

Trade... and Aid?
EU Policy on Economic Partnership
Agreements

Ole Elgström

DEI Working Paper 08-10



UCD Dublin European Institute

Working Paper: © Ole Elgström 2008

This paper should be cited as follows: Ole Elgström, Trade... and Aid? EU Policy on Economic Partnership Agreements, UCD Dublin European Institute Working Paper 08-10, July 2008.

All opinions expressed are the sole responsibility of the author.

Cover Photo: © European Community

About the Author

Ole Elgström is Professor of Political Science at Lund University. Contact: Ole.Elgstrom@svet.lu.se

About the Dublin European Institute

The Dublin European Institute (DEI) supports scholarly research and debate on the sources, processes and implications of European integration and governance. Based within the School of Politics and International Relations at University College Dublin, the DEI is the oldest and largest university centre for research on European affairs in the Republic of Ireland.

For more information, see: <http://www.ucd.ie/dei> or contact: Dublin European Institute, UCD School of Politics and International Relations, University College Dublin, Belfield, Dublin 4, IRELAND (email: dei@ucd.ie)

Trade ... and Aid?

The Negotiated Construction of EU Policy on Economic Partnership Agreements.

INTRODUCTION

The empirical focus of this article is the internal negotiation processes within the European Union (EU) in its efforts to conclude Economic Partnership Agreements (EPAs) with 79 developing countries. I seek to explain two different policy outcomes: the agreements on an EU negotiation mandate in 2002 and on the Union's final negotiation offer in 2007. EPAs are negotiated with six regional groupings of Third World countries (Central Africa, West Africa, Southern Africa Development Community, East and Southern Africa, the Caribbean and the Pacific) and are considered a novel form of co-operation with developing countries (Nielson, 2000; cf. Holland, 2002). The EPA talks are formally defined as trade negotiations and actual negotiations are handled by Directorate General (DG) Trade, guided by a Council negotiation directive.

Because the Common Commercial Policy accords important policy-making powers to the Community, it is commonly expected that the EU should speak with a single voice in trade negotiations (Dür, 2006; Meunier, 2005). EPAs are, however, 'not free trade agreements in the usual sense' (Mandelson, 2007). They are supposed to be 'tools for development' and reflect traditional aid-and-trade ties to former European colonies. The result is a situation with competing normative frameworks, where free trade principles co-exist with development concerns, but where trade representatives enjoy a significant formal, institutional advantage. How have the member states and the Commission in this particular context overcome divergent preferences to reach agreement on common negotiation positions?

Member states have internally and, more importantly, sometimes also openly questioned the Commission's free trade-oriented approach. The idea that free trade is the best pathway to growth and development, advocated by DG Trade and some member-states, was

challenged by more ‘development-friendly’ members who argued that the special needs of the LDCs and the goal of poverty eradication must be taken into account also in this kind of trade negotiation. They have with some success tried to modify the bargaining approach of DG Trade to include more of development concerns. The evolving EU policy in the area is therefore very much a negotiated construction.

To explain the outcomes and the characteristics of the negotiation processes, I apply the normative institutionalist approach developed in this special issue (Thomas 2008). The legal framework conferred significant institutional advantages to the Commission, legitimating its normative frame and thereby constraining especially the most consensus-sensitive member states. The constraining force of free trade principles was, however, weakened by the existence of a legitimate competing normative development framework. The result was a bargaining process, guided by the prevailing consensus norm and by a normatively based concern to reach a negotiated agreement, with a mutual compromise as the outcome. To explain the public member state protests against the Commission’s bargaining approach, we need, however, to resort to a two-level game approach (Putnam, 1988; Evans et al., 1993): this behaviour can only, I argue, be understood by examining the impact of domestic opinion.

In brief, the EU’s policy can also in a case of commercial policy easily be interpreted in terms of normative institutionalism. An understanding of internal policy-making in terms of an institutional approach that situates EU decision-making in a normative setting serves us better than approaches that focus on competitive bargaining, policy learning or normative suasion.

The description and analysis of the processes are based on interviews and documents. Semi-structured interviews, lasting approximately an hour and relying on a number of fixed questions and themes for discussion, have been carried out with senior

officials in ministries and permanent representations to the EU of several member states (Denmark, France, the Netherlands, Poland, Sweden and the UK; in total 11 interviews) as well as with four DG Trade officials and with one official at DG Development. Background interviews were also carried out with four representatives of development NGOs in Brussels. All interviews were given under a promise of anonymity.

I start by examining the history and background of the EPA negotiations, highlighting how the EU's experience with previous aid-and-trade regimes resulted in policy commitments that led to its present trade-oriented approach. Next, I delineate the major lines of disagreement within the EU camp and their associated competing normative frameworks. In the following section the process leading to the EU negotiating mandate is analysed, followed by an account of an increasing level of politicization and internal negotiations, which eventually resulted in final compromise proposals to the ACP countries. In these analytical sections, the negotiation process is interpreted with the help of the institutionalist approach and by references to two-level game theory. I then compare the explanatory power of this approach with that of the competing hypotheses set out in the Introduction to this volume. I end with some concluding remarks.

THE HISTORICAL LEGACY

For almost 30 years, the so-called Lomé conventions constituted the most significant part of the EU's relations with the Third World (Babarinde, 1994; Grilli, 1993; Holland, 2002; Lister, 1997; Ravenhill, 1992). These aid and trade agreements were considered to be of major importance for the development efforts of a large number of countries – 46 at the time of the first agreement in 1975, 79 today – in Africa, the Caribbean and the Pacific (ACP). Trade was in these agreements used as an instrument of growth and development, notably by abandoning the otherwise sacred General Agreement on Tariffs and

Trade (GATT) principle of reciprocity. The ACP group thus enjoyed non-reciprocal preferential access to the EU market. The aid component aimed at improving living conditions in the recipient states. The size of the aid budget was determined by intergovernmental negotiations between the EU member states before each new agreement. The Lomé regime mirrored a European partnership identity that emphasized the special ties between the EC and its former colonies, a special responsibility for the EC and interdependence between rich and poor. The result was a rhetorical emphasis on Lomé being a contractual relationship between equal partners (Elgström, 2005b, 188; Grilli, 1993, 93; Ravenhill, 1992).

In the early 1990s, a growing scepticism over the effectiveness of the existing Lomé regime developed. Decades of assistance and non-reciprocal trade advantages did not seem to produce the desired developmental effects. At the same time, the EU adopted the 'Washington consensus', reflecting the idea that a sound macroeconomic and political environment was a precondition for development, and also introduced structural adjustment lending and human rights conditionality into the fourth Lomé agreement (1990-2000) (Crawford, 1998, 132-7; Lister, 1997). These steps constituted an adaptation to prevailing international norms and reflected a 'virtual international consensus in favour of aid conditionality' (Lister, 1998, 31). Though elements of the old partnership rhetoric remained, the basic power asymmetry between the 'partners' now became even more apparent. In 1996, the Commission published a Green Paper, which was widely perceived as a trial balloon to see how prepared EU members were for a fundamental transformation of the regime. The Paper set forth wide-ranging changes. It introduced the revolutionary idea that future relations might be based on reciprocity, it stressed enhanced political dialogue on human rights and good governance, and ventured that the ACP group as a whole was perhaps not an ideal partner to cooperate with *in corpore* (Holland, 2002, 167-86).

The EU's positions in the negotiations that led to the Cotonou agreement in February 2000 reflected this new normative framework (Babarinde and Faber, 2004; Holland, 2002, 186-9). The Union now wholeheartedly adopted liberal principles of free trade and democratic governance. The concrete consequences were the EU's insistence on the abandonment of the non-reciprocity, on WTO compatibility, and, in general, on the introduction of a trade regime based on liberal principles and on good governance. On all these points, the Union saw its general approach win through. On the other hand, internal negotiations within the EU (Elgström, 2005b) softened the text considerably, taking away the most radical proposals from the Green Paper. A coalition of member states, strongly supported by a network of development NGOs, that advocated an alternative normative framework with a focus on poverty alleviation and that questioned the benevolent effects of unfettered free trade, succeeded in introducing a social development perspective into EU policies and to retain elements of the existing 'partnership spirit' (Babarinde, 1994; Babarinde and Faber, 2004; Lister, 1998, 22).

The Cotonou Partnership Agreement foresaw the initiation of negotiations on regional Economic Partnership Agreements (EPAs). The Parties to the Agreement had thus agreed 'to conclude new WTO-compatible trading agreements, progressively removing barriers to trade between them and enhancing co-operation in all areas relevant to trade' (Commission, 2002a; see also Article 37.5 of the Agreement). The EU had a strong commitment, partly based on its own success story, to regional integration as the best way to achieve development and, more concretely, as the most effective way in which the ACP states could initiate a process towards development. In the words of Article 35.2 of the Partnership Agreement, 'regional integration is a key instrument for the integration of the ACP countries into the world economy'. After strong pressure from the Commission, the members of the ACP, who had initially fought to protect the integrity of the ACP as a group, divided

themselves into six regional groupings: Central Africa, West Africa, Southern Africa Development Community, East and Southern Africa, the Caribbean and the Pacific. The aim was both to foster (further) regional integration within these groupings and to set up these groupings as negotiating partners to the EU.

Negotiations between the EU, represented by DG Trade, and these six regions started in 2002. The idea was to have EPAs in place no later than 1 January 2008, when the WTO waiver that covered the preferential aspects of the trade chapters of the Cotonou agreement was to expire. Although the creation of homogeneous EPAs, including all ACP states, was clearly the main goal for the Commission – this being the most efficient and least costly solution for the EU members' commercial interests - alternative arrangements were to be considered for those ACP countries that preferred to stay outside.

CONFLICT DIMENSIONS, ACTOR CONSTELLATIONS AND INTERESTS

The major lines of disagreement within the EU concerned two issues:

- The extent to which the EPA process should reflect development concerns, notwithstanding its official categorization as trade negotiations.
- To extent to which the EU should give concessions and open its internal market to competition from ACP countries.

The two conflict dimensions are partly over-lapping, partly cross-cutting. The first one reflects potentially competing normative framework, while the second is founded in the precarious balancing act between national material self-interests and normatively based altruistic concerns.

The EU has a strong general political and normative commitment to free trade. This holds true also for its Third World policy: A free exchange of goods and services is believed to be the best instrument to promote growth *and* development for less developed

countries. In the words of Trade Commissioner Peter Mandelson, ‘I believe in progressive trade liberalisation. I believe that opening of markets can deliver growth and the reduction of poverty’ (Mandelson, 2005). Helping the ACP countries to become a part of the global economy is therefore seen as fuelling a major engine of development.

The liberal free trade principle is, however, not the only major EU norm that is applicable to the EPA negotiations. As described above, the EU’s relations with the ACP countries have always included strong elements of solidarity and an attachment to goals like poverty alleviation and social development. The objectives of the Cotonou agreement reflect these underlying values: ‘to promote and expedite the economic, cultural and social development of the ACP states ... The partnership shall be centred on the objective of reducing and eventually eradication poverty ...’. Advocates of this normative framework contended that development aspects and the special needs of the ACP countries must be clearly taken into account, the essential trade character of the EPA negotiations notwithstanding.

We may thus pinpoint the existence of two competing normative frameworks in the first conflict dimension. They compete in the sense that different actors put various emphases on the one or the other: all actors within the Union subscribe to both norms, but more or less enthusiastically. In brief, the so-called like-minded countries (Denmark, Sweden, the Netherlands and the UK) are the EU actors that most vociferously have advocated development concerns over the years (and are also well-known as relatively generous bilateral aid donors) while the Mediterranean countries (not to mention the new members in Central and East Europe) have been more passive in this regard. France holds a special position in the sense that it has been a major proponent of the Lomé regime since its initiation and is also the most persistent advocate of a special relationship between the EU and the ACP countries, not

least its former colonies. On the other hand, France does not have the reputation of being an *avant-garde* aid donor.

The main advocate of the free trade principle has been the Commission, in the shape of DG Trade, backed by i.a. Germany. Although in principle ardent supporters of liberal trade, the like-minded countries have voiced concerns that unfettered free trade could have negative consequences for the poorest ACP states, and that it therefore had to be cushioned with special treatment for the Least Developed Countries (LDCs) (cf. Elgström, 2005b, 193). This more sceptical view of free trade as a vehicle of development for LDCs has also been prominently represented by the development NGOs.

The second bone of contention mirrors the existence of material self-interests in trade relations with the ACP countries. Some member states have prominent agricultural interests that might be damaged by a further opening up of borders. France is one of these, but also Mediterranean producers of for example fruit and sugar, like Spain and Portugal. Northern member states are usually less apt to have strong material interests in products covered by EU-ACP trade. The Commission seems to be somewhat divided: while DG Trade would like to see a gradual reduction of EU trade protectionism, its officials have to reckon with the strong conservative interests of DG Agriculture.

It should furthermore be noticed that some member states have a deeper attachment to the traditional ACP links than others. France is the prime example, with its emphasis on ‘the spirit of Lomé’ and on continued responsibilities and unique ties to its former colonies, but also the other original founders of the Lomé regime have demonstrated similar sentiments. The Scandinavian countries have long-standing experiences as donors of foreign assistance to Africa and see the EU focus on the ACP countries as a natural continuation of this. On the other hand, Germany and the new member states have no such special attachments and would like to see a more global approach, while Spain and Portugal

have a traditional focus on Latin America and Northern Africa. The Mediterranean and Eastern countries have been relatively uninterested in the EPA-negotiations and are apt to follow the Commission's proposals when their material self-interests are not at stake.

-- Table 1 to be inserted here --

The potential *de facto* veto players in the EPA case, in the sense that these actors were key to any negotiated agreement, were France, the UK and the Commission. France was one of the most conservative actors in both conflict dimensions, and also one of the most powerful. The Commission was the most conservative player in the trade vs. aid dimension, where it strongly favoured a 'pure trade deal'. The UK, on the other hand, is a major EU power and was strongly committed to change in both dimensions, wishing to open EU markets and to up-grade development concerns in EPA agreements. Its position as a 'revisionist' actor made, however, its ambitions problematic as the potential lowest common denominator outcome would have been the *status quo* in both cases: to maintain the predominant definition of EPAs as pure trade agreements, and to deny any further substantial opening of EU markets.

When applying the theoretical framework of this volume to the case of EPA negotiations, the specific normative set-up of this case has to be borne in mind. EPA-negotiations, situated in the borderland between trade and aid policy, are characterized by the simultaneous co-existence of two competing substantive normative frames. The existence of multiple, competing norms typically reduces the costs of violation and expands the range of acceptable behaviour (cf. Tallberg, 2004). Different actors may quote different sets of institutionalized norms, according to their policy preferences, and try to use these norms to their advantage in the negotiation game. On the other hand, the institutional arrangement – officially framing the EPA negotiations as trade negotiations and thereby giving the Commission the most prominent role – favours one set of institutionalized norms (free trade

norms) to the disadvantage of the other (development norms). Thus, there is a dominant ideational frame, with official blessing and higher normative status. The consequence is that the consensus norm and rhetorical entrapment are potentially very much relevant also in this case. Member states with a different value priority have to react to the dominant frame and justify their activities in relation to this framework.

NEGOTIATIONS ON AN EPA MANDATE

Negotiations to draft an EU mandate (formally, a ‘negotiation directive’) for the upcoming EPA-negotiations took place in the ACP Group of the Council and in the 133-Committee (two working groups under the Council with responsibility for relationships with the ACP countries and for trade negotiations, respectively) in the Spring of 2002. Their deliberations were based on a draft recommendation, written by the Commission in the shape of DG Trade (Commission, 2002a). While previous negotiations with the ACP countries had been conducted by the General Directorate for Development (DG Dev; formerly DG VIII), the task to conduct the EPA-negotiations was given to DG Trade. The reason was a recent major re-organization, in which the trade division of DG VIII was – after a highly acrimonious process - transferred (with most of its existing personnel) to DG Trade, leaving only development policy issues to the new, considerably weakened DG Dev (interviews). This organizational arrangement signified that the EPA negotiations were framed as a *trade* negotiation, rather than as a *development*, or even *trade and development*, negotiation. As a result, there was a high degree of coherence, mirroring EU trade policy norms, behind the EU mandate.

The Commission’s draft recommendation on a mandate was in a sense a compromise proposal. Well aware of the various positions in the Council, the Commission

produced a deliberately vague text that promoted both trade objectives and developmental concerns, although with a marked emphasis on the former. As regards access to the EU's own internal market, DG Trade had the ambition to move EU positions forward towards a higher degree of openness, with the goal of promoting the EU's image as a liberal actor and as a friend of the developing countries (interviews). The Commission's aspiration in this area resulted in formulations that provoked reactions in member states with commercial interests in areas where competition from the ACPs could be expected.

Council negotiations resulted in very limited changes to the Commission proposal (see Commission, 2002b). The prevailing decision-making rule, requiring member state unanimity to change the Commission proposal, is the main explanation for this. Objections did exist to the proposal, but these came from different directions and focused on different aspects of the text. Thus, there was little prospect for consensus in the Council. The final negotiating directive on market access for ACP exports to the EU was, however, far less forthcoming than the Commission's preliminary proposal (cf. European Research Office, 2002). It was only stated that EPAs 'shall build upon and further enhance the market access conditions currently provided under the Cotonou Agreement' (Council 2002, paragraph 3.1) and no concrete commitments were made.

The member states that were less concerned with commercial self-interests (perhaps because they had so few of these) and that instead stressed the development concerns of the ACPs objected to this outcome. In a statement entered into the minutes, the Swedish, Danish and UK governments called for 'access to the European market on EBA (Everything But Arms; e.g. open access) conditions for all ACP countries' (European Research Office, 2002). This unusual formal marking must be considered a very strong political signal and an expression of intense normative disapproval of the majority position.

The decision by the like-minded countries nevertheless to agree upon the mandate as a whole can partly be explained by their commitment to the consensus norm. Member states are in general very reluctant to openly disagree if they face a clear EU majority. All three countries wanted the EU to present a united front to the outside world in an area, which they believed was important and valuable also for the LDCs. Therefore, there was little incentive for them to deny consensus on the proposed mandate. They also wished to support DG Trade's ambition to create a more open trade regime and their desire to avoid further demands from the more protectionist camp led them to accept the rather trade-centred approach of the mandate, and to abstain from efforts to insert more 'development friendly' formulations (interview). It could also be argued, however, that their passivity in this regard could be explained by reference to normative entrapment, as the three countries may have been disempowered by their pre-existing commitment to the 'Washington consensus'. The evidence available does not allow us to distinguish between the two possible normative institutionalist explanations.

The very broad formulations of the mandate in practice meant that DG Trade was given rather free reins in its conduct of the negotiations. DG Trade officials have seldom experienced that the formulations of the mandate have curtailed their freedom of action (interviews). Rather, they have been able to use the directive in the internal debate as a way of countering criticism of their way of handling the negotiations ('we just do what we are required to do according to the mandate'). DG Trade could in this way portray its actions as consistent with agreed-upon common norms. The mandate has thus functioned as a policy commitment, to which member states – but also the Commission itself - have felt obliged to adhere.

NORM-BASED NEGOTIATIONS: A CLASH BETWEEN COMPETING VALUES

Negotiations between the EU and the six regional ACP constellations started in September 2002. On the EU side, DG Trade was to begin with in full control and handled the negotiations without much interference from member states, which after having agreed upon the mandate demonstrated little interest in and commitment to the ensuing negotiations. They had in general little material interest in the EPA negotiations and were at the same time involved in other, arguably more important trade negotiations. DG Development was preoccupied with its own problems and left the EPA talks to the trade directorate.

Among DG Trade officials, EPAs were widely seen as ‘just another free trade agreement’. They tended to conduct the negotiations as if they were ‘a traditional trade negotiation’ (interviews). This framing reflected the organizational culture of this General Directorate. It also mirrored a normative conviction. The directorate’s guiding philosophy includes a strong belief that ‘opening of markets can deliver growth and the reduction of poverty’ (Mandelson, 2005), and that an integration of the ACP into the liberal world economy is needed. DG Trade’s approach came, however, as a shock to many ACP representatives, who were used to the more development-friendly and accommodative negotiation mode in DG Development (interviews). DG Trade was perceived as a confrontational negotiator that paid little attention to development concerns while pushing the developing countries to open their markets to EU exports (interviews). Many commentators contrasted the development-friendly language in public speeches by Commission top officials with EU attitudes and praxis in the concrete negotiations. Even the ACP Council of Ministers, in an official declaration on the EPA negotiations, regretted ‘the disconnect between the public statements of the Commissioners of Trade and Development on the development aspects of EPAs and the actual position adopted during EPA negotiating sessions’ (ACP, 2005).

The complaints from the ACP countries, and perhaps even more evidently from an increasingly active and vocal development NGO community, finally reached officials and decision-makers in the like-minded member states, which in the EPA-case has been semi-formalized into what is known as ‘friends of the EPA’- group (interviews). The core of this grouping includes delegates from Denmark, the Netherlands, Sweden and the UK, but sometimes also representatives from France, Belgium and Ireland. The ‘friends of the EPA’ may be characterized as an informal coalition, based on a normative consensus, that serves as a forum for discussions and information exchange, and which ordinarily seeks to co-ordinate potential activities.

In this case, however, joint actions were slow to appear. The negotiation mandate that all member states had agreed upon just a few years ago constituted a policy commitment that limited their propensity to act. The Commission was not, after all, acting contrary to its directives, only interpreting the mandate in a particular way. Furthermore, the free trade objectives stressed by the Commission had as such strong support from most member states; it was the one-sided emphasis on this particular normative framework, to the detriment of the development framework that the like-minded members disliked. Many factors thus spoke against member state action.

Nevertheless, the UK trade and development ministries in March 2005 issued a joint statement in which they recommended that ‘the EU should take a non mercantilist approach and not pursue any offensive interests’, proposed that the EU ‘should make an upfront offer of complete duty and quota-free market access to each ACP regional group, with no strings attached’ and that ‘investment, competition and government procurement should be removed from the negotiations’. They also asked for additional resources ‘to enable the ACP countries to benefit from trade reforms and build their export competitiveness’ (DTI and DFID statement 2005). This extraordinary statement was a challenge to the Commission’s

policy and could be (and was, by Commission spokespersons) interpreted as criticism of the existing negotiating mandate.

To understand the British initiative, we need to direct our attention to the British domestic arena. In 2004, the ‘stop EPA’ campaign, headed by Oxfam but supported by a large number of British and European development NGOs and by some political celebrities, had been initiated. The campaign struck down on the perceived lack of a development focus in the negotiations and criticized the Commission for its ‘self-serving trade and investment liberalisation agenda’ that did not reflect ‘the interests and needs of ACP countries’ (The Guardian, 2005). Intensive lobbying occurred in connection with the Labour Party congress and in the run-up to the British elections. The UK inspired Commission for Africa, which had been set up in advance of the UK G8 and EU Presidencies, had published a report that was very critical of EU trade and agriculture policy. The UK declaration should be understood against this background, as a tactical move in a two-level game. Another possible interpretation is to see the declaration as a normatively based reaction to the one-sided free trade approach of the Commission from a government with a competing normative agenda. The public nature of the reaction and its timing speak, however, in favour of an interpretation that sees the statement primarily as a response to domestic pressure.

The Commission reacted strongly to the British initiative. In a note for the attention of EU delegates in ACP countries that was leaked to the press, the move was condemned as a ‘major and unwelcome shift in the UK position’ and as ‘counterproductive as it could well make progress with EPA negotiations more difficult by reinforcing the views of the more sceptical ACP states’. Using normative framing tactics, DG Trade portrayed the UK statement as inconsistent with previous commitments: ‘Some recommendations move well away from agreed EU positions set out in the Cotonou agreement and negotiating directives. Others are not compatible with WTO agreements’. In an effort to delegitimize the position of

the two British ministries, it was noted ‘that their statement is contrary to the agreed EU position and harmful for our common objective’ (Commission, 2005); an accusation that the UK forcefully denied, pointing to the vagueness of the negotiating mandate and claiming that its stance was compatible with the directive.

The UK also continued its strategy of using public channels to influence the Commission. In an open letter of October 2006 to EU development and trade Commissioners Michel and Mandelson, its trade and development ministers stressed their concern about the current state of the negotiations and expressed their wish ‘to see these agreements deliver real benefits to ACP countries’ (Financial Times, 2006). The UK ministers echoed the worries that they had previously expressed on market access: ‘The EU must also 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’. This move may be interpreted as an attempt of normative persuasion where the UK referred to ‘unobjectionable’ norms (Elgström, 2005a) like ‘fairness’ and solidarity with poor countries – both elements of formally recognized EU norms - in order to undermine the Commission’s insistence of a ‘pure trade deal’.

The member states that were critical of the Commission’s normative approach also utilized their formal institutional possibilities to raise their concerns. Heated debates took place in the ACP Group and the 133-committee where the Commission’s strategy was openly questioned. An irritated and pressured Commission representative linked the critique to the on-going (and in the eyes of the Commission unfair) NGO campaign, exclaiming ‘who has written your comments? Is it Oxfam?’ (interview). To underline the importance of social development aspects of EPAs, the like-minded countries distributed non-papers to the ACP Group and to the Commission. Countries with established contacts into DG Trade used these informal networks in an attempt to influence the future approach of the Commission

(interviews). In brief, we see in this phase of the negotiation process intense arguing and efforts to persuade others of one's own normative standpoint. There is, however, no evidence that actors were open-minded and prepared to change their priorities. This speaks against the normative suasion hypothesis.

CONCESSIONS AND NORMATIVE CONVERGENCE: TOWARDS A MUTUAL COMPOMISE

In a tactical move that in the end proved decisive, Denmark, backed by the other like-minded countries, made an attempt to raise the issue to a higher political level, the Council of Ministers, trying to get the Council to issue a principled statement that EPAs were primarily to be seen as 'tools for development'. The underlying logic was to produce an authoritative normative declaration, which the Commission would be bound – at least politically - to pay attention to. The move was initially only partly successful; the wish to have the Council issue a clearly formulated statement finally resulted in a watered-down, non-committing formulation in the Council Conclusions (interviews). Nevertheless, repeated high-level political expressions of concern for the development aspects of EPAs are claimed to have gradually affected Commission behaviour: from 2006 DG Trade put much more emphasis on development aspects, primarily in its verbal behaviour but also in practice (interviews). It also started to invite DG Development to participate in both negotiations with the ACP groupings and in the ACP- and 133-committees and the two General Directorates began to present a common outward front. In the final year of negotiations, the Commission also went back from its earlier insistence that development aspects were not to be included in the EPA agreements, as they were dealt with in other parts of the Cotonou agreement, and agreed to include 'development chapters' in the final texts.

These changes in Commission attitudes and practice mirror an insight that an increased consideration of development aspects was necessary to ensure backing, and final ratification, by member states, *nota bene* prominent ones like Germany, the UK and France (interviews). It may also be interpreted as a consequence of rhetorical entrapment (Schimmelfennig, 2003). In its efforts to defend its negotiation position, the Commission increasingly began to emphasize its positive attitude towards development-oriented agreements (Mandelson, 2007a; interviews). Picturing the EU policy in rosy colours, not only being instrumental to liberalization and growth but also to social and human development and taking into consideration not only EU interests but also the interests of impoverished people in the ACP countries, opened the EU both to demands for negotiation concessions and to post-negotiation accusations of not living up to its promises. Proclaiming EPAs a tool for development made it more difficult to withstand ACP and Member State demands for an unambiguous development profile in the agreement.

In the end, the Commission realized that full-fledged EPAs would be impossible to achieve within the time-limit set. The result was a decision to offer the ACP countries and regions ‘EPAs lights’, or ‘interim EPAs’, restricting the agreements to cover only goods, market access and some development aspects in a first step. The aim, however, was still to conclude comprehensive agreements. The Commission also concluded that interim agreements would not necessarily be signed with all ACP regions, but with ‘all interested ACP countries and regions’, thus opening the possibility that ‘in some regions, not every country member will be able or willing to sign an agreement now’ (Mandelson, 2007b).

Interim, two-step agreements, that almost totally reflected the EU offer, were initialled with most of the ACP partners in December 2007. The only full EPA agreement was concluded with the Caribbean ACP states. The interim agreements focused on trade in goods and

included a decision to remove all remaining tariffs and quotas to the EU for all exports from the ACP, but with transition periods for sugar and rice and a gradual liberalization in ACP countries while excluding a number of sensitive products from liberalization. They also included chapters on development that endorse a range of development-supporting measures. Commitments on assistance in specified forms, quantities and time-frames are, however, not part of the agreements.

To summarize, the EPA negotiations departed from a formal institutional setting that legitimated one normative framework (EPAs as free trade agreements) to the disadvantage of another (EPAs as development tools). The dominance of the trade frame and the power of the consensus norm have discouraged member state opposition and made them play along with the Commission most of the time. The Commission's use of references to the negotiating mandate when attacked, and its repeated references to shared ideals of free trade (also as the best way to reach development) have constrained member state action. But only to a certain limit: the existence of a legitimate competitive normative framework has rendered the Commission's framing tactics less binding. And when domestic political forces have been sufficiently strong, member states have chosen to break the ranks and openly criticize the Commission's negotiating approach. These initiatives also made heavy use of normative framing tactics. Over time, repeated expressions of high-level political support for development concerns seem to have influenced Commission attitudes, leading to a negotiation approach that increasingly reflected both normative frameworks. The final EU offer to the ACPs reflected these changes: development provisos were included as was a market access proposal that at least partly satisfied the like-minded countries. This outcome can be interpreted as a mutual compromise, based on entrapment and consensus concerns. Although the internal EU negotiations can hardly be called cooperative – there is not much evidence of 'a great deal of give-and-take in the context of an intensive search for solutions' (Thomas

2008:14) - there is thus still impressive evidence that supports the hypotheses of the normative institutionalist approach.

ALTERNATIVE EXPLANATIONS

Above, an interpretation of the EPA negotiations based on a normative institutionalist framework has been offered. How well then do the competing theoretical approaches presented in the Introduction to this volume fare in comparison? The *competitive bargaining* hypothesis, predicting tough negotiations and a lowest common denominator outcome based on the veto-right of member states, faces special problems in issues of trade as member states do not have any veto in EU commercial policy - ratification is in the EPA case decided by qualified majority in the Council of Ministers. Nevertheless, the Commission still has to calculate its chance of having a final agreement approved by the Council (interviews). Based on the discussions in the ACP Group and the 133 Committee, it has to assess whether objections to specific points are so strong that it needs to adapt its proposal. In practice, the major members – France, Germany and Great Britain – must be on board to produce approval, and are therefore *de facto* veto players. In the internal EPA negotiations, however, both member states, including the great powers, and the Commission have made concessions. In our first case, agreement on a negotiation directive, member states that were sensitive to an opening of European markets managed to water down the Commission's initial formulations, while the Commission was more successful in keeping its trade, not aid-approach to the negotiations. In the second case, agreement on a final EU offer, development concerns were taken on board in a compromise satisfying both the Commission and the like-minded countries. Market access for all ACP states ('no tariffs, no quotas') was guaranteed, albeit with two, time-limited exceptions. In this way, free trade activists and protectionist forces

were both given an acceptable solution. In brief, the outcome is a mutual compromise, rather than a lowest common denominator-like solution.

The competitive bargaining perspective – with its foundations in Realist theory – has in general serious problems in dealing with norm-based state behaviour. In the Realist tradition, states are not driven by values or normative concerns. Therefore, a Realist would have a hard time explaining why EU member states strive for altruistic objectives, like fairness and poverty eradication, but also to understand the norm-based striving for consensus, demonstrated in this study. The approach is better placed to explain behaviour that can be linked to material objectives, and thus has no difficulty in interpreting EU member states' concerns with market access and no problem in accounting for the final decision to allow exceptions for rice and sugar in the EU's final offer on market access.

The *policy learning* and *normative suasion* hypotheses are not well fitted to an analysis that emphasizes norm competition rather than increasing norm convergence. In the issue-area at hand there is little of 'thick understanding' although many of the values heralded by EU aid-and-trade negotiators are on the surface shared by all member states. But beneath the surface of general norm adherence we have detected various priorities, reflecting different ways of understanding the basic mechanisms of north-south relations. The participants in the internal EU debate on trade and development have well-grounded convictions, based on long traditions of national development assistance and can therefore not be said to be in a situation of uncertainty. New member states have with a few exceptions been relatively unengaged in the discussions. The changes that have occurred among the participants seem to be based on rational calculations on what is needed to reach a viable compromise, rather than preference change based on policy learning or normative suasion. Unanimity *was* reached on the EU

negotiation mandate and on a final EU offer to the ACPs but this consensus does not mirror an underlying convergence of values but rather a mutual compromise between advocates of different normative frames.

CONCLUSION: HOW TO INTERPRET THE EPA NEGOTIATIONS?

The question of agreement despite divergent preferences is most satisfactorily answered by relying on a normative institutionalist approach. It is the existence of an institutionalized consensus norm and the expected negative consequences from breaking this that help us understand the continuing desire for a common EU foreign policy also in this field. Member states, and especially the most consensus-sensitive ones, tend to follow the agreed official EU policy line despite conflicting preferences and priorities. Efforts, by the Commission and by leading member states, to normatively frame the debate, and to rhetorically entrap other actors by references to previous commitments are ubiquitous and had demonstrable consequences for the outcomes. Member states do take account of the potential effects of their actions, in terms of potential praise or shaming, and adapt their behaviour to the institutional setting.

Still, I have in this text argued that this holds true only up to a certain limit: if sensitivity to domestic constituencies is high enough and the issue gets politicized, then member states may break ranks regardless of institutionalized normative constraints, especially if the issue-area is linked to proclaimed key self-images of the government. Domestic policy concerns thus constitute a scope condition in this case. Another scope condition is external pressure: the Commission's reluctant decision to include development sections in the final offer was arguably not only the result of internal member state activity, but also of pressure from the EU's counterpart, the ACP, whose main bargaining objective was to include strong and effective development provisions in the final agreement.

Basically, the normative institutionalist framework advocated in the Introduction to this volume fits also in this chapter – despite this being a case of trade negotiations. The definition of EPA negotiations as a trade negotiation did give definite institutional advantages to the free trade policy principles of DG Trade. However, the existence of a normatively legitimate alternative made these norms less compelling, encouraging normative dissent. The result was, as predicted by the framework, a negotiated mutual compromise. As trade policy generally – also in the WTO context – ‘is no longer about just trade’ (Young, 2007), but has increasingly become framed as a complex, multi-dimensional issue-area and not least as an instrument to foster development, it may well be that the patterns discovered in the EPA case may apply also to EU decision-making behaviour in trade negotiations more widely. On the other hand, EPA can be seen as atypical trade negotiations, and as an ‘easy case’ for normative explanations, in the sense that EU member states in general have relatively limited economic interests in EU-ACP trade. The wider relevance of our findings from the EPA case is therefore a question for future research.

Table 1. EPA conflict dimensions and actor constellations

	EPAs as trade negotiations	Indifferent, but generally support DG Trade	EPAs as development negotiations
Trade versus aid	DG Trade DG Agri	Non-LMC member states	DG Dev Denmark, Sweden, Netherlands, UK

	Liberal	Liberal, but LDCs need special treatment	Protectionist
Trade liberalization versus protectionism	DG Trade Germany Finland	Denmark, Sweden, Netherlands, UK	DG Agri Belgium, France, Portugal, Spain,

Source: interviews; cf. Elsig 2002. Note that this categorization is valid only for the EPA negotiations. Trade coalitions are in general increasingly issue dependent and volatile.

REFERENCES

Books and articles

- Babarinde, O. (1994) *The Lomé Conventions and Development*, Aldershot: Avebury.
- Babarinde, O. and Faber, G. (2004) 'From Lomé to Cotonou: Business as Usual?', *European Foreign Affairs Review* 9: 27-47.
- Crawford, G. (1998) 'Human Right and Democracy in European Development Policy', in M. Lister (ed.), *European Union Development Policy*, London: Macmillan.
- Dür, A. (2006) 'Assessing the EU's Role in International Trade Negotiations', *European Political Science* 5: 362-76.
- Elsig, M. (2002) *The EU's Common Commercial Policy. Institutions, interests and ideas*, Aldershot: Ashgate.
- Elgström, O. (2005a) 'Consolidating "Unobjectionable" Norms: Negotiating Norm Spread in the European Union', in O. Elgström and C. Jönsson (eds.) *European Union Negotiations*, London and New York: Routledge, pp. 29-44.
- Elgström, O. (2005b) 'The Cotonou Agreement. Asymmetric Negotiations and the Impact of Norms', in O. Elgström and C. Jönsson (eds.) *European Union Negotiations*, London & New York: Routledge, pp. 183-99.
- Evans, P.B., Jacobson, H.K. and Putnam, R.D. (eds.) (1993) *Double-Edged Diplomacy – International Bargaining and Domestic Politics*, Berkeley: University of California Press.
- Grilli, E.Z. (1993) *The European Community and the Developing Countries*, Cambridge: Cambridge University Press.
- Holland, M. (2002) *The European Union and the Third World*, Houndmills: Palgrave.
- Hopmann, T. (1996) *The Negotiation Process and the Resolution of International Conflicts*, Columbia: University of South Carolina Press.
- Lister, M. (1997) *The European Union and the South*, London: Routledge.
- Lister, M. (1998) 'Europe's New Development Policy', in M. Lister (ed.) *European Union Development Policy*, London: Macmillan.
- Putnam, R. (1988) 'Diplomacy and Domestic Politics: The Logic of Two-Level Games', *International Organization* 42: 427-60.
- Ravenhill, J. (1992) 'When Weakness Is Strength', in I.W. Zartman (ed.) *Europe and Africa. The New Phase*, Boulder, Co.: Lynne Rienner.
- Tallberg, J. (2004) 'The Power of the Presidency: Brokerage, Efficiency and Distribution in EU Negotiations', *Journal of Common Market Studies* 42(5): 999-1022

Thomas, D. C. (2008). "The Negotiation of EU Foreign Policy: Normative Institutionalism and Alternative Approaches." Unpublished paper.

Young, A.R. (2007) 'Trade Politics Ain't What It Used to Be: The Doha Round'. Journal of Common Market Studies 45(4):

Official documents and other sources

ACP (2005) ACP Council of Ministers Declaration of the 81st Session, held in Brussels June 21-22

Commission (2002a) Draft Recommendation for a COUNCIL DECISION authorising the Commission to negotiate Economic Partnership Agreements with the ACP countries and regions, Brussels, April 9

Commission (2002b) EU Mandate for Trade Negotiations with African, Caribbean and Pacific Countries, Brussels, June 17

Commission (2005) Note for the Attention of Delegations in ACP Countries. Subject: Recent UK Statements on EPAs, Brussels, April 11

Council (2002) EU Council of Ministers Directives for the Negotiation of Economic Partnership Agreements with ACP Countries and Regions

DTI and DFID (2005) Economic Partnership Agreements: Making EPAs Deliver for Development, Department of Trade and Department for International Development, March 22; www.dti.gov.uk

European Parliament (2005) European Parliament Committees Discuss State of the Play and Development Impact of EPAs, October 6. Presentation by H.E. Prof. Peter Katjavivi, Ambassador of Namibia

European Research Office (2002) The ACP Guidelines and the EU Negotiating Mandate: A Comparison, September 2002

Financial Times (2006) 'UK urges EU to ease trade laws for poor nations', by Alan Beattie, October 15

Mandelson, P. (2005) Statement to the Development Committee of the European Parliament by Trade Commissioner Peter Mandelson, Brussels, March 17, Speeches and articles by Peter Mandelson, www.cec.eu.int

Mandelson, P. (2007a) 'Economic Partnership Agreements: Tackling the Myths', in l'Express Dimanche, 10 June
http://www.lexpress.mu/display_news_dimanche.php?news_id=84960

Mandelson, P. (2007b) Comments at the INTA Committee, European Parliament, 22 October
http://trade.ec.europa.eu/doclib/docs/2007/october/tradoc_136542.pdf

Nielson (2000) 'The New Agreement Will Benefit the Poorest', Comment on the ACP-EU Partnership Agreement signed in Cotonou on 23 June by Development Commissioner Poul Nielson, supplement to *The Courier*, Brussels: European Commission