POLICY (IN) COHERENCE IN EUROPEAN UNION SUPPORT TO DEVELOPING COUNTRIES :

A three country case study

" Ensuring coherence between the objectives of the EC's development policy and its policies and objectives in other areas is an operational priority as well as a legal obligation for the Commission."

(European Commission annual report on EC development policy and the implementation of external assistance, 2001)

PHOTOGRAPH : Liba Taylor / ActionAid

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01

Glossary of common abbreviations

ACP
African, Caribbean and Pacific group of countries

DAC
Development Assistance Committee (of the OECD)

EBA
Everything But Arms

EDF
European Development Fund

EC
European Community

EPA
Economic Partnership Agreement

EU
European Union

FDI
Foreign Direct Investment

GSP
Generalised System of Preferences

iQSG
Interservice Quality Support Group

MDGs
Millennium Development Goals

NGO
Non Governmental Organisation

OECD
Organisation for Economic Co-operation and Development

PPMs
Process and Production Methods

RoO
Rules of Origin

SPS
Sanitary and Phytosanitary measures

WTO
World Trade Organisation

Executive Summary

From small beginnings the EU has grown to become a major international actor in trade and development. However, its organic growth, whereby successive treaties and political decisions have added new international responsibilities to the EU's remit, has become an obstacle to effective policy design and implementation. Competing priorities co-exist at an EU level and between the EU's policies and those of the Member States.

This report is an attempt to assess the impact of a range of EU policies on poor people in three developing countries – Bangladesh, Brazil and Kenya. The report does not provide a comprehensive overview of all potentially relevant EU activity but rather selects key policy areas in each country and assesses the extent to which these policies represent a coherent approach to supporting development.

The report opens with a general discussion on what is meant by policy coherence in an EU development policy context and finds that the concept itself is ambiguously defined providing a weak starting point for ensuring that development aims are fully supported by other EU policies.

Each country is then considered in turn with the major areas of study being around the interplay between development policy and EU trade and agricultural policies. Other policy areas such as fisheries policy and support to Foreign Direct Investment are also examined where relevant.

On the basis of the country specific conclusions the report makes a series of recommendations that would lead to more effective support for development in each of the countries. For example, the need to simplify the EU's Rules of Origin are cited in the Bangladesh chapter whilst both the Kenya and Bangladesh chapters look in detail at the EU's food safety and other standards and show how they cause substantial difficulties to industries employing significant numbers of poor people.

In Brazil the research focuses on the dairy sector since it is a major employer of small scale farmers. The chapter shows how the bilateral cooperation agreements between Latin American countries and the EU which include sustainable development as one of their aims, do not sit comfortably alongside the Common Agricultural Policy the impact of which is felt by thousands of small rural producers and which has contributed to the rise in poverty in rural regions.

In addition to the country specific recommendations the report makes a number of general recommendations which would contribute to ensuring that EU policy formulation and implementation achieve greater unity of purpose from the beginning. These include:

- **1.** The InterGovernmental Conference must clarify the role of development in the EU's external strategy and ensure beyond any doubt that the fight against poverty is not compromised by other EU policies such as trade and security.

- **2.** The European Commission, responsible for implementing EU policy, should elaborate a uniform process for developing country strategy papers across all geographical regions ensuring that all Commission services whose activities impact on development are involved in the initial planning stages. This should include representatives from Directorates General Agriculture, Fisheries, Public Health and Consumer Protection. A record of these discussions should be attached to the draft country strategy for subsequent discussions in the Commission and among Member States.

- **3.** The European Commission should apply the same coherence criteria to all developing countries regardless of whether the geographical desks are located in Directorate General Development or External Relations.

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03 # *Introduction*

As the world's largest trading bloc and the biggest donor, the EU has tremendous potential to influence, intentionally or not, the lives of millions people around the world by the choices it makes with regard to its external and internal policies. The extent to which these policies affect people in developing country is not well understood.

The purpose of this research is to attempt to gauge the total impact of EU policies on the people and economies of Bangladesh, Brazil and Kenya and to assess the extent to which its different policies form an overall, coherent whole. The research focuses mainly on how selected EU policies fit with development policy although other areas for concern and future study would include the extent to which EU development policy is coherent with that of the Member States, the extent to which the EC's development activities themselves form a coherent approach and a more in depth country study examining *all* EU policies and their impact on poor people in developing countries.

In each country researchers examined different sectors including trade, aid, and agricultural policies as well as support to Foreign Direct Investment (FDI). Although the research primarily assesses the impact of EU policies on developing country economies using statistical data, interviews with government officials, academics and NGOs, each country report also attempts to gauge the impact of the totality of EU policies on the poorest people.

Each of the countries finds itself in a different situation vis-à-vis the EU. Kenya is part of the ACP group of countries that have historically enjoyed privileged access to EU markets. However, the value of these preferences has been eroded by multilateral agreements through the WTO and in any case, the extent to which the poor have been able to take advantage of market access opportunities is not clear.

Bangladesh as a least developed country enjoys certain privileges afforded by the Everything But Arms provisions but again, in its most important export market - ready made garments, its preferences will be eroded after 2005 and the impact of this looks to be negative without changes to the existing terms of trade.

Brazil, which operates under the Generalised System of Preferences (GSP), enjoys a significant trade surplus with the EU but the transformations that have been wrought on its dairy industry following entry into markets by European multinationals (financed in part by export subsidies) has had a negative impact on small dairy producers.

Part I of this report examines the debate around policy coherence in the development sector and aims to show why it is important and what steps donors have taken to address the issue before focusing on the EU and the specific obligations arising out of EU membership in relation to coherence. This section concludes with an analysis of how the European Commission has addressed coherence to date.

Part II then assesses the EU's impact in each of the countries studied in turn. It looks first at each country's trade and aid relations with the EU followed by an analysis of how EU policies affect the sectors under study.

Part III draws together country conclusions. The report concludes with a final section drawing together specific recommendations addressed to the EU.

Full versions of the country studies are available at **www.actionaidalliance.org**

In 1991 the Development Assistance Committee (DAC) of the Organisation for Economic Co-operation and Development (OECD) called for greater coherence in the policies of developed countries that have an impact on developing countries. A DAC statement issued in 1995 emphasised that “it is critical that other policies not undercut development objectives”. More specifically, a 1999 DAC publication “DAC Scoping Study of Donor Poverty Reduction Policies and Practices” referred to *pro-poor policy coherence*. The DAC has continued to promote greater donor policy coherence, including by referring explicitly to coherence issues in DAC peer reviews. In October 2002 the DAC released a checklist for policy coherence: ‘Improving Policy Coherence and Integration for Sustainable Development’. Policy coherence has thus been framed at the international level in terms of development co-operation and the achievement of development goals.

Source: BOND policy briefing, www.bond.org.uk

References: ‘Development Partnerships in the new Global Context’, DAC 1995
http://www.oecd.org/pdf/M00035000/M00035366.pdf

PART I
Coherence and development policy

The annual OECD ministerial meeting in 2002 called on the OECD to,
"enhance understanding of the development dimensions of member country policies and their impacts on developing countries. Analysis should consider trade-offs and potential synergies across such areas as trade, investment, agriculture, health, education, the environment and development co-operation, to encourage greater policy coherence in support of the internationally agreed development goals."

The Millennium Development Goals, have given further impetus to the coherence imperative by clearly underlining in goal 8 (global partnership for development) that developed countries *must* commit themselves both to increased and more effective aid and to increased policy coherence if the MDGs are to be achieved. The international focus on the MDGs creates its own dynamic for changes to donor practice and procedures but donors need to move beyond their aid agenda and departments of development into mainstream policy making to effect the required changes.

Coherence and the EU

At an EU level, the Commission is legally responsible for ensuring that coherence is achieved.

The origin of the acknowledgement of coherence in successive EU treaties has been dealt with exhaustively elsewhere and will not be developed in this paper [1]. Article 177 of the Treaty on European Union (TEU) defines the objectives of Community Development Policy as being, “..to foster:

- the sustainable economic and social development of the developing countries, and more particularly the most disadvantaged among them,
- the smooth and gradual integration of the developing countries into the world economy,
- the campaign against poverty in the developing countries.[2] ”

Article 178 makes an implicit reference to coherence by stating that,
“The Community shall take account of the objectives referred to in Article 177 in the policies that it implements which are likely to affect developing countries .[3] ”

This implies that the policies that are likely to affect developing countries should not run contrary to what the EU is trying to achieve with its development policy, otherwise, the existence of the article has little meaning.

In addition to the specific development related articles, Article 3 of the Treaty on European Union as amended by the Nice Treaty states,
“The Union shall in particular ensure the consistency of its external activities as a whole in the context of its external relations, security, economic and development policies,” carefully leaving aside the question of which policy takes precedence over the others.

Despite the stated commitment to coherence, the EU failed for a number of years to address it in any formal sense. However the joint Council and Commission Development Policy Statement adopted in November 2000, had this to say in relation to coherence:
"There must be greater coherence between the various Community policies focused on sustainable development. Efforts must be made to ensure that Community development policy objectives are taken into account in the formulation and implementation of other policies affecting the developing countries. The way to achieve this is to make a systematic and thorough analysis of any indirect effects of measures in especially sensitive areas and to take development problems into account in the Commission decision-making process.[4] ”

[1] The reader is referred to Box, L., and A. Koulaïmah-Gabriel. 1997. Towards Coherence? Development Cooperation Policy and the Development of Policy Cooperation. (ECDPM Working Paper No. 21). Maastricht: ECDPM and to *Coherence and Consistency in Europe's foreign policy, Paul Hoebink, Centre for International Development Issues, University of Nijmegen (CIDIN), in Europe in the World ed. Howard Mollett, BOND, 2003.*

[2] EUROPEAN UNION CONSOLIDATED VERSIONS OF THE TREATY ON EUROPEAN UNION AND OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY (2002) (2002/C 325/01)
This publication contains the consolidated versions of the Treaty on European Union and of the Treaty establishing the European Community, incorporating the amendments made by the Treaty of Nice, signed on 26/02/ 2001.
http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/c_325/c_32520021224en00010184.pdf

[3] ibid.

[4] Joint Council and Commission Statement on Development Policy November 2000, para 39, http://europa.eu.int/comm/development/development_old/lex/en/council20001110_en.htm

The political commitment therefore to policy coherence is in place. This was reiterated in the 2001 Annual Development Report which stated,
"Ensuring coherence between the objectives of the EC's development policy and its policies and objectives in other areas is an operational priority as well as a legal obligation for the Commission."

Implementation of Commitments

The Commission views its Country/Regional Strategy Papers as a genuine attempt to establish a framework for its relations with these countries that covers development assistance and other relevant Community policies.

"The challenge for the EU is to provide the right mix of policies for each region and country. The broad range of policies that the EU has at its disposal gives it a unique opportunity to apply an effective and efficient mix of co-operation instruments, including development assistance, fishery agreements, trade instruments, political dialogue, foreign policy instruments. The use of these various instruments is to be made more coherent through the Country Strategy Paper Process. All EC services are consulted in drafting a Country Strategy Paper, in addition to consultations with the partner country itself. CSPs are required to include a section identifying the different EU policies affecting the partner country and analysing the appropriate policy mix.[5] "

The extent to which this is achieved is verified by the inter-service Quality Support Group (iQSG). This group's task is to examine all CSPs and assess them broadly in terms of the EU's aims, stated objectives, the work of the Member States in the same country, inclusion of cross cutting themes and coherence. It has been operational since January 2001 and its members are drawn from all the services that are involved in the management of the EC's relations with developing countries (DGs Development, External Relations, Trade, Economic and Financial Affairs, Enlargement, ECHO, EuropeAid and the relevant Evaluation Unit). It has its own secretariat in DG Development.

Whilst its appears that the existence of the iQSG has certainly raised the profile of policy coherence within the Commission its impact on country strategies and programming has yet to be felt. By the Commission's own admission it has proved hard to translate the coherence commitment into practice. The iQSG's report on the 2001 CSP process states that in 34% of the CSP/RSPs the section on policy coherence was underdeveloped.[6] A staff working paper published in November 2002 states that although the "policy mix" was mentioned in the vast majority of programming documents, the analysis was rarely taken very far, in particular with regard to trade and fisheries." [7]
Furthermore, there are a number of other areas that need to be addressed to ensure that the Commission is able to make the commitment to policy coherence meaningful. These include

a] a uniform process for developing country strategy papers across all geographical regions.
Particular attention should be paid to ensuring that all Commission services likely to be affected are involved in this first broad stage of planning. For example, the iQSG includes representatives from all services involved in the management of external relations but no representatives from DGs Agriculture, Fisheries and Public Health and Consumer Protection - all DGs that our research shows have a direct impact in the countries we studied and their ability to take advantage of development opportunities.

b] A record of these country discussions should be attached to the draft country strategy when it goes forward to the iQSG and to Inter Service Consultation within the Commission.

c] Country desks/delegations leading the process should clearly indicate how coherence related comments have been taken into consideration regardless of whether amendments arising from the comments have been included in the final strategy paper.

d] The Commission should apply the same "coherence criteria" across the board. At present it appears that the development policy statement is more of an ACP policy statement, than a strategy for development in all developing countries. Even the processes being pursued for the Mid Term Reviews appear to differ which makes it harder to monitor how the Commission is addressing coherence both internally and in relation to the Member States.

For those countries that depend on DG External Relations rather than DG Development, it seems that the Commission takes a rather narrow view of coherence since the region specific references to coherence are all focused on trade and development rather than the totality of EU policies and their potential impact on development. The section relating to Latin America goes one step further stating,
" regional co-operation activities designed to strengthen regional integration and establish common markets are consistent with Community trade policy."
That may be so, but the point is rather to ensure that Community trade policy is consistent with development activities in the region.

The extent to which the EU's trade and agricultural policies are coherent with the EU's development policy is a vital concern for developing countries. It is worth examining EU trade and agricultural policies in greater detail therefore before considering the specific country case studies.

[5] Annual Report 2001 on the EC Development Policy and the implementation of External Assistance, European Commission, p.16

[6] DEV/iQSG/CT D(2002) Brussels 18 March 2002, p. 4

[7] Commission Staff Working Paper Progress Report on the Implementation of the common framework for country strategy papers SEC (2002) 1279 26.11.02, P.17

Aims of EU trade policy

The overall aim of the EU's trade policy is "to promote the economic and political interests of the European Community"[8]. DG trade as an institution is aware of the need to balance trade policy with the EU's development policy yet in practice, our research shows that this balance is not being achieved. The EU's promotion of Free Trade Areas for example, whilst presented as being in the best interests of the countries concerned also serves the EU's own interest. For example in 1995 the Commission said of FTAs that they are, "economically beneficial, especially where they help the EU to bolster its presence in the faster growing economies of the world, which is our overriding interest."[9]

On 26 February 2001 the EU eliminated all duties and quotas for all products originating from least developed countries (LDCs), with the exception of bananas (from 2006), sugar and rice (both from 2009). This initiative is known as Everything But Arms (EBA).

The EU GSP offers preferential tariff reductions to developing countries on a range of products. Yet its potential is undermined by strict 'rules of origin' that prevent developing country manufacturers from importing component parts, other than from the EU. As a result, only one third of products from developing countries legally eligible for preferential treatment actually enter the EU market under reduced tariffs .[10]

EU Agricultural policy

In economies where the majority of the population is dependent on subsistence agriculture for survival, changes to the EU's support system for its own farmers can have a significant impact. Not only does the EU have a determining influence on certain world market prices because of the scale of its exports but EU exports which undercut local market prices in developing countries can have a devastating impact.

The impact of dumping: dairy products and the DominicanRepublic

The livelihoods of thousands of small-scale producers in the Dominican Republic have been undermined because of the dumping of EU dairy products. There are about 30,000, mainly small-scale producers in the country.

During the 1990s, demand for dairy products increased but, after the country liberalised its agricultural trade and joined the WTO in 1995, this demand was met primarily by imports. Largely as a result of export subsidies, the price of EU milk powder is 25% lower than the equivalent price for local fresh milk. By 2000, the Dominican Republic was the fifth largest recipient of EU milk powder and thousands of farmers had been forced out of business. [11]

The giant Scandinavian Company Arla Foods has been implicated in the dumping of dairy produce. According to AgraEurope, *"Arla Foods' milk powder exports to the Dominican Republic are worth €65.85m, and are currently subsidised by the EU to the tune of €17.55m."*[12]

GSP

The Generalised system of preferences is a system by which preferential tariffs are granted unilaterally to certain countries on a non-reciprocal basis. It was approved by GATT in 1971, allowing industrialised members to adopt one-way tariff preferences in favour of developing countries. The waiver was made more general and permanent in 1979 with adoption of so-called "Enabling Clause" allowing industrialised countries to implement measures extending "differential and more favourable treatment" to developing countries. The preferences under the GSP are granted to exports of specific products from particular countries.
Source: DG Trade website, European Commission

The EU GSP scheme grants preferences for a given product as a percentage reduction of the Most Favoured Nation (MFN) duty rates. This percentage depends on a given product's "sensitivity", which is determined by the situation of the sector manufacturing the same product in the Community. Since 1995, the EU has eliminated all quantitative limitations. Yet, its GSP scheme maintains the *"graduation mechanism"* under which the benefit of the scheme is phased out for specific sectors or countries that have reached a degree of competitiveness where they increased their exports even without enjoying GSP treatment. Moreover, the EU GSP scheme contains safeguard measures that may suspend the preferential market access. When such measures are applied, MFN rates are reinstated on imports from one or more beneficiary country.
Source: Titumir 2003

[8] http://europa.eu.int/comm/trade/whatwedo/work/index_en.htm

[9] Free Trade Areas: An Appraisal, CEC SEC (95) 322 final p.6

[10] Brenton, P, and M Manchin (2002)," Making EU trade agreements work, CEPS 2002, quoted in Titumir.

[11] Oxfam, 2002b. *Milking the CAP: How Europe's Dairy Regime is Devastating Livelihoods in the Developing World.* http://www.oxfam.org.uk/policy/papers/34milking/34milking.html

[12] *Agra Europe*, 2003. Milk powder exports spark Swedish row. 28th February.

PART I Coherence and development policy

Reforms of the EU's Common Agricultural Policy (CAP) have been characterised by their slow pace.

The 2003 CAP reform only tackled one aspect of agriculture in the European Union – that of domestic subsidies. The reform proposal and final agreement was not an attempt to tackle issues of fundamental concern to developing countries, namely the erosion of the value of preferential market access and the impact of direct aid payments on the price competitiveness of EU exports.

The central plank of the EU package is that the majority (but not all) of the current direct payments to farmers will be 'decoupled' from production. This will enable the EU to reclassify these decoupled payments into WTO compliant subsidies, moving them out of the blue box into the green box.

One estimate is that, as a result of the agreement, the EU will be able to reduce its blue box subsidies by about 75%, more than meeting the call in the Harbinson text to reduce them by 50%. [15] These piece-meal reforms offer little, if any benefit to the world's poor. Particularly since they continue to allow the provision of public aid to agriculture in ways which are designed not to reduce overall levels of EU production.

In the case of the dairy regime (which is the focus of the Brazil section) the newly adopted measures lay the basis for incorporation into the new single farm payment scheme. This involves reducing the intervention price for butter by 25% over four years and skimmed milk powder by 15% over three years. These reforms will make EU dairy exports more price competitive and, depending on developments in the EU-US exchange rate, will considerably reduce the need for export refunds in the dairy sector. It will not however reduce the unfair trade practices implicit in EU agricultural support since the reductions in the intervention price are accompanied by increased direct aid payments. Large amounts of public aid (a mixture of export refunds and increased direct aid payments) will still be made available to EU dairy farmers enabling prices to be charged for milk which do not reflect the underlying costs of production of EU dairy producers. Whilst currently, the dairy sector spends about €1 billion on export subsidies, under the final agreement, according to the European Commission, export subsidies for dairy products in 2013 will be only €620 million.[17] Direct aid payments in the dairy sector will however have correspondingly increased.

The Mid Term Review (MTR) of Agenda 2000 (CAP) reveals a distinct lack of coherence on trade policy and development issues. The impact of the CAP on developing countries was simply not addressed as part of the MTR, eliciting just one mention. The Commission is fundamentally wrong to assert that the 'MTR of the CAP, if adopted, would present a concrete example of steps taken to improve coherence'.[18]

The Commission's own projections show that current production levels will be retained under a reformed CAP. Indeed the Commission's proposals were modified to ensure EU production levels were not adversely affected. Some independent studies commissioned by the European Commission even suggest EU production will expand in all major sectors except beef and rye under a reformed CAP. Since this expanded production will be at much lower prices, it is difficult to see how a reformed CAP is less trade distorting. The most that can be claimed is that the reform measures agreed will lock into place existing trade distortions.

WTO Domestic Subsidy Boxes.

The WTO classifies subsidies into three categories:

> AMBER BOX: all domestic subsidies – such as market price support - that are considered to distort production and trade. Subsidies in this category are expressed in terms of a "Total Aggregate Measurement of Support" (Total AMS) which includes all supports in one single figure. Amber Box subsidies are subject to WTO reduction commitments.

> BLUE BOX: subsidy payments that are directly linked to acreage or animal numbers, but under schemes which also limit production by imposing production quotas or requiring farmers to set-aside part of their land. These are deemed by WTO rules to be 'partially decoupled' from production, and are not subject to WTO reduction commitments. In the EU, they are commonly known as area and headage or compensation payments.

> GREEN BOX: subsidies that are deemed not to distort trade, or at most cause minimal distortion and are not subject to WTO reduction commitments. [13] For the EU and US, the most important allowable subsidy in this category is decoupled support paid directly to producers. Such support must not relate to: the type or volume of production, the prices, domestic or international, applying to any production undertaken, or the factors of production employed. It can also be given on condition that no production shall be required in order to receive such payments. [14]

[13] For full details see Annex 2 of the Agreement on Agriculture

[14] Other subsidies allowed include environmental programmes, government service programmes (eg. research, pest control, extension; infrastructure provisions); public stockholding for food security purposes; domestic food aid; relief from natural disasters; government income insurance and income safety-net programmes; producer and resource retirement programmes; adjustment support during agricultural land privatisation; and assistance programmes limited to producers in disadvantaged regions.

[15] AgraEurope, 2003. A CAP reform agreement that – just about - delivers. 27th June.

[16] AgraEurope, 2003. EU Staggering towards hybrid CAP reform. 20th June.

[17] European Commission, 2003b. *CAP Reform – A long-Term Perspective for sustainable Agriculture.* http://europa.eu.int/comm/agriculture/mtr/index_en.htm. The legislative proposals can be found at: http://europa.eu.int/comm/agriculture/mtr/memo_en.pdf

[18] ibid. p. 21

The trading positions of Bangladesh, Brazil and Kenya with the EU

The situation in which each country finds itself vis-à-vis the EU is quite different – Bangladesh is a Least Developed Country (LDC) that benefits from duty free access under the Everything But Arms initiative. Kenya is a signatory to the Cotonou Agreement and has for many years benefited from the preferences accorded to it under successive ACP-EU agreements. However it is starting to see the value of these preferences being eroded and the research tends to suggest that entering into an Economic Partnership Agreement with the EU from 2008 will do nothing to address this trend. Brazil trades under the GSP system and is currently negotiating a Free Trade Agreement (FTA) with the EU as part of the Mercosur group.

This report now summarises the findings from each of the three country case studies, highlighting the main challenges. A final section then draws general conclusions and recommendations.

PART II BANGLADESH[19] SECTION AUTHOR: RASHED AL MAHMUD TITUMIR

Bangladesh has found it difficult to force a faster rate of poverty reduction beyond an average of one per cent per year throughout the 1990s. Despite the consistent reduction in the share of people living in poverty, absolute numbers of poor people continue to rise, as does the denial of their rights. Income inequality in Bangladesh rose considerably during the last decade, particularly in urban areas. One of the reasons for which aid has failed to stem the rising numbers of poor people is due to the mistaken diagnosis of the causes of poverty by donors. Donors' strategies, including that of the EC, have failed to appreciate that poverty originates in injustice rather than in the poverty of resources. This in turn has meant that donors have not used aid money to focus on the root causes of poverty.

EC co-operation with Bangladesh is guided by the EC's development policy (2000), the ALA Regulation (1992), the EC Strategy towards Asia (2001), the EC-Bangladesh Co-operation Agreement (2001), the European Commission's Country Support Strategy Paper (CSP) (2002-2006) and a raft of wider policies on trade plus secondary bilateral agreements and regional agreements.

Bangladesh is the second largest aid recipient for the EU in Asia (after India) and is at the top of the list of EC food aid recipients globally. The growing importance of the EU - Bangladesh relationship is also visible in terms of its connections with NGOs. Bangladesh is the fifth largest recipient of EU aid through NGOs.

However, donor aid strategies as in the CSP of EC have tried to address poverty only through widening capabilities and choices. Yet both capabilities and choices are themselves constrained by institutional structures designed to perpetuate injustices. In Bangladesh, sources of injustice include the market, the social structures, the institutions of state and globalisation processes within an asymmetrical global order.

The principal donors like the European Commission and most of its Member States are committed to a strategy rooted in neo-liberalism – such as free market economics, deregulations, privatisation, etc. Until donors to Bangladesh are willing to use their aid leverage to secure a redistribution of assets towards the poor or within socially-owned institutions their claim to bias their aid strategies to target groups of the poor appears to be self contradictory.

Research indicates that in Bangladesh 25% of foreign aid goes to suppliers of foreign equipment and foreign consultants, another 50% goes to various middlemen including civil servants and politicians and only 25% actually reaches poor people.[20] This is borne out in part by research carried out by ActionAid Alliance on tied aid. It finds that by untying aid donors can unlock up to 20% more resources for development and it cites specific examples of how tied aid uses scarce resources inefficiently.[21]

TRADE RELATIONS

The first agreement signed between Bangladesh and EU was in 1976 outlining commercial cooperation. The New Cooperation Agreement, signed on February 17, 1999 entered into force on May 22, 2000 and has as objectives, amongst others, to stimulate two-way trade and to promote investment and economic links.

The EU is the main destination for Bangladesh exports (see *Table 1*). The structure of Bangladesh exports demonstrates the vulnerability of the economy and its interconnectedness to, and dependency on, the EU trade regime. Any change in the EU trade policy regime has a powerful effect on the economy of Bangladesh. Almost 95 % of exports from Bangladesh are manufactured products, of which 88 % are textiles and clothing while 5 % comprise primary products. Obviously any policy change related to textile and clothing has serious consequences on Bangladesh's economy.

PART II Bangladesh Section author: Rashed Al Mahmud Titumir

[19] This section summarises a report commissioned by ActionAid Alliance in Bangladesh **EU-Bangladesh aid and trade policy regime: a citizens perspective** by Rashed Al Mamud Titumir, The Innovators, May 2003.

[20] Titumir p.10

[21] Towards effective partnerships, Untie Aid, Terlinden C. and Hilditch L., April 2003, ActionAid Alliance

PART II Bangladesh Section author: Rashed Al Mahmud Titumir

A narrow concentration on textiles and a generally low value addition in the Ready Manufactured Garment (RMG) industry has kept Bangladesh dependent on preferential treatment by its main trading partners, the EU and the USA. This has led to an increasing concern about her future market position and market share once all quantitative restrictions on trade in textiles and clothing have been removed in 2005 [22], with India and China being the main risks in terms of supplanting Bangladesh market share. This is because the structure of global apparel manufacturing is such that manufacturers tend to turn to Bangladeshi firms only once they have used up the quota allocation in other countries.[23]

Destination	1989-90	1994-95	1999-00
EU	34%	41%	46%
USA	29%	34%	37%
Rest of the World	37%	25%	17%

Table 1 – : Share of EU in Bangladesh's Global Export • Source: Rahman and Rahman (2000)
Note: Figures are rounded.

Imports

EU is the second largest trading partner of Bangladesh in terms of imports. In 1998/99, the EU accounted for 9.5% of total imports by Bangladesh, second only to India (15.4%) and far ahead of both USA (3.7 %) and Japan (6.1%).

Everything But Arms

Although Bangladesh enjoys access to EU markets under the terms of the Everything But Arms (EBA) Initiative, which provides duty and quota free access of LDC products to its market, this has not so far brought significant gains because the initiative has not brought with it complementary reforms in the EC rules of origin (RoO). Prior to the entry into force of the EBA initiative, in 2000, Bangladesh was only able to use 39% of the eligible level of preferential access due to the stringent two and three-stage conversion requirements under the EC rules of origin (RoO). EBA has failed to address this issue in relation to EU-Bangladesh trade.

These findings are confirmed by a recent study into the impact of EBA on LDCs [24]. This study argues that the preferences granted under EBA are only of marginal benefit since most of the currently exported products - 99.5% in fact - were already eligible for tariff and quota free access and in the remaining important products - rice, sugar and bananas, the removal of trade barriers has been delayed (to 2006 for bananas and 2009 for rice and sugar). For those countries that could benefit without diversifying from their existing portfolio the take up rate of the preferential rates is only 50%. The paper identifies the Rules of Origin as the prime suspect behind the low take up rates and recommends that they be simplified.

The paper identifies Bangladesh as a country for which the potential to take advantage of the EBA concessions are significant even though advantage is currently being taken at 50%. It calculates that the EBA concessions were worth €1.9 billion to Bangladesh in 2001 (assuming that all the transfer goes to the exporter and none to the importer). If the

Rules of Origin

Simply put, Rules of Origin refer to the laws, regulations and administrative procedures which determine a product's country of origin, i.e. in what country a good will be considered as actually made for tariff and other trade purposes. These rules vary from country to country.

The RoO in place for preferential apparels exports under the EC-GSP in 1996 was a three-stage conversion requirement for knit-RMG (spinning, weaving and apparel-making) and two-stage conversion requirement for woven RMG (weaving, apparel making). The Export Promotion Bureau (EPB) issues certificates of origin which confirm that exports comply with the EU's RoO criteria. In 1996, the EC initiated an inspection of about 25,000 certificates of origin and the following year, the EPB cancelled the certificates requiring the payment to the EC of US$67 million in previously waived import duties.

Source: Rahman 2001 in Titumir, 32

[22] In 2005 the Multifibre Arrangement (MFA) will be phased out under the new Agreement on Textiles and Clothing (ATC). The MFA operated on a system of quotas, allowing industrialised countries to limit imports. The phase out has been seen as a gain generally by developing countries but the case of Bangladesh is atypical.

[23] Trade liberalisation in the garment industry: who is really benefiting? Angela Hale in Development in Practice, Vol. 12 No. 1, Feb. 2002 p. 36

[24] **Integrating the Least Developed Countries into the World Trading System: The Current Impact of t EU Preferences under Everything But Arms**, Brenton P., February 2003

take up had been 100%, Bangladesh could have gained an additional €1.9 billion.

Even without having taken full advantage of the potential benefits afforded by the existing trade regime, quota free entry for Bangladesh has been of significant benefit to Bangladesh. Maintaining the existing preferences together with simpler Rules of Origin could have an even bigger positive impact on Bangladesh's textile industry. This is particularly important as the textile industry in Bangladesh employs a sizeable number of women workers with few alternative sources of income generation.

If as seems likely Bangladesh, loses out to new developing country competitors, such as India, Indonesia, Pakistan and China, which will be in a position to increase their exports to the EU when quotas are removed in 2005 the losses that Bangladesh is likely to suffer will include a decline in export earnings and a loss of employment for many thousands of workers, primarily female (Titumir, 2003). Such losses would undermine several of the EU's development co-operation objectives in Bangladesh, including poverty reduction, gender equality, economic growth, and improvement of social indicators (health, education, nutrition and population).

Non tariff barriers to trade

Many countries, including Bangladesh, Brazil and Kenya, are worried about the increasing use of standards such as sanitary and phytosanitary measures (SPS) and use of production process methods (PPMs) to limit their access to EU markets, as evidenced for example by the EU ban on shrimp exports from Bangladesh and other LDCs. Developing country exporters are worried that their products may incur high investment costs to comply with such standards. Developing countries are also concerned by the institutional requirements necessary to verify compliance, which are often beyond the capacity of the developing country to attain. There are growing concerns that these standards could become major new non-tariff barriers which effectively protect developed country markets.

Although Article 10.1 of the SPS Agreement directs that in the preparation and application of SPS a member shall take account of the special needs of developing country members, and in particular of the LDC members, this does not bind the importing country member to comply with the provision. Thus in effect the importing developed countries can protect the interests of their local producers, without any reference to the impact of such measures in developing or least developed countries.

Such protections may not necessarily be aimed at safeguarding the interests of domestic industries in developed countries alone, but also the interests of favoured trading partners, and developed country entrepreneurs investing abroad.

The unit cost of meeting SPS standards could fall particularly heavily on small countries with limited production capacity, since they have to spread the fixed investment costs in meeting EU SPS standards across a limited volume of exports. These issues need to be addressed under the EBA, since otherwise the economic costs of meeting EU SPS standards could well serve to exclude countries such as Bangladesh from the benefits of the tariff free access granted as an instrument of the EU's development policy.

Furthermore, in the context of the trade and environment relationship, PPMs have become one of the most debated topics. Traditionally, attention has been focused on the product standards issues, but now members like the EU are increasingly asking for PPM standards. From the environmental viewpoint both product standards as well as PPM standards are important because more often than not it is the production process and not the product that poses an environmental threat.

However, many developing countries are worried about the possibility of PPMs becoming entry barriers. Exporters in developing countries are nervous that they may be forced to incur high costs in order to maintain access to overseas markets. Allowing PPM-based trade barriers would open the opportunity for many countries to protect their industries unfairly against foreign competition.[25]

Conclusion

Dismantling existing protection is a necessary, though not sufficient condition for improved LDC export performance. Measures aimed at improving technical and institutional infrastructure may be required to make better market access effective, yet the size of the gains to LDCs, although significant, is not sufficiently large to lift them above their current levels of development. In this regard, market access openings, if they are to occur, should be viewed as elements of a broader strategy for development not within the confines of trade policy. The development strategy has to travel beyond capabilities and choices which are constrained by institutional structures designed to perpetuate injustice to address the sources of injustice—the market, the social structures, the institutions of state and globalisation process within an asymmetrical world order.

[25] Sandeep and Mehta quoted in Titumir p. 36

PART II Kenya Section: Authors: Gerrishon K. Ikiara, Moses M. Ikiara, Walter Odhiambo

Kenya Section[26]: Authors: Gerrishon K. Ikiara, Moses M. Ikiara, Walter Odhiambo

This section will focus on the impact of EU policies on the Kenyan horticultural and fisheries sectors with particular emphasis on the poor. It will also address coherence between various EU policies with respect to Kenya's development objectives. The paper analyses the role the Lomé Conventions, both their non-reciprocal trade preferences and aid dimensions, have played in export development, economic growth and poverty reduction in the country. It also discusses the likely implications to the country of the Cotonou Agreement, in particular (i) the loss of non-reciprocal trade preferences and their replacement with an economic partnership agreement (EPA) in 2008, and (ii) the changing aid facilities, modalities and conditionality. Coherence between various EC policies with respect to the Community's development objectives for Kenya is also reviewed.

On coherence, the paper focuses on how the CAP, Common Fisheries Policy, trade policies with respect to non-ACP countries (including 'Everything But Arms') and commitments under the multilateral trade framework, are consistent with the development objectives of export development, economic growth, and poverty alleviation that have been the driving force of successive Lomé Conventions and the Cotonou Agreement.

Kenya's relations with the EU have been conducted within the framework of successive Lomé Conventions and since 2000, the Cotonou Agreement. The main aim of the Agreement is " to reduce and eventually eradicate poverty while contributing to sustainable development and to the gradual integration of ACP countries into the world economy"[27]. Through these agreements, the EU granted Kenya and other African, Caribbean and the Pacific (ACP) states duty free access for the vast majority of their exports although for certain sensitive agricultural products this duty free access is qualified by a range of quota and seasonal restrictions. In addition, under successive Lomé agreements, substantial development assistance resources have been made available to Kenya. This has taken the form of both grant aid and concessional loan financing.

Aid

Aid has focused mainly on rural development and food self-sufficiency although energy, commerce and industry, health and education have also featured to a lesser extent. The country has been a major beneficiary of the STABEX scheme for the stabilisation of agricultural export earnings (intended to offset the impact of declining commodity prices on commodity dependent countries) although the deployment of these funds has been subjected to extensive delays profoundly undermining the benefits which Kenyan coffee farmers would otherwise have gained in the face of dramatically declining coffee prices. With respect to loan finance, many sectors including tourism and horticulture have benefited.

If EU aid to Kenya has not had the desired impact in terms of decreasing poverty, responsibility for this does not lie entirely with the EU; inefficiency and government corruption under the former government bear most of the responsibility for the increased poverty in the country. However, it is also the case that the share of ACP aid as a percentage of allocable aid fell from 67% in 1986-1990 to 42% in 1990-1995 [29]. Thus even though Kenya's aid receipts have not declined in absolute terms, the country must be receiving less than if the level of commitment to ACP countries had been maintained. This trend towards skewing external aid in favour of countries bordering the EU is continuing and seems to indicate that the EU's foreign policy interests rather than development are dictating resource allocation.

Trade

Access to EU markets has been granted through non-reciprocal trade preferences in the form of lower tariffs or tariff exemptions in manufactured and agricultural products provided the latter were not in direct competition with products coming under the CAP. As a consequence, Kenya has been able to export almost all its products to the EU without facing any tariff barriers. The value of these trade preferences is enhanced by the fact that they are: (i) non-reciprocal, meaning that the ACP countries are not obliged to offer similar preferences to EU exports, (ii) stable since they were offered in 5-year periods and for 10 years under Lomé IV, (iii) predictable because they are contractually binding on the partners, and (iv) negotiated with the ACP members before they are signed.

Kenya has benefited substantially from the non-reciprocal trade preferences especially in the horticultural and fisheries sectors, largely because it has some production and supply capacity. Indeed, according to the First Report of the Working Group of ACP Experts (1999) Kenya and other countries such as Mauritius, Madagascar, and Zimbabwe that had production and supply capacity achieved a better export performance compared with non-ACP developing countries.

[26] This section summarises research commissioned by ActionAid Alliance in Kenya entitled **Impact of the European Union on Poor and Marginalised People: The case of Kenya's Horticultural and Fisheries Sectors**, Ikiara, K. Gerrishon, Ikiara, M. Moses and Odhiambo Walter, June 2003

[27] Cotonou Agreement, Article 1, http://www.acpsec.org/gb/cotonou/accord1.htm

[28] Mwanzia (1997) in Ikiara, Ikiara and Odhiambo p. 7

[29] Wolf and Spoden 2000 in ibid. p.33

General Trends in Kenya's Exports to and Imports from EU

Agricultural products are by far the most important exports from the country. They accounted for 54-57% of the country's total exports over the period 1992 and 2000 (Table 2). Over the same period, industrial exports accounted for 18-26% of total exports, with their share dropping from about 26% in 1994 to 19% in 2000. Other consumer goods are also emerging as important exports with their share in total export value rising from 8% in 1992 to 16% in 2000 (Table 2). Indeed, this is the only export category that maintained steady growth in its contribution to total export value over the period 1992-2000.

The EU remained Kenya's main export destination until the early 1990s when it was overtaken by the Common Market for Eastern and Southern Africa (COMESA) (Table 3). It is still the second most important destination, accounting for about 33% of Kenya's total exports with its share of Kenya's total imports having fallen from 40.7% in 1992. The major markets for Kenya's exports in the EU are the UK, Germany, the Netherlands, Belgium and Italy.

Kenya's exports to the EU comprise of mainly agricultural commodities, which account for about 90% of the value of the country's total exports to the EU market. Horticultural products are by far the country's most important primary exports to the EU, accounting for about 44% of its total exports to the Union.

Export category	1992		1994		1996		1998		2000	
	Value*	%**	Value*	%**	Value*	%**	Value*	%**	Value*	%**
Food and beverages	18,58	**54,45**	42,95	**51,49**	60,23	**52,87**	65,67	**57,38**	67,39	**56,28**
Industrial supplies	7,43	**21,78**	21,99	**26,36**	29,69	**26,06**	20,91	**18,27**	22,92	**19,14**
Fuel and lubricants	4,93	**14,45**	5,45	**6,53**	7,56	**6,64**	10,45	**9,13**	10,24	**8,55**
Machinery and other capital equipment	0,24	**0,70**	0,75	**0,90**	1,02	**0,90**	1,03	**0,90**	0,60	**0,50**
Transport equipment	0,16	**0,47**	0,94	**1,13**	0,52	**0,46**	0,73	**0,64**	0,54	**0,45**
Other consumer goods	2,78	**8,15**	11,33	**13,58**	14,90	**13,08**	15,66	**13,68**	18,04	**15,67**
Total	*34,12*	***100***	*83,41*	***100***	*113,92*	***100***	*114,45*	***100***	*119,73*	***100***

Table 2: Domestic exports by broad economic categories, 1992-2000
Source: Calculated from Republic of Kenya, Statistical Abstract, 2001.

**Values are in Kshs billions. €1 = 87 Kshs*
*** Value of the export category percentage of total exports for that year.*

	1992	1994	1996	1998	2000
EU	40,7	34,8	29,2	31,7	33,4
Eastern Europe	0,03	0,14	0,23	0,31	0,50
COMESA	21,8	39,1	39,9	41,4	35,7
South Africa	-	0,5	2,1	0,8	0,5
America	3,61	3,61	2,85	3,30	2,99
Asia	16,29	13,48	14,24	17,99	20,87
Rest of the World	17,57	8,37	11,48	4,5	6,04
Total	**100,0**	**100,0**	**100,0**	**100,0**	**100,0**

Table 3: Kenya's Domestic Exports by Regional Destination (% of total export value).
Source: Calculated from Republic of Kenya, Statistical Abstract, 2001.

Horticultural sector

Since horticultural production is highly intensive in the use of low skilled labour, the rapid growth of the sector has supported the livelihoods of many Kenyans. World Bank estimates suggest that the export horticultural industry provides jobs to around 2 million people[30]. A recent Institute of Development Studies paper found that households involved in the vegetable export industry have higher incomes than those not involved, especially in rural areas. Their simulation work suggests that enabling more households to participate in the sector could reduce poverty substantially in both urban and rural areas[31].

The vegetable export industry affects poverty in several ways. First, in Nairobi the exporters employ unskilled or semiskilled women in pack houses to weigh, grade, cut and pack the vegetables. Though these are casual and low paid, they are usually higher than the minimum wages and women rarely have alternative employment. Second, in the rural areas the exporters create substantial employment (i) on their own farms and on contracted farms, and (ii) through the purchase of produce from smallholders. Employment in exporter owned and large commercial vegetable farms is mostly casual and earnings are seasonal, but it assists desperate segments of the population especially landless women with few alternative income sources.

An important trend in the country's horticultural export sector, is that of exporters moving up the value chain by selling value-added products such as ready-to-eat salads directly to major supermarket chains like Marks and Spencer, Tesco and Sainsbury in the UK. One of the major changes in the fresh vegetable chain in recent years has been the transfer of processing activities (including washing, trimming, bar coding, and labelling) from UK importers to African exporters. Direct marketing of vegetables and flowers has led to high returns, which has seen the value of horticultural exports grow much faster than that of volume. In 2001, for instance, the value grew by 43% even though the volume remained at about 99,000 tonnes[32].

This is an important development because it

a] reduces the dependence of Kenyan exporters on basic agricultural product markets in the EU, prices for which are declining partly as a result of the changing patterns of EU agricultural support

b] increases the value of exports thereby making it easier for the exporter to carry the costs of compliance with increasingly strict EU SPS measures.

Fisheries sector

Fish production in Kenya accounts for only about 2% of the non-monetary GDP and 4.4% of the monetary GDP. However, it is a significant source of livelihood and employment for many Kenyans. In 1995, for instance, the Fisheries Department estimated that 798,000 Kenyans were directly or indirectly supported by the sector. The areas with significant fisheries (coast and Lake Victoria) happen to be the areas with the highest poverty rates in the country, underlying the importance of fisheries in those areas. Fish exports account for about 3% of the country's total exports.
In 1995, it was estimated that the EU and Israel jointly took up 75% of the country's fish exports. The EU is an important market for fish, importing a total of 4.3 million tonnes of fishery products in 1999. Fish imports into the EU are strongly influenced by fishing restrictions in the EU due to over-fishing. The EU market has, however, been highly unstable for the Kenyan fish exports since the mid-1990s because of bans on Kenyan fish exports on health grounds (27 November 1996, 23 December 1997, and 26 March 1999). Thus, the share of Kenyan fish exports going to the EU changed as follows over the period: 58% in 1996, 56% in 1997, 36% in 1998, 34% in 1999, 0% in 2000 and 21% in 2001. Kenya lacks scientific and technical capacity to challenge the health bans despite having instituted measures to address the problems identified.

EU Impact

The EU has played a major role in the rapid growth of Kenya's horticultural and fisheries sectors and thus in the support of the poor people who depend on them. In the two sectors, however, the country now faces serious challenges over market access to the EU largely because of the investment costs and institutional infrastructure constraints on compliance and verification of compliance with EU sanitary and phytosanitary standards (SPS) and food safety standards.

Contradicting the EU's support to development in Kenya there is a growing list of policy and regulatory issues that Kenya needs to contend with in order to trade profitably with the EU. It is the SPS measures that are having the biggest impact on Kenya's horticultural and fisheries sectors but other developments are proving equally challenging including:

- Erosion of the value of preferences as a result of CAP reform
- The costs and difficulty of proving compliance with SPS standards
- New and unpredictable market-led standard setting

This report looks briefly at each of these challenges in turn before drawing some preliminary conclusions and identifying priorities for action. Fuller argumentation in relation to the different points is contained in the full version of the Kenya country study.

[30] Quoted in IDS working paper 174, **Export horticulture and poverty in Kenya**, McCulloch and Ota, December 2002 p. 1

[31] ibid

[32] Mwangi (2002) in Ikiara, Ikiara and Odhiambo p. 16

Erosion of the value of trade preferences

The most important sources of this erosion are (i) the process of CAP reform which is leading to a reduction in the prices of basic CAP covered agricultural products; (ii) the EU's conclusion of preferential agreements with a growing number of other countries, and (iii) EU's general reduction of tariffs under the WTO.

Reduction of MFN rates reduces the difference between preferred and un-preferred suppliers and thus increases competition for preferred suppliers. Since the conclusion of the Uruguay Round the EU has reduced its tariffs to an average of 30%, which is three times lower in real terms[33]. For example, the EU had duties on coffee at 5% MFN and 4.5% GSP while Kenya enjoyed duty free status, which were removed in the Uruguay Round. This eliminated the margin of preference the country had. In addition, MFN cuts for fruit, vegetables, and cut flowers reduced the value of preference that the country enjoyed in the EU as a result of increasing competition from other exporters of similar products. The four commodity protocols have also been eroded by factors external to the ACP-EU negotiations.

Non Tariff Barriers to Trade Sanitary and Phytosanitary legislation

Although Kenyan exporters are familiar with the requirements there are problems regarding incomplete phytosanitary documentation or wrong-quality labelling of product, which lead to delays at the port of destination and even product destruction at the exporter's expense.

EU legislation on food safety and hygiene covers all forms of contamination including bacteria, chemicals, pests, glass splinters, and metal pieces among others. The legislation holds the supplier responsible for any food safety problem unless "due diligence" can be demonstrated: detailed procedures and checks to ensure food safety, traceability of product sources, and maintenance of appropriate documentation and records. Maximum limits on pesticide residues and food additives must also be adhered to.

These statutory requirements are accompanied by increasingly stringent requirements of EU supermarkets which are having two major and contrasting effects in Kenya's horticultural industry. On the positive side, the requirements are providing incentives for the large-scale horticultural producers and exporters to move up the value chain. On the negative side, however, the requirements are posing a major challenge to the country's small-scale horticultural producers and exporters as major retailers play safe and buy from large producers rather than small scale farmers.

In general, the way EU standards are set and the process of challenging their legality poses enormous difficulties to Kenya as it lacks adequate technical and negotiating skills. The fact that once one exporter in a country fails to meet the standards affects all exporters from that country is, in particular, very unfair.

Health controls in the EU for fishery products relate to two main areas:

Directive 91/493/EEC on "Health Conditions for the production and placing on the market of fishery products for human consumption". The main requirement under this Directive is that a Competent Authority to ensure food safety must be approved by the EC, which is difficult in countries with weak governments. It is not sufficient to show that individual operators meet the requirements; only if the government can demonstrate that all production and export of fishery products is adequately controlled will a country retain access to the market. Food safety and its regulation is now a highly political issue to the extent that getting a country into the list of approved suppliers does not necessarily end the matter. Some of the stringent directives include safety of water used in food processing, control of use of additives, type of packaging material, and control of use of veterinary medicines (and resultant residues) in farmed fish.

Directive 96/23/EC "On measures to monitor certain substances and residues thereof in live animals and animal products". This Directive requires the countries to submit a Residue Monitoring Programme (RMP) and countries with acceptable RMPs are listed. Kenya has not submitted a RMP and is therefore not permitted to supply any farmed meat or fishery products to the EU.

Due to lack of access to appropriate scientific and technical expertise, the country is also limited in its capacity to demonstrate compliance[34]. Kenya's lack of capacity to comply with or prove compliance of SPS measures will lead to substantial loss of employment, as facing high costs of compliance producers will downsize or close down entirely, especially small horticultural producers and artisanal fishermen. The EU has, over the years, provided resources for compliance capacity building and human resource and institutional capacity development in general, but these have been inadequate.

The recently introduced (April 1 2003) compulsory inspection of all cut flower exports to the EU at the point of entry has introduced considerable costs to

[33] European Commission (EC) Press Release, MEMO/02/296: *Facts and Figures on EU Trade in Agricultural Products: open to trade, open to developing countries,* 16/12/2002.

[34] Noor 2003 in Ikiara, Ikiara and Odhiambo p. 37

Kenyan exporters. The rate charged for inspection is not only high but also doubles during weekends or when it has to be completed within six hours, and is charged on the whole consignment even though the sample inspected is only 20%. The exercise has also introduced delays and bureaucracy in the flower export business. It would be cheaper and far simpler to undertake these inspections at the point of export as previously occurred at the auction sites.

Possible Impact of Regional Economic Partnership Agreements, REPAs

With the entry into force of the Cotonou Agreement, Kenya will lose the non-reciprocal trade preference by January 2008. The country will have to negotiate a reciprocal trade arrangement (economic partnership agreement, EPA) with the EU by then.

Establishing EPAs on a regional basis in east Africa is a complicated issue. A REPA between the EU and the East African Community (EAC) would be problematic since both Uganda and Tanzania are LDCs, which will retain non-reciprocal trade preferences in the EU market, and have little need of an EPA to secure their access to the EU market beyond 2007. Even more importantly, since Uganda and Tanzania compete with Kenya for the EU market for coffee, tea, crude vegetable material and fish (among others), they have no incentive to participate in an arrangement that would benefit a competitor.

Problems will also arise for Uganda and Tanzania as a result of their membership of the East African Community should Kenya seek to sign a bilateral free trade area agreement with the EU. In this case, duty free imports from the EU into Kenya could find their way onto the Tanzanian and Ugandan markets via Kenya and kill their largely infant industries.

For broadly similar reasons, a REPA between the EU and COMESA, to which Kenya also belongs, is unlikely to be supported by all COMESA members.

An EPA between Kenya alone and the EU will be injurious to the country unless it contains substantial non-reciprocity features. Several factors lead to this conclusion:

- Kenya is unlikely to acquire much greater market access into the EU market, through the EPA, than it has been getting from non-reciprocal trade preferences under Lomé due to (i) the fact that there are currently no tariff restrictions on products that Kenya has comparative or competitive advantage in, and (ii) the production and supply capacity limitations that characterize manufacturing and a number of other sectors of the economy.
- An EPA alone will not lead to much attraction of foreign direct investment to Kenya. The experience of other free trade area agreements suggests FDI does not automatically flow following the conclusion of a free trade area agreement with the EU. Such an agreement may be a necessary condition for those developing countries not already enjoying full duty free access to the EU market but it is not a sufficient condition for the promotion of FDI.
- The EPA could lead to de-industrialization of the country. Kenya exports substantial amounts of manufactured products into the COMESA market (of which the EAC is a part). Some EU products, particularly the non-bulky high value products that do not face a major distance disadvantage, could compete with Kenyan products in this regional market under conditions of free trade. This is a particular problem for value added food products given the enhanced price competitiveness of EU exports as a result of the process of CAP reform.
- As liberalisation under the structural adjustment programme (SAP) has demonstrated, Kenya's manufacturing sector is not competitive against manufactures from developed countries and most Asian countries. Kenya has been able to export largely because the trade agreements accord its products preferential access relative to those from outside the region. With an EPA, more competitive consumer products from the EU would enter regional markets thereby shifting consumption demand from regionally produced alternatives. The loss of the important COMESA market could lead to the collapse of industries in the country with enormously adverse implications on employment and poverty reduction. The broad sectors that would suffer most include industrial supplies and other consumer goods, including some food items. The growing shift of Kenya's imports from the EU towards consumables (including food items, new and worn clothing and other worn articles, and embroideries) is reflective of what could happen on an extended basis once an EPA with EU is formed.
- Kenya would lose significant import duty revenue if it signs an EPA with the EU. Since the EU accounts for slightly more than 30% of Kenya's imports, the country would forego substantial revenue if these imports enter the country duty free. Data available shows that in 1997 and 1998, for example, the country collected US$ 248.6 million and US$ 299.7 million, respectively, as taxes on imports from the EU. This accounted for about 10% of the total revenues collected in the country that year. Ignoring the dynamic effects of an EPA, this is the potential revenue loss that the country could suffer annually if it signs the EPA. The balance of payments would also be negatively affected as a result of the effects discussed under the preceding bullets.

Conclusions

The preceding evidence shows that EU policies have benefited some poor people in Kenya; EU trade policies have stimulated the growth of a vibrant and diversified horticultural export industry. However the benefits of the development of the horticultural export industry in Kenya have not been evenly distributed. Our report also shows that small scale producers are being increasingly squeezed out and the negative impacts on the environment and food security are the subject of intense debate. Furthermore, while the industry has created employment opportunities, especially for women, the enforcement of workers' rights in Kenya appears not to have kept up with new market led demands for flexibility[35] .

Overall, growth in Kenya's horticultural industry is under great pressure from increasingly stringent SPS and other requirements. While EU concerns over food safety are understood, small-scale producers and exporters in Kenya lack the capacity to meet the stringent standards imposed. A new EU regulation in particular fixes the minimum residue level (MRL) to “analytical zero”, that is, no traceable pesticide residue in fruits, vegetables and cut flowers. This regulation is likely to cost Kenya the market share it has built over the years because the country’s tropical climate demands frequent pesticide use. This issue needs to be taken up with the EU so that exceptions can be made for pesticides used in tropical agriculture which pose no risk to human health. The cost of compliance with this will therefore be very high for the country, especially for small producers who may be driven out of business. This will be compounded by the fact that knowledge of SPS issues in the government and industry (especially small scale operators) is limited. Furthermore there is no guarantee or control over changes to the risk assessment parameters.

While Kenya and Bangladesh find themselves with different histories and sets of relationships with the EU the main blockage to their development vis-à-vis what the EU can influence, centres on Non Tariff Barriers to trade. Both reports clearly indicate that SPS provisions are already undermining industries in their countries. The effect of the imposition without consultation of EU hygiene regulations on Kenyan and Bangladeshi products in the fisheries sector (and in the case of Kenya also horticulture) is hampering the development of industries in their sectors. In neither case is the need for strict Regulations contested but the high costs of compliance and the relatively high risk that the rules will change arbitrarily and without notice, contribute to preventing investment in these sectors. Although the reports acknowledge that the EU has invested resources in both countries to address these shortcomings these efforts are far below the level required (and far below the level of support available to new EU member states to bring their food processing industries up to the standards applied within the EU).

Brazil Section:[35] Author: Raquel Souza, DESER

Brazil Section: Author: Raquel Souza, DESER

The Brazil study focuses on how EU policies relating to agriculture, export incentives, intellectual property and investment influence the Brazilian dairy sector.

The proposed formation of a free trade area between Mercosur (Argentina, Brazil, Paraguay and Uruguay) and the EU has the potential to bring burdens and benefits, especially in the agricultural sector on which many rural families are dependent. Based on the data of the 1995/96 Farming Census, Brazilian farming is distributed across more than 4.6 million Brazilian properties, about 85% of which are family-based, i.e. relying on the family workforce as the main labour source in terms of both production and management tasks. Furthermore, family agriculture is the largest generator of jobs in the rural environment. According to the study made by FAO/INCRA, of the 17.3 million people employed in the Brazilian rural economy, about 75% work on family properties. Despite generating the highest number of jobs in the rural sector, family agriculture possesses only 30% of the country’s cultivated area, where 64.3% of the family-based farming establishments have 20 hectares at most. Family agriculture contributes around 38% of total production.

Brazilian Agriculture and international trade

Beans, rice, wheat and milk and to a lesser extent maize are produced for the internal market whilst meat, coffee and soya are produced mainly for export. Production of chicken and pork meat has also increased substantially in recent years, again mainly for export. Nevertheless conditions in the external market still have enormous influence on what happens in the internal market and thus on the income and living conditions of agricultural workers.

Although in 2002 Brazil’s trade balance presented a surplus of US$13 billion, between 1990 and 2002, the overall balance of trade was negative due to the formation of Mercosur and to changes in the exchange rates. Overall during the 1990s the total volume of Brazilian exports in relation to world exports was virtually unmoved at around 0.9%.

The main markets to which Brazil exported its agricultural produce in 2002 was the EU (US$9.1 billion) followed by Asia and the Middle East (US$5.7 billion) and NAFTA US$6.65 billion). The main source of imports was Mercosur with the EU exporting less than $1 billion worth of goods in 2002.

[35] For a more detailed examination of these issues and debates see **The Guardian**, 17 May 2003, Growers' market at www.guardian.co.uk/food/focus/story/0,13296,956536,00.html

[36] Noor 2003 in Ikiara, Ikiara and Odhiambo p. 29

[37] European Agricultural and trade policies and their impacts on the production and commercialisation of agricultural products in Brazil, Raquel Souza, DESER, May 2002

Factors regulating trade between Brazil and the EU in the dairy sector

In the case of milk and milk products, although total import volumes have increased, in percentage terms there has been a fall in the EU's market share from 28% in 1990 to 13% of imports in 2002 as a direct result of the formation of Mercosur which enabled a zero tariff level on these products between Mercosur countries. However, the EU's own dairy reforms are aimed at making the EU more competitive by lowering milk prices.

Brazil has restricted access to its internal market in milk and milk products by applying anti dumping measures to EU imports of powdered milk at a 3.9% rate. In general however the Brazilian government has expended more effort on promoting exports than on blocking imports.

Trade preferences granted by the EU

Brazil trades with the EU under the Generalised System of Preferences (GSP). Although Brazil has a Cooperation Agreement with the EU this has not led to an increase in Brazilian exports, mainly due to the system of agricultural subsidies that the EU has in place. In addition, graduated tariffs make it difficult to export higher value added products which hold the greatest interest for Brazil.

Whilst in theory therefore a free trade agreement would benefit Brazil which is a much more competitive producer than the EU, this only holds if agricultural subsidies are removed at the same time and EU agricultural prices are allowed to find their true market level. It is worth noting in any case that increases in Brazilian exports to date have not been to the benefit of the country's farmers but to the benefit of mainly foreign owned agribusinesses.

Impact of European Union policies on the national dairy sector

The policies practised by the EU, both in relation to agriculture through the Common Agricultural Policy and in relation to transnational companies originating in the EU, have been highly damaging to the national dairy sector. It should be noted however that the situation in which the sector finds itself today, as we shall see below, has not arisen entirely from the European Union's policies, but also from a series of local factors which, in combination with the former, enabled the dismantling of the national dairy sector, causing great harm to small milk producers.

According to Melo[38] , the Brazilian farming sector was severely affected in the 1990s by changes in both economic and agricultural policy, among which we can highlight trade liberalisation, with excessive reductions in import tariffs on agricultural products. On one hand, Brazil had already been adopting a unilateral reduction in import tariffs since the start of the 1990s. On the other hand, following the creation of Mercosur in 1995, this process led to zero tariffing within the block, as well as a reduction in the Common External Tariff applied to third countries when compared to the tariff imposed by Brazil before formation of the trade block.

Combined with other factors, this situation led to an increase in imports. As a result, the prices received by family producers fell by 4.7% per year between 1989 and 1999, while the prices received by large-scale producers fell by 2.6% per year[39]. This arose from the fact that the largest reduction in prices was experienced by the products typically produced by family farmers. Among these products, milk underwent the largest reduction in price (about 6.4% p.a.). In this case the reduction was in large part caused by the creation of Mercosur and the process of lowering the Common External Tariff, as well as by the fact that milk is one of the products receiving most subsidies from countries which adopt this kind of practice. According to information from the European Union,[40] in 2001 about 4.5% of the FEOGA-guarantee expenses (European Fund for Agricultural Guidance and Guarantees)[41] was targeted towards milk derived products (about €1.9 billion). In 2003, the prediction is for expenditure to reach 6.0%, or €2.6 billion. Perversely, although the EU has met its obligations towards reducing internal support measures, the EU designed its commitment in such a way that it avoided fundamental change to its support regime. The impact of the EU's internal support policy on the international prices of milk and dairy produce becomes clearer when we note the importance of the block's share of world trade in these products. According to information from the FAO,[42] about 24.2% of world exports in cheese, 7.6% of world exports in butter and 29.2% of world exports in powdered milk originate in the European Union.

Taking into account the fact that the CAP has existed for about 30 years and that until the mid 1990s the EU was the main exporter of dairy produce to Brazil, it is very possible that subsidies to EU dairy products heavily influenced the reduction in the prices paid to Brazilian milk producers.

Although Mercosur become the main supplier of dairy products to Brazil between 1995 and 1996, the EU's policy has still generated problems for milk producers. In first place because many European multinationals have established themselves in countries belonging to Mercosur and have benefited from the competitiveness of these sectors (in Argentina and Uruguay), allied to the zero tariffing for the exportation of these products to Brazil, and the fact that the latter country accounts for about 80% of the South American block's population. In second place, there have been accusa-

[38] MELO, Fernado Homem de. Liberalização commercial e agricultura familiar no Brasil. *In*: Comércio Internacional, segurança alimentar e agricultura familiar. Action Aid Brasil. Rio de Janeiro, September 2001.

[39] Source: Idem 23

[40] Available at http://europa.eu.int/comm/agriccultura/agrist/2002/table_en/indes.htm

[41] Financing mechanism of the Common Agricultural Policy.

[42] Idem 25

tions that companies based in Brazil have been practising a trade triangulation of dairy produce, meaning these companies have imported dairy produce from Mercosur countries which enjoy tariff preferences in their trade with Brazil (in actual fact these products derive from other countries or blocks, among them the European Union). In this case, these companies are exploiting the lower import tariffs of Brazil's Mercosur partners in order to import from third markets and then export from there to Brazil.

The EU's subsidising of its milk production has allowed multinationals, the largest dairy produce importing companies in Brazil, to import milk at a value below the domestic price. A recent Court of Auditor's report into the EU's Export Refund Scheme finds evidence of systematic over compensation of traders. The report found that the Commission did not always have the information necessary to calculate export refunds correctly and the Commission's own analysis of skimmed milk power and whole milk powder price quotations shows that the subsidy exceeded the difference in EU and world market prices for significant periods covered by the audit[43] . The over compensation allows the companies to export dairy produce to third countries at below domestic prices. This stimulates the growth of imports, jeopardizing the country's trade balance. Second, it puts downward pressure on the prices paid to producers, and third it enables the multinationals to establish themselves more competitively on domestic markets in an unfair way, in so far as they possess greater facilities for accessing import credits and extended payment deadlines, as well as having extensive knowledge of the process and best channels for importation. In 2001, the European Union (except Denmark) along with Uruguay and New Zealand were accused and condemned for dumping practices in their milk exports to Brazil between 1998 and 1999, with the application of anti-dumping measures in order to correct the distortions. On the other hand, Mercosur has allowed multinationals from the dairy sector to establish themselves in its member countries, principally Argentina and Uruguay, and to exploit the absence of tariffs in order to place their products on Mercosur's markets. For example, Parmalat, an Italian multinational, inaugurated its most modern factory in Argentina in 1995, with the aim of exporting milk produced in this factory to Brazil.[44]

In the case of transnational industries originating in the European Union, these practically oligopolize – along with North American transnationals – not only the dairy production sector but also the distribution sector through the retail networks, as well as the sector for animal feed and production supplies. This has placed the entire dairy chain in the hands of these companies. As a result, producers face losses in being forced to negotiate prices and work conditions with multinationals, and to negotiate the purchase of supplies for preparing the soil and planting feed crops for their cattle, while small and medium-sized cooperative-based industries who produce milk suffer in having to negotiate with the large-scale retailers in order to have access to their shops.

Foreign Direct Investment

The EU has argued for FDI to be covered by multilateral rules established within the WTO which follow the principle of non-discrimination in relation to foreign external investment (with exceptions for LDCs). As part of this policy, the EU argues that the OECD guidelines for multinational companies must be followed not only by OECD member countries but also by other countries which belong to the WTO, and further, that adequate mechanisms must be developed for evaluating and accompanying the application of these guidelines, as well as publicising the good practices of European companies.

Certainly this entire discourse – permeated with concern for developing countries and in line with OECD recommendations on corporate social responsibility (CSR) – is good for the EU's image, in the same way that social responsibility programs implemented by companies are important to a company's public image. However, it is necessary for this debate to move beyond theory into practice and to ensure that this practice really works towards regulating these investments in a form matching the reality faced by developing countries, rather than seeking to benefit developed countries behind a discourse of fair trade, as has happened with the WTO's Agreement on Agriculture. The promotion of CSR as an alternative to binding corporate accountability failed to deliver the commitment needed in companies' foreign investment performance with many firms treating it as no more than a public relations exercise.

CSR should not be simply another dimension of marketing. This is the case of Parmalat, for example. In Brazil the company develops aid programs for its workers' children, mainly targeted towards their involvement in sports. This program reaches a few hundred youngsters. This is without doubt socially responsible. However, just as important as this attitude are decent working conditions for their producers, which the company has not allowed in excluding thousands of small milk producers from the activity by paying low prices or by making demands absurdly out of keeping with the reality of family-based agriculture. This is why companies cannot be left to regulate themselves and why a binding international regulatory framework for multinational companies, outside the WTO, is necessary[45] .

There is no doubt that investments by transnational companies are positive for the countries involved, since they generate job and wages – as long as they are

[43] Full text of audit is available at http://www.eca.eu.int/en/reports_opinions.htm quoted in **Trade implications of CAP reform Update** 16, June-July 2003, European Research Office

[44] *Revista Exame*, 24/05/95.

[45] This issue is explored in more depth in the ActionAid report **Unlimited Companies** published June 2003. www.actionaid.org

subject to regulation. Regulation prevents these companies from pursuing socially and environmentally predatory activities. Currently regulations in Brazil are in their early stages and therefore as yet mostly ineffective.

In the Cooperation Agreement signed between the EU and Brazil, both parties committed themselves to create stable and favourable conditions for an increase in investments of mutual benefit, involving the promotion of the exchange of information, support for the development of a legal context which favours investment between the parties, as well the promotion of joint enterprises. It is worth stressing that in the case of Brazil and the EU, the flow of investments is one-way – or in other words from the EU to Brazil. Thus it is possible that the intensification of relations between the partners in terms of investment will imply a larger FDI in Brazil than in the EU. The consequence of this for Brazilian farming may be extremely negative in so far as it may intensify the process of oligopolization in certain sectors, such as the milk sector, or initiate this process in other sectors where there is still a competitive market between national companies. For family-based agriculture, this would imply further exclusion.

The deep national recession of the 1980s, due to national government policies, had a massive impact on the structure and competitiveness of the Brazilian dairy industry but it affected multinationals less. They were then able to exploit the crisis in the national sector and acquire cooperatives and national companies. Of the nine cooperative groups set up in the 1970s only one remains in operation today.

The most active company in this activity was Parmalat. It acquired 27 companies between 1989 and 2000. The commercial opening in Brazil and the entry of multinationals has influenced the prices paid by both consumers and producers (see table below)

and the need for differentiation transformed the local landscape. Market led demands together with the search for new quality standards have squeezed small milk producers who cannot afford the investments to meet the new standards.

This process has led to the exclusion of thousands of small milk producers lacking the resources to meet this new standard. On the other hand, it has enabled an increase in productivity among those who remain as they become increasingly more specialized in the activity. Between 1996 and 2002, four of the largest companies from the sector excluded about 70,000 producers, obtaining a 15% growth in production[46]. In this process, the company Parmalat alone excluded 23,200 producers between 1996 and 2002, losing out only to Nestlé, which excluded 32,000 producers. Even so, Parmalat obtained an increase in production of about 19% in the period mentioned.

As well as reducing the number of producers, Parmalat has pressurized producers to adopt refrigerators, or expansion tanks, with the idea of raising the price of the product by R$ 0.02 per litre[47]. If we consider that a refrigerator tank costs about R$ 5,000.00 and that the producers deliver on average 50 litres/day[48], these producers will take about 13.6 years to pay for the equipment. This without taking into account the fact the price of milk varies considerably, such that during various periods it would mean a lot for producers to assign R$ 0.02 per litre to pay for the refrigerator. There is also evidence that Parmalat is pressurizing producers to buy certain brands of refrigerator in which it has sales partnerships.[49]

Intermediation in the purchase of refrigerators is one of Parmalat's strategies, which has meant the endebting of associated producers. In this process, the company provides credit to the producer while the latter is committed to paying the instalments with the resources coming from milk sales.

Year	Prices received by producers (R$) [2]	Prices paid by consumers (R$) [2]	Share of the price received by the producer in the price of the final product (%)	Imports (millions of litres)
1989	40,7	34,8	29,2	31,7
1992	0,03	0,14	0,23	0,31
1994	21,8	39,1	39,9	41,4
1995	-	0,5	2,1	0,8
1996	3,61	3,61	2,85	3,30
1999	16,29	13,48	14,24	17,99
2000	17,57	8,37	11,48	4,5
2001	**100,0**	**100,0**	**100,0**	**100,0**
2002				

Table 4 – Price Received by the Producer and Paid by the Consumer for C-Type Pasteurized Milk in the State of Minas Gerais – Brazil • Source: FAEMG/SMAA/PJF.

Notes: 1. The State of Minas Gerais is the largest producer of milk in Brazil, therefore roughly demonstrating the trend in the country as a whole.
2. Prices corrected by the IGP-DI for November 2002 (R$/litre). Base: August/1994 = 100.

[46] Leite Brasil.

[47] This has happened in the State of Rio Grande do Sul, an important area of dairy farming for Parmalat. In this State alone, the company is responsible for 25% of the milk collected.

[48] 50 litres/day was used as an example as, according to the study "Avaliação de programas de assistência técnica no setor leiteiro: um estudo de caso do departamento de assistência técnica ao produtor Parmalat," about half of the producers who deliver milk to the company produce less than 50 litres/day.

[49] According to information contained in the *Jornal Gazeta Mercantil* of 05/05/2000 and in the statements of producers interviewed in the regions of Ibirubá and Três Passos (Rio Grande do Sul) in March 2003.

As a result, the instalment is debited from the total payment before the company actually pays the producer. An aggravating factor in this situation is that the monthly prices are set by Parmalat itself, since no formal contract exists between producer and company regulating at least a minimum value to be paid, or guaranteeing the producer any type of rights. Consequently, the producer becomes dependent on the company and subject to the price it imposes, without the freedom to opt to market the product with other companies.

In the case of Brazil, about 80% of the milk producing establishments are family agriculturists[50], and 52% of the GPV (Gross Production Value) of dairy activity is obtained through the production of these establishments. Family agriculture[51] in Brazil is characterized by its diversity. The properties produce various crops, part of these crops are used for self-consumption while the rest is destined for the market. Milk production comprises an activity complementing the others whereby crops already existing on the property are used to feed the dairy cattle. This keeps expenses low and allows the milk exceeding family consumption to be sold, generating income for the families. In other words, milk produced on family properties has a low cost, since its production depends on factors already existing at the property. At the same time, as milk production is a continuous activity, it generates a monthly income, which is of great importance to the families. In general, producers use this income to pay for the expenses required in maintaining the family.

For many small farmers for whom milk is but one component of their income it is simply uneconomic to invest in the necessary improvements which in any case are tied to contracts with Parmalat through its investment in equipment companies.

Another example of Parmalat's predatory practices is exemplified by its activity in the region of Carambeí, in the State of Paraná. in this region, Parmalat acquired 51% of the largest cooperative of producers in the State, the CCLPL (Batavo). According to statements,[52] the change in control of the cooperative led to the prices paid to producers in the period falling from R$ 0.32 to R$ 0.27.

Conclusions

The main beneficiaries of increased agricultural trade between Brazil and the EU are the agroindustries (most of which are foreign owned) and the profits made in international trade have only rarely been passed on effectively to producers, as has happened with soya. In many sectors, oligopolization has meant that prices to producers have been pushed downwards, while profits are kept by the industry. For Brazilian family agriculture, the biggest problem following increased exposure to European competition lies in the continuance of the policy of agricultural subsidies, along with the intensification of investments by multinationals in Brazil. This process allows agroindustrial concentration at various levels of production, meaning a low bargaining power for producers vis-à-vis the industries in terms of contracts and prices.

There are clear public policy choices to be made by the Brazilian government in terms of what action to take that would support the incomes and development of small scale farmers. It is clear that the big companies would prefer that EU standards apply domestically since they can then more easily and cheaply comply. At the same time, this will limit the opportunities for small scale dairies that want to market nationally.

The EU should consider the role of export subsidies in driving the expansion of companies like Parmalat and it should look at the current provisions governing CSR and reassess whether a binding set of rules would be more appropriate to achieve the goal of poverty eradication rather than voluntary codes of conduct as are in application currently.

In addition, the Brazilian government may need to introduce a strong competition policy focusing on the abuse of a dominant market position to address the adverse effects of oligopolistic control on small scale producers.

Pushing producers into specialisation brings them higher costs for little real gain.

Parmalat proposed that the Frederich family who farm in the region of Ibirubá (Rio Grande del Sur) buy expansion tanks financed by the company itself. According to Elaine, "the profit which we were going to make was set to pay for the 36 instalments, meaning no profit would be left over, it would only pay for the refrigerator, but this wouldn't work out either as although we sell milk, it isn't our only business." In the words of Baldur, "when the price of milk has to be raised they say it's a bonus, then when they have to lower it they reduce the bonus, but leave the price as it is. They take from some and pass it to others, from the smallest to the biggest, then when the small producer realizes he's receiving less, they raise it a little, but then they are just taking it away from someone else." The family stopped delivering milk to Parmalat and joined the cooperative system, immediately receiving about R$ 0.07 more per litre. The producer Baldur Frederich declared that in a conversation with representatives from Parmalat he heard that "(...) they're not bothered about receiving milk from those who sell little, they want those who produce a lot more so they can reduce the price."

[50] Farming Census 1995/1996, special tabulation FAO/INCRA.

[51] Family agriculture: agriculture undertaken on small properties, whose productive workforce is almost exclusively the family itself.

[52] *Jornal Gazeta Mercantil*, 07/04/1998.

PART III
Findings

This section examines the findings of the research in more detail in particular highlighting instances of incoherent or poorly considered public policies and the subsequent costs to poor people of the disjointed application of EU policies. It concludes with specific recommendations that the EU should address to increase its total positive impact on poor people in developing countries.

The Bangladesh chapter concludes generally that donors' weak analysis of the causes of poverty limits the impact that they can have in general. More specifically, the chapter identifies actions that the EU should take with respect to its Rules of Origin that would enhance significantly the benefits of the Everything But Arms concession and provide opportunities for Bangladesh once the Multi Fibre Agreement expires in 2005. Third, the chapter addresses the SPS measures that block opportunities for potential exporters and which are a common theme in both Bangladesh and Kenya.

The Kenya chapter finds that development support to Kenya is being undermined by food safety and other standards the that EU has put in place and interpreted in an inflexible way. It points out that the EU played a major role in the growth of Kenya's horticultural and fisheries industries both of which play a major role in supporting the livelihoods of poor people even if there are a series of outstanding issues surrounding their environmental and social impact. Yet at the same time, in the two sectors the country now faces serious challenges over market access to the EU largely because of substantial resource and infrastructure constraints to compliance and verification of compliance with SPS and food safety standards.

The EU's tightening of pesticide maximum residue limits (MRLs), the increasing importance of irrigation in horticultural production for export, and the cost of collecting output from multiple small producers have all contributed to smallholders being squeezed out of the development in these sectors.

The chapter claims that Kenya's lack of capacity to comply or prove compliance with SPS measures will lead to a substantial loss of employment, as facing high costs of compliance producers will downsize or close down entirely, especially small horticultural producers and artisanal fishermen.

Uncertainty associated with frequent and unpredictable changes of standards and other market access conditions in the EU (for example the introduction on April 1 2003 of compulsory inspections of flower exports at the point of entry) is also a major challenge facing the country's exporters.

The control of the horticultural and fish value chains by large supermarkets and importers in Europe (cf. market led restrictions emanating from the UK retailers) means that most of the profits are retained in the EU. For instance, while a kilo of Nile perch retails for as much as $14-17 in the EU, exporters in Kenya get less than $4 per kilo which then has to be divided between the exporters, the boat owners and the fishermen[53].

Finally, the EU's trade policy is eroding the value of trade preferences that the country has been enjoying. The loss of non-reciprocal trade preferences and their replacement with the proposed economic partnership agreements (EPAs) will affect Kenya considerably. The country can only retain duty-free access for its exports into the EU at the cost of exposing its relatively weaker manufacturing sector (and thus the increasingly important COMESA market) to EU competition, which would certainly kill it. EU's increasingly generous trade preferences to non-ACP countries and commitments within the multilateral trade framework (WTO) have also contributed substantially to the erosion of preferential margins for Kenyan products. This is being compounded by a process of CAP reform which is reducing the value of existing trade preferences on CAP covered agricultural commodities.

The Brazil chapter shows how the bilateral cooperation agreements between Latin American countries and the EU which include sustainable development as one of their aims, do not sit comfortably alongside the Common Agricultural Policy the impact of which is felt by thousands of small rural producers and which has contributed to the rise in poverty in rural regions. This is without taking into account the additional fact that European multinationals also contribute to rural poverty through the prices and work conditions they impose on small producers.

Recommendations

General

1. The InterGovernmental Conference must clarify the role of development in the EU's external strategy and make it beyond doubt that the fight against poverty to which the EU is committed will not be eclipsed by other policies - trade, security or other - that the EU is also interested in pursuing.

2. The EU should use its position and influence in international fora to encourage OECD member countries to enshrine their commitment to policy coherence in their respective national laws and to take account of this commitment in defining national policies with an international dimension.

3. The European Commission, responsible for implementing EU policy, should elaborate a uniform process for developing country strategy papers across all geographical regions ensuring that all Commission services whose activities impact on development are involved in the initial planning stages. This should include representatives from Directorates General Agriculture, Fisheries, Public Health and Consumer

[53] Personal communication with an official of the Fish Processors and Exporters Association of Kenya.

Protection. A record of these discussions should be attached to the draft country strategy for subsequent discussions in the Commission and among Member States.

4. Country desks/delegations leading the process should clearly indicate how coherence related comments have been taken into consideration regardless of whether they have resulted in amendments to the final strategy paper.

5. The Commission should apply the same "coherence criteria" to all developing countries regardless of whether the geographical desks are in DG development or external relations.

Bangladesh

1. The EU should introduce realistic, flexible and simplified Rules of Origin to match the industrial capacity of LDCs to enable them to raise their market share in world trade.

2. The EU should create a "Complementary Support Fund" as an add-on to the EBA to stimulate LDC efforts to access the potential opportunities stemming from the initiative.

3. The EU should take energetic steps to encourage WTO members to develop a global initiative to provide global zero-tariff, zero-quota access for the products of LDCs. Without such an initiative the benefits will accrue only to a few countries whereas non-reciprocal preferential trade liberalisation targeted at LDCs is likely to entail significant gains for beneficiary countries coupled with negligible losses for the donor and third countries.

4. The EU should act to support Bangladesh to adapt following the termination of the MultiFibre Agreement in 2005.

Kenya

1. The EU should work within the WTO to ensure provision for less than full reciprocity in EPAs. This would include the flexibility for developing countries to protect their domestic industries from external competition (which is consistent with the WTO's Doha Ministerial Declaration). In this respect, the relevant provisions of Article XXVIII bis of GATT 1994 affirm "the needs of less-developed countries for a more flexible use of tariff protection to assist their economic development and the special needs of these countries to maintain tariffs for revenue purposes". To this end, ActionAid Alliance supports the call from ACP countries to the WTO to enable them to decide their own rate, pace and scope of liberalisation.

2. The EU should engage in an ongoing dialogue with its ACP trading partners, within the Cotonou Agreement Framework, regarding its hygiene/food safety and environmental rules and agree a framework and timeframe for dispute settlement.

3. The EU should support producers' organisations financially and technically in meeting international standards with a particular emphasis on the needs of small scale producers. The EU already provides considerable assistance in this regard but this needs to be increased and more effectively targeted at small scale producers. Areas in which capacity building is required include compliance and ability to demonstrate it, negotiation skills and capacity, access to market and other trade information, and export supply capacity. Specific and targeted assistance should also be given to developing countries that are heavily reliant on one or two commodities and which rely on the high EU internal price.

4. The EU should address the process of preference erosion through the introduction of "compensatory trade measures" designed to remove residual market access restrictions on those agricultural products of potential export interest to Kenya.

5. The EU should help to establish inspection facilities at the point of export to reduce frustrations, delays and the heavy costs arising from inspection at the point of entry of the products in the EU.

Brazil

1. The EU should support the establishment of a binding international regulatory framework on multinational corporations, outside the WTO, that will strengthen the ability of developing countries to manage foreign investment to the benefit of the poor.

2. The EU should support the Brazilian Government in developing a competition policy which focuses on the abuse of a dominant market position to address the adverse consequences for small scale producers arising from the increasing tendency towards oligopolistic control of agro-processing activities in Brazil.

3. The EU should adopt administrative arrangements for the regulation of exports of dairy products designed to halt "triangular trade" by linking final export refund payments to the verified arrival and utilisation of milk products in the country of destination of the scheduled exports.

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For further information contact **info@actionaidalliance.org** or visit **www.actionaidalliance.org**

ACTIONAID ALLIANCE
10 rue de la Science
1000 Bruxelles, Belgique
Tel 32 2 503 24 22
Fax 32 2 502 62 03
info@actionaidalliance.org
www.actionaidalliance.org

ACTIONAID
Hamlyn House
MacDonald Road
London N19 5PG, United Kingdom
Tel 44 20 7561 7561
Fax 44 20 7263 4613
mail@actionaid.org.uk
www.actionaid.org

ACTIONAID HELLAS
1 Amynda Street
11635 Pagrati
Athens, Greece
Tel 30 210 724 87 89
Fax 30 210 724 34 49
mail@actionaid.gr
www.actionaid.gr

ACTIONAID IRELAND
Unity Buildings 16/17
Lower O' Connell Street
Dublin 1 – Republic of Ireland
Tel 353 1 87 87 911
Fax 353 1 87 86 245
info@actionaidireland.org
www.actionaidireland.org

AIDE ET ACTION
53 Boulevard de Charonne
75545 Paris Cedex 11
Tel 33 1 55 25 70 00
Fax 33 1 55 25 70 29
info@aide-et-action.org
www.aide-et-action.org

AYUDA EN ACCION
C/ Infantas, 38
28004 Madrid, Spain
Tel 34 91 522 60 60
Fax 34 91 532 84 02
www.ayudaenaccion.org
informacion@ayudaenaccion.org

AZIONE AIUTO
Via Broggi, 19
20129 Milano
Tel 39 02 742001
Fax 39 02 29537373
info@azioneaiuto.it
www.azioneaiuto.it

PHOTOGRAPH : Gidon Mendel

ActionAid Alliance's mission is to work with poor and marginalized people to eradicate poverty by overcoming the injustice and inequity that cause it. We aim to do this by working towards empowering and supporting poor and voiceless people so that they can make their own choices and satisfy their basic needs.