joint Parliament Session in 2006, the Chair of the ACP Ministerial Trade Committee, Dame Billie Miller expressed the deep concerns ACP countries have on the actions of EU Trade negotiators. He lamented;

“the ACP is greatly concerned over the European Commission’s apparent mandate to *push forward with trade liberalisation* while refusing to address ACP priorities in the EPA negotiations, particularly the development dimension. In our view, there is a definite contradiction between the narrow focus on trade liberalisation and the EU’s argument that EPAs are instruments for development rather than to force open regional markets. One of our concerns is that EPAs must not become instruments of oppression.” (emphasis mine)¹⁷

The European Union is acting in the EPA negotiations whilst keeping in mind the future of trade policy with other nations, and seeking to open the market abroad. It is setting the EPA with the ACP as a benchmark and an alternative route to achieve multilateral trade agenda. In a report by South Centre in 2007, it is mentioned that;

“Contrary to what the EC often states, Europe does have a commercial interest in consolidating its trading position in ACP markets (particularly on trade in services) and to *imposing template trade agreements* that can be reutilised in regional trade agreements with other nations, and regions of the world.” (South Centre Report, 2007:2, *emphasis mine*)

The actions of the Union in the ongoing EPA negotiations is therefore MPE in action, where the EU is deliberately acting to secure future access in the ACP market and exporting a pattern of regional integration based on the European model. The EU is using the EPAs to export its competition, investment and intellectual property regulations practiced within the EU to the ACP counterparts. EU by its position on EPA is exhibiting double standards as reiterated by some ACP officials and some NGO spokespersons;

“In 2002, everybody believed the development rhetoric of the EC but more and more people have become sceptical and today the EC seems to be finally agreeing not to *put pressure on the ACP states*

¹⁷ Speech by Hon. Dame Billie Miller, Chair of the ACP Ministerial Trade Committee and Minister of Foreign Affairs and Foreign Trade of Barbados, during ACP-EU Joint Parliament Session, Austria Centre, Vienna - 20 June 2006

*and to respect their political choices. But we have to be careful because rhetoric and practice are often very different.” (Isolda Agazzi, IPS report on NGO response to EU Statement on making EPA development instrument, emp hasis mine).*¹⁸

In principle, on the basis of what the Union says and what has been agreed in the Cotonou Agreement, there should not be a conflict of interest between what the Union wants and the priorities of the ACP partners; but in practice, EU negotiators of EPA claim they do not have sufficient mandate to negotiate developmentally friendly EPAs. It could therefore be said that MPE reigns in the EPA negotiations, as the EU is more of a mercantilist player imposing its market interest onto the ACP countries.

EU as Regulatory Institutions:

MPE in the EPA negotiation is also visible from the Union’s provision of capacity-building trainings for the ACP negotiators: it is proof of the Union’s superior regulatory and capacity regime, to which the ACP counterpart is subservient. The EU has long been providing funding for Trade-related Capacity Building (TCB) for the ACP countries but this was given more attention under the framework of the Cotonou Partnership Agreement. The Union committed to provide support for preparatory capacity building for EPA negotiating officials in the ACP regions;

“EUR 20 million Programme Management Unit (PMU) was set up to facilitate preparatory work for EPA negotiations by ACP actors. This PMU is in addition to an earlier committed EUR 10 million to support ACP participation in WTO negotiations.” (Szepesi, 2004:22).

The Union thus has the regulatory expertise and the funding resources to drive the EPA negotiations but the ACP countries lack these capacities.

The effectiveness of the EU in the practice of MPE in the EPA negotiations is in no small way facilitated by its sanctioning authority as identified by Damro (2011). The EU has been able to inflict cost to the ACP states that did not signed the EPA by January 2008. When the WTO waiver for EU and ACP deadline was approaching, the European Union adopted increased pressure and declaratory threats highlighting the consequences of not signing EPAs by December 2007 as a means of getting the ACP states to agree to its proposal and sign the REPAs. Fearing economic cost and loss of export revenue, about 35 ACP countries signed what became known as interim EPAs (See South Centre Report, 2007). The non-LDC countries such as Nigeria, which did not sign the

¹⁸ Accessed at: <http://ipsnews.net/news.asp?idnews=48792> ,on 7 March 2011.

interim EPA, were automatically placed under the Generalised Schemes of Tariff Preferences (GSP) which meant their market access into the EU market is affected by unfavourable tariff.¹⁹ There were some countries such as Ghana which wanted to secure their export into the EU and so succumbed to EU pressure to sign the interim EPAs with a binding commitment to continue negotiation.

The MPE tools used in this case include threat and financial cost to countries and their firms which would be disadvantaged by failing to comply with the Union's regulations, which in this case are the conditions of the interim EPA with binding commitment to progress with negotiations for a full regional EPA. The market access of the EU is thus used as a bait to get countries to agree to EU policies;

"The December 2007 EPA deadline and the recent intensification of meetings and negotiations are also of great concern. The pace of negotiations is very intense, and yet preparatory ground work in several areas has not been completed (South Centre Report, 2007:3)

This pressure by the EU to compel ACP states to sign the EPA even though there were crucial issues that first needed to be resolved smacks of a coercive MPE partner who was bent on forcing third parties to do what it wanted, much to the irritation of some ACP officials.²⁰

The sanctioning authority element of MPE was used through a heightened insecurity of ACP countries' export into the EU during 2008. Indeed, a study commissioned by the Overseas Development Institute (ODI) in 2007 confirms that the end of the unilateral preferential trade regime, which granted duty free quota free (DFQF) market access for the ACP states, means that non-LDC in the region face a significant tariff on their exports to the EU under the GSP. It was reported that;

" if...ACP states paid GSP duties, every single non-LDC state would experience a jump in the tariff applied to some of their exports" (ODI, 2007:vi)

This study found that about 13 per cent of the items non-LDC ACP countries export into the EU would be subject to a tariff jump of about 5 per cent, while a further 17 per cent of export would experience between

¹⁹ For the list of developing countries benefiting from EBA and explanation of GSP see: <http://ec.europa.eu/trade/wider-agenda/development/generalised-system-of-preferences/everything-but-arms/>

²⁰ See for instance an interview with ACP Secretary General Sir John Kaputin in TNI Vol.7, No.1, February 2008

5 to 9 per cent. Moreover, about 267 items exported by non-LDC states to the EU will experience a tariff jump of 10 per cent or the imposition of new or increased specific or compound duties (see ODI, 2007:vi).²¹ Given that three years have elapsed without the regional EPA being concluded, it means, non-LDC ACP countries are incurring tariffs on their exports to the EU market. For the Caribbean bloc which signed the full EPA and the rest of the ACP individual states that signed the interim EPAs, while securing favourable market access into the EU, the Union has in exchange succeeded in externalising some of its market regulations to them or has in principle obtained a binding commitment to continue negotiation of regional EPAs with its plethora of EU driven regulations. This is MPE in action.

EU as Arena of Interest Contestation:

Finally, under what the EU does as MPE, this section looks at how the Union has been acting as an arena of interest contestation in the course of the EPA negotiations. With the inception of the EPA negotiations, the European Commission, which is mandated for international trade negotiations, obtained the negotiating mandate from its Member States. However, it is perceived that the Commission has also been a target for Corporate lobbyists and NGOs in development and poverty reduction fields as well as the general public, all voicing diverse concerns on the EPA (See Commission, 2007c).

The EPA negotiations have attracted support from some people, mostly EU elites and government officials from some Member States, while criticisms have also come mostly from humanitarian NGOs. In Germany, some civil society groups were reported to have described EPA as a "neo-colonial instrument" and that "the EPAs negotiations between the EU and the ACP countries have been driven predominantly by European corporate interests and those of a few privileged business elites in ACP countries" (Godoy, *Inter Press Service*, 29 October, 2007). Some development friendly European parties and their Parliamentarians called on the EU to ensure that the EPAs did not impoverish the ACP countries and called for more time. There was even more aggressive external interest groups contestation from the ACP regions, mostly crying out about the harmful effects that market liberalisation would bring to their countries as they could not compete with European companies. The majority of farmers particularly opposed and are still opposing the Agreement and have used all kinds of means to make their voices heard in

²¹ For detailed analysis of the conditions of ACP exporters outside EPA, See ODI, 'The Costs to the ACP of Exporting to the EU under the GSP', London, March 2007 (<http://www.odi.org.uk/IEDG/Publications/Final-ODI-ACP-GSP-report.pdf>).

EU quarters.²² Subsequently, the Union as conceived by MPE, has acted as an arena for interest group contestations on the form of the EPA between the EU and the ACP partners.²³ It appears that some of the voices raised on the EPA negotiations especially by some EU Member states, ACP-EU Joint Parliamentary Assembly, ACP-EU Joint Ministerial Council, humanitarian NGOs and the Civil Society on platforms provided by EU governance system for deliberations on issues of common interest have led to less and less pressure from the European Commission on the EPA negotiations.²⁴ This has resulted in more time and space for the preparation of *real* negotiations between the parties, leading to some concessions by both ACP partners and the EU in recent times.

The ongoing section has been assessing the conduct of the EU in the EPA negotiations along the key characteristics of the MPE concept. It is seen the material existence of the EU's single market, its enormous regulatory regime, coupled with the existence of room for interest contestations and policy preference formation as contained in the MPE concept, give a broad framework to assess the actions and inactions of the EU in its relation with the ACP states in the case of EPA negotiations. The next stage of the paper presents is a reflection on the MPE concepts.

5.0. Contributing to MPE

In its current form, the only time MPE conception takes the actions of external players in the international system into consideration is when defining "externalisation" of EU market policies and also when looking at players that contest for their interests to be taken on board as a Union-wide policy. It is my opinion that, in addition to the role played by external entities in defining "externalisation" and "contestations", MPE should also include the perception of these external players as to whether they regard the EU as a *Market Power*.

This addition to the MPE concept is crucial in terms of how holistic it would be as an analytical framework. Nations and international organisations, non-governmental organisations and private entities in the international system, encounter the EU in variety of ways and thus view it in different perspectives. This means the conception of EU as a Market

²² African NGOs also campaign against EPAs during African Union Summit in 2008, see <http://allafrica.com/stories/200802050679.html> & <http://agritrade.cta.int/en/content/view/full/292>

²³ For reports of European Civil Society groups against the EPAs campaign against it, see http://www.traidcraft.co.uk/get_involved/campaign/campaign_news/epas/european_ngos_protest_against_epas & http://www.bilaterals.org/spip.php?page=print&id_article=10132

²⁴ For instance, EU Trade Commission held a conference for public consultation on EU trade towards developing countries in March, 2010. See details at: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=531&serie=324&langId=en>

Power should not only be based on what the EU termed itself or how it is termed from EU's point of view but the concept must also include how others perceive EU in the international system.

6.0. Conclusion

The aim of this paper has been to ascertain how consistent the actions of the EU might be with the thesis of MPE in the ongoing EPA negotiations with the ACP states. It first presents an overview of EU identity literature after which the MPE concept is elaborated. The next section discussed EU-ACP trade relations leading to an analysis of the EPA negotiations. The paper ends with a look at some challenges facing the EU in its relationship with the ACP states against the backdrop of the EPA negotiations.

The key findings are that, the EU-ACP negotiations constitute an effort by the EU to 'export' its internal market regulations in consonance with the MPE concept. The regional EPAs agreed with the Caribbean economic bloc containing provisions including similar rules on investments, competition, market liberalisation of trade in goods and service, intellectual property, public procurement and development policies, most of which are already the internal regulations within the EU. At the same time, the proposals of the Union in the EPAs with the remaining ACP blocs contain the same rules and regulations which are entrenched in the EU integration project.

It has also been seen that throughout the EPA negotiations, the EU has been the driver determining what will be in the EPAs and what will not. The Union possesses the agenda-setting power which it has utilised using its available resources, expertise, and instruments of threat and persuasion to ensure binding commitments to market regulations geared towards reciprocal market access in the long term with the ACP countries. This is the case even though the ACP countries are not cited as strategic trading partners of the EU; they are unfortunately bearing the blunt of *EU's Scapegoat Trade Policy* by which the Union is laying foundation for alternative means to promote world trade liberalisation, which is very much consistent with the thesis of the MPE concept.

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