# NEGOTIATING A COMPREHENSIVE LONG-TERM RELATIONSHIP BETWEEN SOUTH AFRICA AND THE EUROPEAN UNION: FROM FREE TRADE TO TRADE AND DEVELOPMENT

THESIS

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# LIST OF ABBREVIATIONS

| | |
|---|---|
| ACP | African, Caribbean and Pacific States |
| ANC | African National Congress |
| AWEPA | Association of West European Parliamentarians for Action against Apartheid |
| BC-Net | Business Co-operation Network |
| Benelux | Belgium, The Netherlands and Luxembourg |
| BLNS | Botswana, Lesotho, Namibia and Swaziland |
| CAP | Common Agricultural Policy |
| CMA | Common Monetary Area |
| CODESA | Convention for a Democratic South Africa |
| CSFP | Common Security and Foreign Policy |
| DFA | Department of Foreign Affairs |
| DTI | Department of Trade and Industry |
| EAGGF | European Agricultural Guidance and Guarantee Fund |
| EC | European Community |
| ECDPM | European Centre for Development Policy Management |
| ECIP | European Community Investment Partners |
| ECOMSA | EC Observer Mission to South Africa |
| ECSC | European Coal and Steel Community |
| ECU | European Currency Unit |
| EDF | European Development Fund |
| EEC | European Economic Community |
| EMU | Economic and Monetary Union |
| EPC | European Political Co-operation |
| EU | European Union |
| Euratom | European Atomic Energy Community |
| FES | Friedrich Ebert Stiftung |
| FGD | Foundation for Global Dialogue |
| FLS | Front-line States |
| FTA | Free Trade Agreement |
| GATS | General Agreement on Trade and Services |

| | |
|---|---|
| GATT | General Agreement on Tariffs and Trade |
| IMF | International Monetary Fund |
| LDCs | Least Developed Countries |
| MFN | Most Favoured Nation Status |
| NICs | Newly Industrialised Countries |
| NTB | Non Tariff Barriers |
| OCT | Overseas Countries or Territories |
| ODA | British Overseas Development Administration |
| ODI | Overseas Development Institute |
| SA | South Africa |
| SADC | Southern African Development Community |
| SADCC | Southern Africa Development Co-ordination Conference |
| SADF | South African Defence Force |
| SME | Small and Medium sized Enterprises |
| UN | United Nations |
| UNCTAD | United Nations Conference on Trade and Development |
| WTO | World Trade Organisation |

## ABSTRACT

On 10 May 1994 the European Union offered South Africa a package of measures to *...send a strong political signal to the incoming government and to the South African population, thus proving its firm determination to support the transition towards democracy and its willingness to contribute to the reconstruction and economic development of South Africa after the elections.* This package consisted of two parts:

1. A series of short term implementations to take place with immediate effect to help South Africa's development and transition, and

2. An offer to negotiate a comprehensive long-term relationship with South Africa should the new government so request.

South Africa accepted the European Union's offer to negotiate a long-term relationship, and in response requested membership of the structure governing the Union's relations with the rest of the countries in Sub-Saharan Africa and some countries in the Caribbean and Pacific, namely the Lomé Convention. Due to various incompatibilities South Africa was not allowed to join this organisation. In its place the European Union offered to negotiate an agreement with South Africa that would lead to a Free Trade Area. This agreement was in keeping with the rules as laid down by the World Trade Organisation. It envisaged the lowering of tariffs and trade barriers between the Union and South Africa over a period not exceeding 12 years, allowing for asymmetry in terms of time constraints in implementation only. South Africa saw this type of agreement as inconsistent with the desire expressed by the European Union to support the countries development and the integration of the Southern African region. In its place the South Africa proposed a new concept in trade agreement, this concept, known as the Trade and Development Agreement, embodied both trade liberalisation and support for development. This agreement would introduce a new paradigm of thought to govern trade between developed countries and developing countries within the World Trade Organisation's rules.

This paper explores the events that unfolded in these negotiations. It attempts to discover whether, in the current global environment, it is possible, or beneficial, for the developed world to act in an altruistic manner towards another state in order to assist its development.

# PREAMBLE

This research covers the time frame of the negotiation process to formulate a long-term comprehensive relationship between South Africa and the European Union from its inception in 1994 to the re-opening of negotiations in January 1997.

The first part of the title: Negotiating a Comprehensive Long-term Relationship Between South Africa and the European Union is taken from the European Union's Luxembourg Declaration to ...*offer to negotiate a comprehensive long-term relationship with South Africa should the new government so request* (European Council 6294/94Article 2: 5-6). The second part of the title: From Free Trade to Trade and Development is taken from the offer of the European Union to negotiate a *Free Trade Agreement* and the development of a South African negotiating mandate to form a *Trade and Development Agreement*.

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No nation was ever ruined by trade.

(Benjamin Franklin)

That trade's proud empire hastes to swift decay,

As ocean sweeps the laboured mole away,

While self-dependent power can time defy,

As rocks resist the billows and the sky.

(Samuel Johnson)

# CHAPTER 1

## INTRODUCTION

Trade between countries in the North and those in the South,[1] in the post-colonial era, has been highly disproportionate, facing large inequalities in balance of payments and balance of trade. The countries of the South have not been able to break their colonial mould, and have been unable to either develop or diversify their economies. The typical situation that presents itself is one where the countries of the North buy raw materials, primary products and agricultural produce from the countries of the South. In return the countries of the South buy manufactured goods and an increasing amount of services from the countries of the North. This leads to substantial trade deficits for the countries of the South, as the manufactured goods they are buying are a lot more expensive than the primary products they are selling. This phenomena has been tackled by a group of theorists within a framework known as Globalism.[2] The starting point of analysis in this approach is the *global context within which states and other entities interact.* The Globalists outline four key points that guide their thinking:

1. Globalists emphasise the overall structure of the international system, believing that in order to explain behaviour, one must first grasp the essence of the global environment within which such behaviour takes place.
2. The importance of historical analysis is also stressed. It is only through tracing the historical evolution of the system that it is possible to understand its current structure. In

doing so the globalists recognise the current international system as a whole as capitalist, and that the international actors have to act within this realm. This particular economic system works to the benefit of some individuals, states and societies, but at the expense of others. Even socialist states have to operate within this global system.

3. Globalists assume that a particular *mechanism of domination* exists that keeps Third World (sic) states from developing and that contributes to world wide uneven development. To understand these mechanisms requires an examination of dependency relations between the northern industrialised states and their poorer neighbours in the southern hemisphere.

4. Finally, globalists assume that *economic factors* are absolutely critical in explaining the evolution and the functioning of the world capitalist system and the relegation of Third World (sic) states to a subordinate position.

(Viotti and Kauppi 1993: 9-11)

The case of South Africa's relations with the European Union is interesting to examine following the guidelines set out by the Globalists. After the breakdown of apartheid in South Africa, and the installation of a new democratic regime, the country has sought closer trade relations with the developed world. This follows years of classification as a pariah state under the abhorrent policies of the apartheid regime. During this period the South African economy suffered tremendously, and was actively sanctioned by the global community. This burden now has to be carried by the new government, who has sought international support to help successfully work off the apartheid legacy. Included in this is the development of a closer trading relationship with the European Union, which as South Africa's largest trading partner, accounts for 49% of her exports and 47% of her imports (Stewart 1996: 26). On the day of

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[1] North refers to those countries primarily in the northern hemisphere that have developed economies based on manufactured products and services. South refers to those countries primarily found in the southern hemisphere, whose economies are undeveloped and are based on primary products or single products.

[2] The term *Globalism* is used to refer to that group of international theorists drawing on the influence of Karl Marx. *Globalism* is used in preference to *Marxism* as there are both Marxists and non-Marxists working within the paradigm of Globalism. The *Dependency* theorists and *world system theories* are included in the broader term of Globalism.

the inauguration of the new South African President, Mr. Nelson Mandela, the EU offered SA a package of measures to develop closer relations, as a symbol of their support for the new government. Included in this package was the offer of a short term trade agreement under which South Africa would get a small amount of preferential access to the EU market. More importantly the package included an offer to negotiate a longer term and more comprehensive trade agreement.

When the offer of this package was conceptualised within the European Union, the reasoning behind offering SA this support was to

> ...send a strong political signal to the incoming government and to the South African population, thus proving its (the EU's) firm determination to support the transition towards democracy and its willingness to contribute to the reconstruction and economic development of South Africa after the elections.
>
> (Article 1, European Council 6294/94: 5)

Two years later (in January 1997) the two parties have not made any concrete moves to establish a medium to long term trade and development relationship. The process has been marred by various stumbling blocks inhibiting both parties from reaching an amicable agreement. What became known as South Africa's *window of opportunity*[3] in the aftermath of apartheid, has now practically closed. The country is now finding it increasingly difficult to get the international support it requires. The likelihood of a trade agreement with the EU that is beneficial to South Africa is steadily decreasing.

[3] The *window of opportunity* was a term used to refer to the period when the world opened its arms to the new South Africa. This period was characterised by offers of closer relations to assist South Africa's development by various countries in the world.

This paper examines the process of these negotiations as a case study of the development of a North-South trade agreement under the guidelines laid down by Globalism. It traces the relationship between the EU and SA from shortly before the 1994 elections to the present (January 1997), examining the factors that contributed to this process. The central question is whether the international system, as it exists, will allow for the altruistic behaviour of states - or in this case, regions. That is, will Europe be able to follow up on its rhetorical support for the development of South Africa? For the purpose of this paper the EU[4] will be treated as a single entity, that is, the negotiations are viewed as taking place between two parties: The European Union and South Africa. The influences of the individual member states will be taken into account, as will the influences of the Southern African states on a South African negotiating position.

In conducting an analysis of a North-South trade relationship under the theoretical guidelines laid down by the globalists it is important to first describe the global context in which such a relationship exists. Here the global context is examined briefly in order to locate both the EU and South Africa's positions in the global economy. More specifically, the context of the EU's relations with other developing countries is examined, focusing on the Lomé Convention: the institutional framework that governs trade and development relations between the EU and a group of 70 developing countries.

The historical background analysis as set out in point 2 of the Globalist guidelines is discussed in brief, but is not the focus of this paper. The histories of the two negotiating parties are taken as a given. Instead, an historical look at the relations of the EU with the Lomé signatories is the subject of closer examination as it impacts integrally on the relations between

[4] The term European Community was replaced by the European Union after the signing of the Treaty of Maastricht. This paper makes primary use of the term European Union, although the older European

the two parties. Further, the events that have transpired recently, with regard to the South African negotiating position, indicate that the EU-SA agreement could impact heavily on the future of the Lomé Convention. This double edged nature of the relationship is also discussed.

Finally, point 4 of the Globalist guidelines assumes that *economic factors* are critical in explaining the subordinate position of the developing States within the world system. For this reason this paper deals primarily with economic factors mentioning other areas of EU-SA and North-South relations in brief.

### 1.1.1 Creating the Framework - the global environment

The global environment that presents itself to the case study is one which has been facing, and has recently emerged from, a dramatic period of transition. With the end of the Cold War in the early 1990s, what George Bush referred to as the New World Order changed the paradigm within which states interacted, as well as the units of power in global interaction. The Cold War concept of *high* vs *low* politics - where geo-strategic and security issues based on military might (*high*) were seen as more important than geo-economics focusing on trade and economic interaction and power (*low*) - has been reversed. In essence, economic factors are rapidly taking precedent over strategic issues, especially as the nature of conflict moves from inter-state to intra-state.

The end of the Cold War also allowed the United States to take on the role of global hegemon. This role applied to both the military and security power of the US, as well as to economic might. The counter-weight to this was an emphasis on regional integration and regional trading bases. What developed were three large, powerful, regional trading blocs that

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Community is also used on occasion.

dominated the global economy. These were the North American Free Trade Area (NAFTA), the European Union and the East Asian-Pacific rim countries. These three regions dominated global trade and between them competed fiercely to command it. The levels of integration, and the nature of these three blocs, were not the same. The EU was by far the most integrated of the three, sharing a common market that foresaw the implementation of a common currency by 1999. NAFTA was a free trade area, under the conditions laid down by the World Trade Organisation (WTO), while the Asian-Pacific rim countries formed a bloc that included the so called Asian Tigers[5] and Japan. In this global economic battle the availability of markets was paramount. The trading blocs attempted to forge links with individual states in order to gain preferential access to their markets, thereby having an established advantage over their competitors.

While this global division into trading blocs is important in understanding the nature of the global system, perhaps a more important development, in the post-Cold War world, for this case study, was the breakdown of the Soviet Union, and the emergence of a development crisis in Eastern Europe. The ACP group's previously held vantage point with the EU had been drastically undermined from 1990 to 1996, as the EU experienced the direct effects of their undeveloped, and conflict stricken neighbours in Eastern Europe. EU development aid, and the focus of the EU development community, shifted to this area of contention that was more relevant to them. This served to further marginalise the African states, apparent in more than just the economic assistance given to Eastern Europe: The lack of support from the international community with regard to the Rwandan and Burundese genocidal conflicts is dishonourable in the face of the amount of support and money spent by NATO and other Northern organisations on the Peacekeeping missions in the former Yugoslavia. The EU

[5] The Asian Tigers is the name given to a group of four states: Hong Kong, South Korea, Singapore and Taiwan); that experienced extremely high rates of growth in the 1980s.

significantly side-lined the ACP after the end of the Cold War and the outbreak of conflict in Eastern Europe in the early to mid 1990s. With regard to the South African situation, much of the support that the country would have received from the EU, as well as from the rest of the developed world, was redirected to Eastern Europe.

The existence of international bodies regulating trade also has to be considered. The World Trade Organisation (WTO) came into being in January 1995 to replace the General Agreement on Tariffs and Trade (GATT). *The WTO is the legal and institutional foundation of the multilateral trading system It provides the principal contractual obligations determining how governments frame and implement domestic trade legislation and regulations. And it is the platform on which trade relations among countries evolve through collective debate, negotiation and adjudication* (The Foundations of the World Trading System: http://www.wto.org). The WTO did not merely replace the GATT, but reformed it in many ways. For example, the WTO acts more along the lines of an international trade policy policeman than the GATT did. The WTO was agreed upon in the Uruguay round of the GATT in December 1993, and much of it was derived directly from the GATT. As a founding member of the GATT South Africa was classified as a *developed* country. This classification means that the country is treated in the same manner as any other developed northern economy. Since the inception of the GATT in 1947 South Africa's developmental status has declined, and in terms of the current standards of development, South Africa should fit in somewhere in the middle income category. A formal re-classification of South Africa's status is unlikely to occur, however, and the country will just have to work within this allocation.

More importantly, the WTO establishes strict guidelines for the establishment of Free Trade Areas (FTA) and acts as a forum for multilateral trade negotiations. These guidelines govern what a FTA should entail, and the amount of trade it should cover. It also stipulates that

FTA's have to be reciprocal in nature, and are not allowed to cause trade discrimination against other country's with similar economies. If a trade agreement between South Africa and the EU is classified as a FTA it will have to conform to these guidelines, and South Africa will not be able to receive any of the special treatment that the WTO allows for developing countries. At most, South Africa would be able to apply for an asymmetrical approach to a FTA with regard to timing only. This would not be that great an achievement as the rules of the WTO (as stated in Article XXIV) state that the maximum period of implementation for a FTA is 12 years.

An area of bargaining power that South Africa would have is UNCTAD, an organisation set up to promote global trade that enhances and supports development. At the time of the EU-SA negotiations South Africa held the chair of this organisation. One purpose of UNCTAD is to unite the South in a way in which they could stand together and be strong, this being the only means of influencing the policies of international organisations that were controlled largely by the North.

Internal economic problems and a recession within the EU also need to be mentioned. The post-Maastricht European Union was aiming at increased integration in Europe, and the implementation of a single currency, the "euro", by 1999 at the latest. This aspiration required strict fiscal discipline by EU member states to bring their economies and currencies up to the standard required for their inclusion in the single currency. This further prevented much altruism when it came to helping the development of third parties.

Another of the EU's concerns was the issue of expansion. The post-Cold War Europe has seen many of the Central and Eastern European countries applying to be included in the EU. Already the organisation had grown to 15 members, and the waiting list is growing constantly. The most likely candidates for inclusion in the EU are Poland and the Czech Republic, both of

which have largely agriculturally based economies that would be a tremendous burden on the Common Agricultural Policy (CAP) of the EU. For this reason any added competition from South African agricultural produce would have compounded this problem. The expansion of the EU also carried other costs that may have prevented the EU from acting in a very charitable fashion with regard to a trade agreement with SA.

### 1.1.2. Historical Analysis

Any historical analysis involving South Africa is necessarily dominated by the policy of apartheid; the policy of institutionalised racism of the National Party that lasted for 40 years in South Africa finally ending with the democratic elections in April 1994. Apartheid left a deep scar in South Africa, a scar that was looking increasingly difficult for the new African National Congress (ANC) dominated government of national unity to hide. Apartheid had acquired Pariah status for South Africa, causing the United Nations General Assembly to call for comprehensive sanctions from the 1950s. International opinion was strongly divided on the issue of South Africa, and this fact was extenuated by the Cold War, in which South Africa formed a strategic alliance with the West. The country used this geo-political playing card to its best advantage, and managed to avoid comprehensive United Nations Security Council sanctions. However, the Security Council did institute a mandatory arms embargo against the country in November 1977.

The most significant impact of South Africa's historical background was the nature of the economy that had developed under the auspices of apartheid. With the threat of comprehensive international sanctions constantly looming the Nationalist government adopted an inward looking policy for the country. The idea was to make South Africa into a self-sufficient entity. Heavy protectionist barriers were set up to develop South African industries,

including a number of large, expensive state sponsored experiments. Trade barriers were set up to protect already established industries, and to promote their products within the country. Control boards set the prices and quotas of production for all agricultural produce, as well as in some manufacturing industries. The value of the currency was also protected, and the Rand carried a highly inflated value.

This has resulted in an extremely inefficient productive sector in South Africa today, with a number of large, unviable, parastatal industries that are too expensive to run, but also too big to close down without having a massive negative impact on employment. The manufacturing sector in general is inefficient and generally unable to compete effectively on the global market. Along with this, the South African economy never developed much beyond its colonial origins. The majority of South Africa's exports were raw minerals, gold being the primary export earner. Today the value of the Rand has dropped dramatically since the new government has come into power and certain controls, that previously boosted the currency's value, have been relaxed.

Historically, the EU and South Africa have never had formal trading relations. Under the GATT, the EU and SA both had to extend most favoured nation status (MFN)[6] to the other. This principle no longer applied to trade between the two parties during the apartheid period, when the EU's policy of condemning apartheid prompted it to impose economic sanctions on SA. Yet the EU never reached consensus on the issue of sanctions against South Africa, for apartheid had managed to divide even the European Community. Thus, it was not until 1986 that the European Community adopted a moderate package of sanctions against South Africa. This package included sanctions of four types: economic, military, cultural and diplomatic. At

[6] Under the MFN clause of GATT members are bound to grant to the products of other members treatment no less favourable than that accorded to the products of any other (Europa Yearbook 1996: 230).

the 1990 Council of Ministers Meeting in Dublin EPC suffered a potential collapse. Britain decided to unilaterally revoke some of its sanctions against South Africa, days after the release of Nelson Mandela. They acted without consultation with the European Community, and this action, according to Holland,

> ...constituted the most serious breech in the principle of consensus in the history of political co-operation and questioned the legal authority of the *single European Act*, leading the Irish Presidency of the Community to talk of the 'destruction' of EPC. (Holland 1991: 1)

The EU's anti-apartheid stance had a dual nature. Besides the imposition of sanctions, the EU also provided support to the Southern African region in their struggle to reduce their economic dependence upon, and political and military domination from, apartheid SA. This support was initially aimed at the Front-line States (FLS)[7], and later at the Southern African Development Co-ordination Conference (SADCC).[8] The European Community often cited its own regional ideology as a reason to promote regional co-operation and independence in Southern Africa. This support came primarily in the form of development assistance in the regional transportation and power infrastructures. Problems that were encountered by SADCC-EC co-operation were often linked to an incompatibility with the Lomé Convention, as Mozambique and Angola were not admitted to Lomé until 1984 and 1985 respectively. The community's support came overwhelmingly in the form of rhetoric, and ironically the stumbling blocs in this co-operation relationship were contained in the very mechanisms and institutions intended to assist development.

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[7] The Front-line states were a group states geographically linked to South Africa, who were being adversely affected by the apartheid regime. These states formed an alliance to stand together against South Africa. The FLS consisted of Zimbabwe, Zambia, Mozambique, Botswana, Angola and Tanzania.

[8] The first SADCC meeting was held at Arusha in 1979 and was linked to the FLS, but was a more regional organisation in the sub-continent whose aim was to bring about a Southern Africa that could exist independently of South Africa.

### 1.1.3. Mechanisms of Domination

The third point in the Globalist's guidelines refers to *mechanisms of domination* that prevented the South from developing, and contributed to world wide uneven development. As mentioned, this paper briefly examines the institutions that existed to govern North-South relations, including those of the WTO and the Bretton Woods institutions, in as far as they impact on the case study. More important to this study is the Lomé convention as a *mechanism of domination*. The question posed is whether this arrangement, which was intended to overcome dependency and uneven development, was by its very nature propagating these factors. The concept of *trade liberalisation* as a mechanism of domination is also examined. While the benefits of trade liberalisation have been sufficiently demonstrated and described by economic historians and analysts with regard to trade between developed countries, this has not been sufficiently demonstrated when it comes to developing economies (The International Bank for Reconstruction and Development/The World Bank 1991: XIX). The concept of trade liberalisation is, in essence a healthy one. It is rather the *how* of trade liberalisation that needs to be considered when trying to implement it in an undeveloped economy. Trade liberalisation as encouraged by the structures governing global trade did not appear to be assisting the plight of the South. The issue at stake here was whether South Africa could get around this obstacle, and manage to liberalise its economy at the same time as protecting the domestic economy. This was especially problematic given South Africa's ambiguous classification in terms of developed/developing, North/South, First World/Third World categories.

### 1.1.4. Economic Factors are Dominant

The fourth and final point in the Globalist guideline is the assumption that *economic factors* are the critical factor in the relegation of developing states to subordinate positions. This study, therefore, focuses primarily on economic factors; developmental issues and other areas of EU-SA involvement will be discussed only when relevant to the economic situation. Economics did clearly dominate the relationship, and the primary concern of the EU was how SA could impact on and effect its domestic economy. The case study tends to revolve around a question of development versus economics in the EU-SA relationship. South Africa's aim was to develop a relationship with the EU that in some way assisted its development. Rhetorically, the EU supported this, and promoted it. However, in reality the potential impact of SA's economy on the EU appears to have overridden the rhetoric.

## 1.2 The Analysis

The analysis begins in Chapter 2 with an examination of the Lomé Convention in order to create the framework within which the EU-SA trade negotiations were being conducted. In 1994, South Africa's then Trade and Industry Minister, Mr. Trevor Manuel, requested that South Africa be admitted, as a full member, to the Lomé Convention. South Africa's accession to the Lomé Convention had also been spotlighted as a policy option for EU-SA relations as early as 1991, when the British Foreign Ministry commissioned the Overseas Development Institute to conduct research into policy options for EU trade relations with a post-apartheid South Africa. Another reason for beginning with the Lomé Convention is that it enables an examination of why South Africa would have wanted to be included in an agreement that had, by all accounts, largely failed in its objectives. The EU's objections to SA's inclusion in Lomé

also provide some useful insight into the apprehension that existed in certain EU sectors about an increase in preferential trade access for South Africa.

Chapter 3 focuses on the EU and South Africa and examines the build-up to trade negotiations, beginning shortly before South Africa's first democratic elections in 1994. This section traces the sequence of events from the first offer of trade and development relations by the EU, to what eventually became the mandate given to the European Commission by the Council of Ministers on 25 March 1996. It examines the trade agreement primarily from the European Union point of view, looking at the procedures that were involved in reaching a mandate. It also looks at the applications and the progress made by South Africa over this period.

The effect that an FTA, of the type suggested by the EU, would have on South Africa is the focus of chapter 4. It discusses the South African economy and the trade that South Africa is currently conducting, and how this could be effected by the EU FTA.

Chapter five concentrates on South Africa's links with the Southern African Development Community (SADC) and with the Southern African Customs Union (SACU). Both of these organisations would have faced serious consequences had South Africa entered into a bilateral Free Trade Area with the EU. The relationship between this region and the EU is discussed, following the development of the relationship over roughly the same period of time as that of the previous section. This begins with the EU-SADC Council of Ministers Meeting held in Berlin in 1994, following through to the second Council of Ministers Meeting held in Windhoek in 1996. The focus is on the level of rhetorical support of the EU, its failure to act on that rhetoric and, in some cases, its acting in contradiction to it. This divide between rhetoric and action had strong implications for the EU-SA negotiations, as South Africa could

not afford to base its negotiating position on promises made by the EU. It also had implications for the nature of North-South trade, and the South's ability to break out of its mould.

The fourth part of the analysis, chapter six, examines South Africa's move from a free trade agreement to a trade and development agreement (TDA). The concept of a TDA was first presented by Faizel Ismail of the Department of Trade and Industry at a workshop on the EU-SA trade relations which was held in Johannesburg in October 1996. The TDA represents the South African view of what a trade agreement between the two parties should entail. Contained in this concept is the optimistic expectation, expressed by South African Member of Parliament Dr. Rob Davies and others, that in creating the TDA, South Africa can create a new concept in the North-South trade paradigm, and include this alongside the regulations on FTA's in the WTO.

**1.3. Research Methods and Activities**

The research was conducted in three ways:

1) through an examination of the available literature and policy documents,

2) the conducting of interviews in Europe and in South Africa, and

3) attending the Foundation for Global Development workshop on Trade and Development relations with the European Union, in Johannesburg in October 1996.

The literature on the topic is, largely, limited to journal and newspaper articles analysing the relations, and providing input on policy options. The work of Martin Holland, covering South African - EU relations from 1983 to 1995, was particularly useful in providing a solid analysis and study of the historical relations between the parties. Holland also provides a good examination of the EU's Common Foreign and Security Policy (CFSP), and how South Africa has impacted on this.

The interviews conducted with various individuals involved in the negotiations were particularly useful. These interviews were conducted between April 1996 and November 1996 and include interviews with the South African Mission to the European Union in Brussels and with the Departments of Trade and Industry and Foreign Affairs in Pretoria. Unfortunately, the European Commission and their Directorate General VIII (the Directorate General for Development) were unable to accommodate an interview. However, a fair amount of insight into the workings of the Commission and of the European policy formulation has been acquired through studying Commission documents. This has been supplemented with discussion with various interested European Parties, and through monitoring the discussions on South Africa in the European Parliament.

The Workshop held in Johannesburg (hosted by the Foundation for Global Development and the Fredrich Ebert Stiftung) provided insight into the thinking prevalent in South Africa as to what a trade agreement with the European Union should entail. Of particular value was the presence of the European Centre for Development Policy Management (ECDPM); an independent research institute studying the relations between the ACP and the EU, and helping to formulate policy options for the future of this relationship. The ECDPM has also taken an interest in the SA-EU trade relations and has been involved in some of the impact assessments for the Southern African region. The presentation of the Department of Trade and Industry's

concept for a Trade and Development Agreement (TDA) to govern relations with both Southern Africa and the EU was also made at this workshop.

Documentation obtained from the European Commission and the various South African negotiating parties provided most of the information on the process of the negotiations. Included in these are the negotiation directives and the mandate presented by the European Union to South Africa, as well as the various responses to this mandate. Other official European Commission documents, directives and memos have contributed to this understanding.

Data on the Lomé Convention were largely provided by The Courier, the official journal of ACP-EU relations, published in Brussels by the European Commission. Critical perspectives of this relationship were numerous. The ECDPM (1996) provided a particularly useful report on the future of ACP-EU relations, and policy options for agreements to follow Lomé IV's expiration in 2000. Information on the WTO was obtained via the World Trade Organisations information pages on the internet. Analyses of Article XXIV of the Uruguay Round were provided by the SA Department of Trade and Industry.

# CHAPTER 2

## THE EU AND LOMÉ

The relationship between the member states of the EC and their associated overseas territories is examined in its capacity as the most developed relationship structure that the EU has with the developing world. This relationship is currently governed under the auspices of the Lomé Convention, a *partnership* agreement between the EU and 70 countries in the African, Caribbean and Pacific (ACP) group. South Africa sees membership of this structure as the most beneficial scenario for its development. It is appearing increasingly likely that this round of the Lomé Convention (Lomé IV) is the final one, as the Lomé Convention has been said to have *failed ACP trade* (Cosgrove 1994: 223). In order to avoid similar pitfalls in SA's negotiations with the EU, it is important to examine the Lomé Convention and what has caused it to fail. Looking beyond Lomé IV, a trade and development agreement between the EU and South Africa could set a precedent for the future of ACP-EU relations.

The Lomé Convention has now been through four terms, and is two decades old. The most recent Convention, Lomé IV, was launched in 1989, and was the longest term of the agreement signed to date. When the Lomé members signed the Lomé IV agreement it was agreed that there would be a mid-term review (mtr) of the Convention. This review took place in Mauritius in 1995, and the resultant agreement will be referred to as the Lomé IV mtr. This Chapter presents the Lomé Convention and its various mechanisms, and examines the interaction between the ACP and the EU. EU mechanisms that impact on the Lomé Convention are also be examined. The aim here is to assess why the Lomé Convention has failed, and what lessons South Africa can learn from this failure.

## 2.1. History of Lomé

In the original European Economic Community (EEC) Treaties, the French protected the interests of their colonies and territories in a Part IV that was added to the EEC Treaty. This provided for favours to 'Overseas Countries and Territories', which were mainly French and mainly in Africa (Pinder 1995: 198). Part IV provided that no tariffs would be imposed on imports from these associates into the whole of the Community. Exports to them from the Community would, at the same time, enjoy 'reverse preferences'. That is to say any preferences that were already granted to such exports from France, Belgium, Italy, or the Netherlands would be extended to exports from all the Community countries. Along with this, France negotiated the creation of the European Development Fund (EDF), allowing for aid to the associates in the first five years, to be renewed for subsequent periods (ibid.).

With the independence of the French colonies in 1960, Part IV was partially renewed in the form of the Yaounde Convention for successive periods. One of the implications of Britain's accession to the European Community in 1973 was that it brought its Commonwealth ties with it. It was felt that the Part IV clause and Yaounde could not be extended to any more countries as it was insufficient to deal with the increased scope of coverage. This resulted in the formulation of the Lomé convention, a treaty linking Europe to a group of countries in Africa, the Caribbean and the Pacific. The Lomé Convention was first signed in 1975, between the 46 member ACP group and nine EC members, initially for a five year period. The aim of the Lomé Convention was to create a partnership between the EC and its members' associated territories to promote healthy trade relations. It was negotiated in a spirit of optimism for what seemed like a bold new partnership. This partnership was particularly remarkable because of the disparate levels of economic development and diverse range of political systems to be

found on each side of the relationship. The member states of the ACP placed a lot of hope in the Lomé Convention, believing it would assist them in their development.

At the time of its signing the Convention was greeted with considerable enthusiasm from those who thought that it would lead to a more just North-South relationship (Parfitt 1996: 53). This relationship remained unique in its fourth incarnation, but was now important to far more countries. The ACP group, originally 46 members, was now made up of 70 countries, including all the countries in sub-Saharan Africa, with the exception of South Africa. This grouping of countries also contained the world's least developed countries (LDCs), although not all members of the ACP were LDCs. The Lomé Convention encompassed non-reciprocal free trade access to the ACP. That is, ACP exports gained free access to the EC market, while being permitted to maintain a certain level of trade barriers and tariffs on EC products. The reverse preferences, which most of the ACP countries regarded as a relic of the imperial order that caused them to buy more expensive goods from the Community rather than cheaper goods elsewhere, were removed (Pinder 1995: 199). Under the terms of the Lomé relationship, the EU guaranteed the ACP states substantial amounts of aid from the EDF, mostly on generous terms. This was accompanied by free access to the EU market for 99% of their products (Parfitt 1996: 53).

The EDF existed alongside the Lomé Convention, and was an institution that had been given an increased role in the post Maastricht EU. It was one of the few mechanisms that had been carried across from the early days of EC-South relations. The EDF was not included in the Community budget, but was financed separately by member states. It provided grants and loans to help finance development projects in ACP countries.

## 2.2. Lomé: Success or Failure?

With the Lomé Convention's 21st year in 1996, much of the enthusiasm surrounding it at its inception had disappeared. The facts seem to paint a very dismal picture. In the 21 years of Lomé, the share of ACP trade in the EU had dropped dramatically. The extent of this decrease in market share is even more evident in the face of the increases and/or maintenance of levels of trade evident in other developing countries and regions. While overall developing country trade has dropped, the drop in ACP trade is by far the most substantial (see Table 1).

**Table 1: Developing countries' share of EU imports, 1976-1994 (%)**

| | 1976 | 1980 | 1985 | 1990 | 1992 | 1994 |
|---|---|---|---|---|---|---|
| ACP | 6,7 | 7,2 | 6,7 | 4,7 | 3,7 | 2,8 |
| Asia | 4,2 | 5,9 | 6,5 | 11 | 13,6 | 13,1 |
| Latin America | 5,3 | 5,1 | 6,5 | 4,6 | 5,1 | 5,4 |
| Mediterranean | 6,1 | 6,1 | 8,1 | 6,5 | 6,2 | 6,1 |
| All Developing Countries | 44,8 | 42,4 | 34,7 | 31,2 | 29,2 | 34,2 |

**Source: Eurostat (cited in ECDPM 1996: 21)**

In addition, most ACP countries failed to diversify their exports into non-traditional products. Most did not manage to become more competitive in the world market (ECDPM 1996: 21). ACP exports were dominated by a small group of primary commodities: crude petroleum, uncut diamonds, cocoa beans, wood, coffee beans, copper and fruit (especially bananas). These seven commodity groups accounted for 54% of ACP exports in 1992. In recent years a decline in the market price of these products has further depressed ACP export performance

(Cosgrove 1994: 228). The World Bank also noted that whereas the demand for primary products in industrialised countries grows at approximately the same rate as incomes, that for imported manufactured goods grows approximately twice as fast (World Bank cited in Ravenhill 1985: 151). This meant that the ACP was marginalised exponentially as levels of industrialisation increased in the North and stagnated in the South.

Criticism of the Lomé convention began shortly after its inception, coming initially from the ACP, but later also from European and international academics, development workers and other interested parties. Johan Galtung saw the Lomé Convention as

> *...representing two aspects of structural imperialism: a vertical link, which serves to create an international regional division of labour forcing the ACP states to export primary commodities and agricultural products to European markets; and, beyond this, a kind of feudal, or paternalistic, link which in effect controls the external relations of these countries and works against regional integration efforts with other developing countries or with other economic centres in the world.*
>
> (cited in Boardman et. al. 1985: 3-4)

The criticism suggests that, instead of aiding the development of the ACP group, the Lomé Convention either did not achieve this purpose, or served to inhibit the development of these countries. In the approach to the expiration if Lomé IV in February 2000, there is a lot of concern and consideration about this possibility. The alternatives for future relations between the EU and the ACP are being closely examined, in the light of the possibility that Lomé trade has failed ACP states.

One observation about the nature of Lomé was that, on closer examination, the relative effect of the agreement was not as significant as had been assumed. In 1993 the EC Commission

calculated that in the absence of the Lomé Convention 63,4% of imports from ACP states would have entered the European Community duty-free, under the MFN and the GSP. Duty free access under Lomé, therefore, applied to less than one-third of ACP exports (Cosgrove 1994: 224-255).

Where the duty free access under Lomé did make a significant difference was in ACP exports that would otherwise face non-tariff barriers (NTBs), common external tariff duties or common agricultural policy (CAP) levies. This one third of products represented a potential trade access advantage (ibid.: 225). One of the problems of the failure of the negative impact of Lomé was in this area. The preferential access to the EU market existed across varying degrees. Some products obtained more preferential access than others, depending on the degree of protectionism required by the EC. Given the general structure of the EU's common external tariff, the more processed the product, the higher the tariff. This provided substantial incentives for ACP states to focus on their primary commodities, thereby increasing their preference margin in EU markets.

The existence of non-tariff barriers remained a formidable barrier to ACP trade entering the European market. These NTBs existed in the form of standards controls within the EU, and in the form of the CAP, which contained substantial tariff and non-tariff barriers. Standards controls had improved in the post-Maastricht EU, where a common standards mechanism had been introduced. However, it remained very expensive for ACP exporters to comply with the EU standards requirements, as they had to pay a substantial amount to get their products passed. Further, these NTBs often perpetuated the dominant character of the North. One example of this is the EU's banning of the use of certain pesticides in the growing of agricultural produce entering the EU, although certain expensive EU pesticides were permitted. This type of regulation secured a market for the EU product in the ACP, and

cajoled the ACP into buying the more expensive EU products. These decisions did not often appear to be made on health grounds.

### 2.3. The EU's Common Agricultural Policy (CAP)

The existence of the CAP is an important factor to consider when examining any trade between the EU and other countries. The CAP was one of the most controversial components of the EU, as well as being the area of co-operation that was most highly organised within the EU. The Treaty of Rome, establishing the European Economic Community (EEC) in 1958, stated that the CAP would have as its objectives:

a) *the increase of agricultural productivity by developing technical progress and by ensuring the rational development of agricultural production and the optimum utilization of the factors of production, particularly labour;*

b) *the ensurance thereby of a fair standard of living for the agricultural population;*

c) *the stabilization of markets;*

d) *regular supplies;*

e) *reasonable prices in supplies to consumers.*

(Europa Yearbook 1996: 147)

The markets for agricultural products were progressively organised following three basic principles:

i) *unity of the market (products must be able to circulate freely within the Community and markets must be organized according to common rules);*

ii) *Community preference (products must be protected from low-cost imports and from fluctuations on the world market);*

iii) *common financial responsibility: the European Agricultural Guidance and Guarantee Fund (EAGGF) finances, through its Guarantee Section, all public expenditure intervention, storage costs, marketing subsidies and export rebates.*

(ibid.: 155)

The CAP fixed prices each year at a common level for the community as a whole. This took into account the rate of inflation and the need to discourage surplus production of certain commodities. Export subsidies were paid to enable farmers to sell produce at the lower world market prices without experiencing a loss. These subsidies accounted for approximately 50% of EU agricultural spending. When prices for certain cereals, sugar, some fruits and vegetables, dairy produce and meat fell below a designated level, the Community intervened, and bought a certain quantity which was then stored until prices recovered. This protectionist policy was extremely expensive to maintain and, as a result, the CAP accounted for the largest share of the Community's budget. It accounted for around two-thirds of annual expenditure. The EAGGF's Guarantee section alone accounted for ECU 38 422,5m, or 51,2% of the total budget in 1995 (ibid.).

In 1990 the CAP came under attack in the Uruguay Round of the GATT. The US, in particular, demanded massive reductions in the EC's agricultural and export subsidies, on the grounds that they disrupted world markets. This resulted in some tension between the US and the EU, with the US threatening the imposition of tariffs against EU imports if a rapid system of reform was not embarked upon. This led to the imposition of various land limits within the EU, removing some land from cultivation. Further, the EU had to reduce its subsidised productive volume by 21% and its value by 36% over a six year period. These agreements faced strong opposition from the French on the grounds that they were detrimental to French farmers. Despite these objections, the reforms were accepted, and formed the basis of the

GATT agricultural accord which was concluded as part of the Uruguay Round trade agreement (Pinder 1995: 104-105).

Recent problems have threatened the future of the CAP, particularly the battle between the UK and the EU over efforts to prevent the spread of the disease bovine spongiform encephalopathy (*mad cow disease*), and the possibility of expanding the EU. The problems between the EU and the UK are indicative of the unsustainable nature of the CAP. The expansion of the EU to the East would mean the inclusion of countries who have heavily agriculturally based economies. The addition of one or more large agricultural countries would have a dramatic effect on the entire EU system, should the CAP be extended to these countries as it is currently constituted. The Commission has rejected the dismantling of the CAP, along with proposals for further radical change. It has asserted that a continuation of the existing reforms would have sufficient impact on EU expenditure on agriculture. In September 1995 the Commission adopted proposals to reform the fruit and vegetable sector. In a report on the CAP published in December 1995, the Commission envisaged further extensive reductions in the support prices for farmers, with compensatory payments being directed towards the role of farmers in improving the environment and managing natural resources (Europa Yearbook 1996: 155-156).

Any country wanting to export agricultural produce to the EU had to go up against the CAP. The preferences that were provided for the ACP in the Lomé Convention therefore carried a lot of weight when it came to the agricultural relations between the ACP and the EU. The cost to the EU was also potentially high, especially with the prospect of EU expansion. The probable inclusion of Poland and the Czech Republic at roughly the same time as the expiry of Lomé had to be given serious consideration. The extension of CAP to Poland and the Czech Republic was very likely to stand in the way of renewing the agricultural preferences enjoyed

by the ACP. The costs of extending the CAP and renewing the ACP's preferential status would not be supportable by the EU in parallel.

A further knock to the EU came in the form of the results on the Tropical Products Round of the GATT talks in Uruguay. Under the Tropical Products conditions, all tariffs on these commodities would have to be reduced substantially and eventually removed. This outcome allowed for very little manoeuvring on the part of the EU.

It is important to note that while the ACP received certain preferences in terms of the CAP, it did not gain free and open access to the agricultural market in Europe. This was the only area of ACP-EU trade that faced EU tariffs. The preferences given to ACP states were provided in relative terms to other agricultural producers. The ACP group applied for the reduction of tariffs on 36% of farm products covered by the CAP at the Lomé IV mtr. The EU did provide some concessions, but was way off the figure called for by the ACP, granting 16% in tariff reductions. Quotas were also relaxed or increased for a variety of products such as canned tuna, fresh figs and strawberries (Parfitt 1996: 63).

**2.4. Lomé: Structure and Characteristics**

One of the main features of the Lomé Convention was the principle of non-reciprocity. This clause allowed the ACP to treat EU imports as they would those of any other MFN country, while at the same time gaining preferential access to the EU market. This resulted in a deliberate imbalance between the obligations undertaken by the EU and those undertaken by the ACP group. It was also one of the primary criticisms of the WTO, as this type of relationship was seen to be unsustainable. Any future agreement between the ACP and the EU would have to be reciprocal in nature, in light of the WTO ruling that after the expiry of Lomé

IV in 2000, this relationship would no longer be condoned. Until then, the WTO had issued Lomé IV a waiver with respect to the reciprocity of trade agreements rule. This factor had strong implications for a trade agreement between the EU and SA, as any hopes that SA may have had of being included in a non-reciprocal trade agreement with the EU were effectively neutralised.

The Lomé Convention's regulations with respect to origin of product and cumulation were designed to protect against non ACP members using the Lomé Convention to gain preferential trade access by re-directing their products through ACP countries. The rules of origin stated that *a product shall be considered to be originating in the ACP States if it has been either wholly obtained or sufficiently worked or processed in the ACP States* (Lomé IV mtr 1995: Protocol 1, Title 1, Article 1). This required that the ACP country perform at least 50% of the processing. Cumulation stated that, for the purpose of implementing the origin of product rules, the ACP, EU and OCT (Overseas Countries or Territories) [9]would be treated as one area. This allowed that if *products wholly obtained in the Community or in the OCT undergo working or processing in the ACP States, they shall [then] be considered as having been wholly obtained in the ACP States* (Lomé IV mtr 1995: Protocol 1, Title 1, Article 6.2). The rules surrounding the origin of products, and the procedures governing them, were complex and required detailed declarations. In order to prevent illegal free access to their market, this strict watch over the origin of products was seen as vitally important by the EU. The regulations on cumulation were supposed to promote trade and co-operation within the ACP-EU-OCT region. The Lomé IV mtr added a point 5 to its rules on cumulation, stating: *At the request of the ACP States, products originating in a neighbouring developing country, other than an ACP State, belonging to a coherent geographical entity, shall be considered as*

*originating in the ACP State where they undergo further working or processing...* (ibid.: Article 6.5). A list of provisions following this stated that the majority of the processing had to be carried out by the ACP State, and that there was to be adequate ACP-EU administrative procedures with these other countries to ensure correct implementation of this paragraph.

The rules of origin carried some disincentives to ACP trade development. The origin of primary products was relatively easy to prove, and the declaration of these products was a simple process. Once a product had been processed in some way, it remained the task of the ACP State to prove its origin. This was particularly problematic when it came to fisheries, and fisheries by-products that were processed on factory ships. The regulations of origin of product required that processing be carried out on a ship with at least 50% ACP-EU-OCT ownership, registered in an ACP State, and of which at least 50% of the crew, officers and masters included, were nationals of States party to the Convention, or of an OCT. The ability of ACP states to process products was limited and they lost a lot of trade potential through this limitation. Further, the lack of willingness on the part of the EU to recognise countries that were eligible for Article 6.5 of Protocol 1 was impeding ACP trade development. This case is particularly relevant to a EU-SA case study, as origin of product and cumulation are two of the Lomé benefits that SA has applied for. To date these requests have been turned down.

According to Cosgrove (1994: 231), these rules determined the conditions under which a country could benefit from preferential treatment in the trade of export goods; that is, to meet the requirements of sufficient processing in a particular country or cumulatively in the ACP group. In the Lomé IV mtr the ACP States requested that these rules of origin be reviewed. The European Community was not very co-operative on this. Opposition was made initially on

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[9] The OCT states are those countries included in Part IV of the Treaty on the European Union, and consists of countries and territories historically linked to member states of the EU. They are considered EU member states

technical grounds, stating that the issue was too complicated to get into. The ACP group pushed the EU on this issue, and the result was the addition of Article 6.5. The ACP States felt that the right balance of promoting industrial development, and the constraints imposed by their currently low level of industrialisation, was not being struck. In the words of the European Commission's Information Memo after the signing of Lomé IV mtr: *the Community believed that the rules did strike a good balance, which was why it had not wanted to open negotiations on the subject* (European Commission Information Memo: Signing in Mauritius of the Agreement Amending the Fourth ACP-EC Convention of Lomé, 4 November 1995: 11).

**2.5. STABEX and SYSMIN**

According to A.B. Beye, a former President of the ACP-EEC Council of Ministers, STABEX (the stabilisation of export earnings) was the "main pillar" of the Lomé Convention (cited in Ravenhill 1985: 99). The aims and provisions of STABEX were contained in Article 186 of the Lomé Convention:

1. *With the aim of remedying the harmful effects of the instability of export earnings and to help the ACP States overcome one of the main obstacles to the stability, profitability and sustainable growth of their economies, to support their development efforts and to enable them in this way to ensure economic and social progress for their peoples by helping to safeguard their purchasing power, a system shall be operated to guarantee the stabilization of export earning derived from the ACP States' exports to the Community or other destinations as defined in Article 189, of products on which their economies are dependent and which are affected by fluctuations in the price or quantity or both these factors.*

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by virtue of this close historical relation. These include Greenland, the Falkland Islands and French Polynesia.

2. *In order to attain these objectives, transfers shall be devoted, in accordance with a framework of mutual obligations to be agreed between the ACP State concerned and the Commission in each case, either to the sector, interpreted in the widest possible sense, that recorded the loss of export earning and be used there for the benefit of economic operators adversely affected by this loss, or, where appropriate, to diversification, either for use in other appropriate productive sectors in principle agricultural, or for the processing of agricultural products.*

(Lomé IV mtr 1995, Article 186)

SYSMIN provided for a similar mechanism when it came to minerals. SYSMIN was aimed at those ACP States whose economies were largely mineral based. SYSMIN aimed to contribute towards establishing a more solid, and wider, basis for the development of the ACP States (Lomé IV mtr 1995: Article 214,2). SYSMIN was primarily a financing facility to boost the income of countries who had suffered adversely under a dramatic change in metals and minerals prices.

What was immediately evident in looking at STABEX and SYSMIN were the complicated ways in which they were presented. This level of complication extended to the various conditionalities, rules and procedures attached to the system. This was one of the primary complaints levelled by the ACP against STABEX; the system was seen to be rendered largely ineffective through being hampered by conditionalities which delayed access to their resources for long periods (Ambassador Cumberbatch, ECDPM 1996: 70). SYSMIN also proved to be painfully slow in disbursing its aid (Parfitt 1996: 54).

Despite these drawbacks, the systems of STABEX and SYSMIN were seen by the ACP as two of the more beneficial aspects of the Lomé Convention as they were dealing directly with countering the imbalance in development between the ACP and the EU. The ACP had also

called for the continuation of STABEX and SYSMIN in any future agreements between the ACP and the EU. However, they had made a request that the mechanisms of STABEX and SYSMIN be made more user friendly. The Lomé IV mtr did not alter the structures of STABEX and SYSMIN at all, but a few small proposals by the EC were accepted without opposition by the ACP.

Proponents of liberal trade would argue that the existence of artificial mechanisms to support ineffective and inefficient productive sectors is unsustainable and does not lead to a healthy long term outlook. This is a problem being faced by the ACP, as the future of Lomé looks increasingly unclear. Member States of the Convention that had economies relying on single products, whether agricultural or mineral, had been protected and supported by the STABEX and SYSMIN mechanisms. The presence of these mechanisms had kept their productive sectors running, and had, in some cases, provided incentives not to diversify their economies. If the EU decided not to renew the STABEX and SYSMIN mechanism in the trade and development agreement likely to follow Lomé IV, then these countries would find themselves in a very difficult situation. Their industries would have to face the global market head on without having been exposed to the natural fluctuations in the prices of their exports. It is unlikely that these industries would be able to survive without the support of the EU.

**2.6. Lomé IV and the mid-term review**

Lomé IV was signed in Lomé on 15 December 1989 and came into force on 1 March 1990 (Vernier 1996: 8). It was different from its predecessors in that it was given a 10 year life span, as opposed to the shorter terms given to the previous Conventions. This 10 year period allowed for a mid-term review of the Convention and divided the financial protocol into two parts, the second part to be negotiated after five years. The focus of Lomé IV was to "provide

a firm and solid foundation for trade co-operation between the ACP States and the Community", with the aim of "promoting and diversifying ACP exports" (Cosgrove 1994: 224). The aim of Lomé IV was to try to increase the effectiveness of the Lomé Convention in making preferential trade work for the ACP. The result was a ground breaking commitment from the EC to assist ACP States in *[deriving] the maximum benefit from the provisions of this Convention in the fields of trade, agricultural and industrial co-operation...under the most favourable conditions in the Community, domestic, sub-regional, regional and international markets by diversifying the range and increasing the value and the volume of ACP States' trade in goods and services* (cited in Cosgrove 1994: 236). Title X of Lomé IV, Articles 135 to 138, focused on trade development, committing the contracting parties to the development of trade "at all stages up to final distribution of the product". These provisions were meant to harness a wide range of activities to support the development of trade and diversification of ACP exports.

The mid-term review took place in 1995, begining in Mbabane, Swaziland, and finally being signed in Moka, Mauritius. This meeting of the Lomé Convention was particularly important to South Africa as it was granted a special *observer status* at this meeting, in the expectation that the country would some how be accommodated in the future of the Lomé Club. The mid-term review shifted the focus away from preferential access (previously seen as the main way of ensuring trade flows from ACP States) for the first time since Lomé I. The talks became wider in range, emphasising the analysis of factors behind commercial success and the means to be applied to ensure such success, through a sectoral, integrated approach. This approach was reflected in the addition of two new articles in the Lomé IV mtr (6a and 15a) as well as in amendments to a number of existing provisions (Articles 50, 51, 136 and 220). Article 15a, in particular, deserves closer attention:

*Trade development shall be aimed at developing, diversifying and increasing the ACP States' trade and improving their competitiveness in their domestic markets, the regional and intra-ACP market, and in the Community and international markets. The Contracting Parties undertake to use all the means available under this Convention, including trade co-operation and those on financial and technical co-operation, for the achievement of this objective. They also agree to implement the provisions of this Convention in a coherent and co-ordinated manner.*

(Lomé IV mtr, Article 15a)

The subject was also specifically highlighted in a joint declaration on trade development issued by the representatives of the ACP Countries, the Community, and its Member States at the time the revised text was signed (Vernier: 1996: 10).

With regard to ACP products, preferential access for ACP goods in the EC market under the Lomé IV mtr was based on a horizontal approach, rather than a product-by-product one. Time constraints and quantitative restrictions were also lowered. The results meant that, in practice, ACP countries would benefit from preferential trade applying to almost all products through the year.

The addition to the rules of origin clause are presented above, and are contained in Article 6, Paragraph 5 of Protocol 1. This addition was widely welcomed, despite its restrictions, as a major step towards regional co-operation between ACP States and other developing countries.

**2.7. Lomé: What has gone wrong**

Although the Lomé Convention had been widely criticised by proponents of trade liberalisation, the Bretton Woods institutions, the development community and from certain

sectors within both the ACP and the EU, there is no evidence to show that the situation would have been any better had the Lomé Convention never existed. It is futile to look at what would have been had the Lomé Convention either been different, or if it had not been there at all. What has to be examined instead are reasons for its failure to bring about a growth in ACP trade, and the failure of ACP trade development and diversification. This is particularly important when it comes to South Africa, as it could provide clues for what to avoid, and what to aim for in a new trade and development co-operation agreement.

In 1989 the EC commissioned a study to determine to what extent ACP tariff preferences were being eroded by EC concessions under the Generalised System of Preferences (GSP). An analysis of EC import statistics by volume and value from 1976 to 1986 for all developing countries, GSP beneficiaries and the ACP States, indicated that alterations in preference levels failed to change trade flows substantially. It was suggested that the reason for this was the volatile nature of the world economy, and the fact that these economies were based mainly on primary commodities. The study further showed that the Lomé Tariff benefit played a very minor role in determining changes in the value of ACP exports. The ACP States felt that the principle constraints to their exports to the European Community were the CAP and Lomé rules of origin.

With regard to preference erosion, the study could find no evidence in support of this phenomena. Instead, what the report discovered was that the principle benefactors of GSP were the Asian NICs, whose export profiles bore little resemblance to those of the ACP, and therefore should have had very little or no impact on the ACP's preferences. The study found that the countries that benefited most from GSP preferences were those with the most dynamic economies and the most advanced capacity to expand exports competitively (*EEC Trade Preferences and ACP Exports: Report to the European Commission*, 1989, CTA, Reading,

cited in Cosgrove 1994: 231-232). What the report was suggesting, in essence, was that the nature of the ACP economies was the reason that they were not able to benefit from the trade preferences, and were unable to compete in the international arena.

The ECDPM report (1996) also examined some of the reasons for the apparent failure of the Lomé Convention. One of the primary factors indicated by the ECDPM was the disparate nature of the ACP as a group. The ECDPM questioned the very existence of the ACP group as an homogenous entity, examining its future legitimacy. Some of the problems identified in this report are that:

> *...it is increasingly difficult to see what "common interests" tie the 70 ACP countries together. This tends to weaken their negotiating position towards the EU, while reducing the overall effectiveness of the ACP institutions. It may also help to explain the limited political leverage of the ACP in other international fora (such as the WTO, and the Bretton Woods institutions). Representatives from ACP countries with a good "track record" often express their frustration at the EU lumping them together with a group of "bad performers".*
>
> (ECDPM report 1996: 13).

This geographical question extended to the EU group. With the enlargement of the EU the newer member states were objecting to the Lomé idea, which they saw as a "post-colonial relic" and "discriminatory" (ECDPM 1996: 13-14). Further, with the Treaty of Maastricht, the EU set out its policy on development co-operation. Both the Lomé Convention and the EDF stood outside this framework. There was increasing pressure to integrate the Lomé Convention into the overall policy framework and to "budgetise" the EDF, incorporating it in the overall EU budget and procedures (ibid.).

Critics of the Lomé Convention had been accusing the Convention of being part of the problem rather than the solution. These arguments focused on the type of trade relationship that existed between the EU and the ACP, saying that Lomé was institutionalising a state of dependency. The relationship that was originally supposed to be a partnership had evolved into a situation that was displaying paternalism and clientelism as the Community took the lead in both decision-making and implementation. The ACP members did not seem to have the expertise or the capacity to become involved in decision making and, where they were involved, the EC tended to take a very sceptical approach to projects motivated from within the ACP (ECDPM 1996: 5). The result was that the ACP was allowing the EC to take command of the situation, and to dictate and dominate. Any proposals on their initiative were, more often than not, rejected. Part of this problem was that in the past EU officials had encountered a lack of interest in Lomé in the ACP countries, and consequently, did not expect new ideas to come from this source.

Part of this problem was a lack of information in the ACP states on what the Lomé Convention had to offer. Real understanding seemed to be confined to a few officials in each country who were responsible for the day to day management of resources provided through Lomé. The reasons for this lack of knowledge could be partly attributed to a lack of openness in governments, to the complex nature of the Convention, and to inadequate information disseminated from the EU and its delegations. There was a concerted effort being made to distribute information on Lomé beyond the National Authorising Officers in each ACP State. Information was being targeted at line ministries, and many private and non-governmental organisations. The reason for this was that research had shown that there was a large reservoir of enthusiasm and interest in this sector that was waiting to be tapped (ECDPM 1996: 4-5).

The post-Maastricht abolition of EC national non-tariff barriers had very little effect on the ACP export market. The EU had implemented a strict EU imposed quality control, specifying quality requirements at a regional level. This allowed it to control and enforce the standards requirements, with no products being allowed to enter the EU market without first being cleared. The cost of getting the required stamp of approval by the EU was often prohibitive to ACP countries, and many regulations appear to be designed to act purely as barriers to trade. To pass a manufactured product through the quality control required the manufacturer to have the entire manufacturing process checked by a European quality control company, at a formidable cost to the manufacturer. Regulations on the import of agricultural products, especially fruit and vegetables, were multifarious, especially when it came to the use of fertilisers and pesticides. This in combination with the CAP provided a formidable barrier to ACP agricultural trade.

**2.8. Lomé: The future**

However one looks at it, the Lomé Convention as it has existed for the past 20 years is about to end. Pressure from the WTO, from within the EU, and evidence of its failure will mean that the post 2000 EU-ACP relations will be dramatically different. Negotiations for the post 2000 agreement are due to begin in 1998 and both sides are beginning to prepare their negotiating positions. There is some concern about the negotiating position of the ACP never developing, in view of the aforementioned lack of knowledge and lack of interest in the Convention outside of specific government circles. For this reason, the ECDPM has embarked on a massive campaign to assist the ACP in developing a negotiating framework. Part of this is getting NGOs, private industries and organisations and civil society involved and informed in what Lomé has to offer. In this way the ECDPM hopes to bring more scope to the discussion.

One of the key areas being looked at in the future of the relations is the legitimacy of the ACP countries as an homogenous entity. As mentioned above, the region is becoming increasingly divided, and the gap between African issues and those in the Pacific and the Caribbean are difficult to reconcile. The ACP is also divided on this issue, as some countries were benefiting more from the arrangement than others. The ACP group was also accorded very little legitimacy by the other international institutions such as the WTO and the Bretton Woods institutions. This question will have to be seriously considered as a non-functioning group can not be beneficial to any future relations. The ACP as a group has tremendous potential to unite and use their combined voice to create a formidable negotiating entity. This, however, appears to be an unlikely scenario.

What is inevitable is the termination of the non-reciprocal side to the trade relations. This has to alter as the WTO and other international institutions will no longer tolerate it. The EU member states are also no longer willing to support this type of relationship. The question is, how to introduce reciprocity without the ACP suffering serious adverse effects. The European Research Office in Brussels presented the scenario in Table 2 as a starting point for considering future EU trade policy. The ERO presented two possible options for ending the non-reciprocal relations, and examined a few possible implications of these options. However, as indicated by the ERO table (Table 2), the impact on individual countries is difficult to assess, as the differentiation between countries is so great (ERO table and information cited in Lomé 2000 no.1, 1996: 2).

Table 2: Future EU Trade Policy - A Scenario (Source: ERO cited in Lomé 2000 no.1, 1996: 2).

| | | | |
|---|---|---|---|
| EU position? | Non reciprocal trade preferences must end | | **The example of EU-South African negotiations**<br>1. non-reciprocal preferences not possible<br>2. only option for reciprocal preferences which is WTO compatible is a FTA<br>3. Such an FTA must:<br>• cover at least 90% of trade<br>• introduce full reciprocity within 10 years (exceptionally 12 years)<br>• involve moves towards reciprocity beginning year 1<br>**Question**:<br>does the EU intend to use the same WTO compatible approach towards ACP regions? |
| How can non reciprocity end? | End trade preferences | Introduce reciprocity | |
| Implications of each option | • end special protocols (sugar, rum, bananas)<br>• end agricultural market access under annex XL<br>• end ACP type access for other sensitive products (e.g. fisheries products)<br>• end general trade preferences | • revenue implications<br>• impact of increased competition on domestic industry<br>• impact on trade policy towards other OECD countries<br>• trade diverting or trade creating?<br>• macro-economic policy | |
| Impact on individual country | ? | ? | |

The ECDPM outlined four possible scenarios for future Lomé preferences. A summary of these options are briefly presented:

1. **Preserve the status quo (with marginal changes).** This option makes a clear choice for continuity. Its proponents argue that the ACP group functions relatively well. It makes little sense to break up this structure in the absence of alternative arrangements that offer similar political and institutional benefits to its members. It allows for a limited number of new members to join the ACP group (including South Africa and Cuba), in order to promote regional coherence. EU demands for flexibility and differentiation could be accommodated within the existing framework, either through a diversified use of the instruments for financial and technical co-operation, or through a refinement of phased programming. From a strategic point of view, it is quite understandable that many ACP people defend this option. However, a status quo proposal is not likely to generate much support at EU level, nor will it offer solid guarantees against further marginalisation of the ACP group.

2. **Extend the benefits of Lomé.** The idea here is to abandon the geographical approach in favour of equal treatment for countries with comparable levels of development. This proposal is supported by several EU Member States. For equity reasons, they want to extend the benefits provided by a future co-operation agreement to other poor (least-developed) countries. This would be consistent with the overall poverty alleviation focus, contained in the Treaty of Maastricht development co-operation objectives. Proponents of this option also argued that the trade agreement for the ACP as a group was partly challenged in the WTO because it discriminates against countries with comparable levels of development. However, this option also carries risks. The "newcomers" would probably include highly populated countries in south-east Asia (Bangladesh) and, depending on the criteria used, perhaps also countries such as India or China. Such an extension would lead to a major redistribution and dilution of available financial resources – mainly at the expense of Africa. It would also jeopardise EC attempts to obtain greater political leverage by concentrating its development co-operation efforts.

3. **Vary the geometry.** This option proposes a Lomé "umbrella agreement" as the basic framework, objectives and principles of co-operation. The more detailed aspects of co-operation would be covered by sub-agreements to which certain groups of countries would be eligible. The main benefit of this option would be to reconcile, to a large extent, the concerns of the defenders of the status quo and those who would like to see a greater differentiation. The ECDPM proposes four options for geographic breakdown:

i) *Geographically* break the ACP down into three separate groups: Caribbean, sub-Saharan African and Pacific. This would have different effects on the different groups and these are discussed in more detail in the report.

ii) *Development indicators* could also be used as a unit to break down. In this option, countries with similar levels of development are grouped together. The purpose here is to treat countries like Mozambique, who are very poor, differently to relatively high income countries like Barbados.

iii) *Content of à la carte.* This option divides the ACP down into smaller regional groupings, offering different Lomé sub-agreements according to the nature and content of the co-operation relationship. A menu of options would be available to the ACP countries and caters more for their specific needs.

iv) *Performance*. This is the policy option of a number of European policy-makers. It offers the introduction of differentiated treatment on the basis of "performance criteria". This proposal is consistent with the "new politics of aid" which emphasises the need for credible partners in development co-operation, with good governance and accountability. Under this scenario, countries are classified according to a political scale, e.g.: "deep political and social turmoil"; "reforming economies"; "early stages of economic reform". Proponents argue that such categories could help to identify the most appropriate support packages.

4. **Dismantle the ACP.** This is the most radical approach. It begins with the premise that there will no longer be an "umbrella Lomé agreement". In this scenario, the EU would probably negotiate a new set of separate agreements with each of the three regions of the ACP group. Another possibility is to associate some ACP countries to

existing arrangements (the Caribbean might have a joint agreement with Central America). The most radical scenario would be one where the EU incorporated all the ACP states within its broader developmental concept, and negotiated separate agreements with each country individually.

(summary of ECDPM options: ECDPM Report 1996: 16-19)

With the future of Lomé looking so uncertain, and its past looking so unsuccessful, it is imperative that South Africa not rush into a trade agreement with the European Union, but examine all the options carefully. South African Parliamentarian, Dr. Rob Davies, noted that South Africa and the ACP group had a unique opportunity to influence each other's future relations with the EU (Statements at FGD Conference, Johannesburg, October 1996). This potentially influential relationship is examined in more detail later. For now it is important to note that, while South Africa had no official trade links with the ACP group within the Lomé Convention, the ACP and the post-apartheid South Africa have been mutually supportive.

It is primarily in the fourth option presented by the ECDPM that South Africa could have an influence on the ACP. A trade agreement negotiated between South Africa and the EU could set a precedent for future agreements signed between the ACP and the EU. The potential to break out of the mould of current North-South relations is also contained within this agreement. The following chapter examines the relations between South Africa and the EU, with particular focus on the establishment of trade and development relations.

# CHAPTER 3

## SOUTH AFRICA AND THE EUROPEAN UNION

### 3.1.1. Pre-elections: From Sanctions to Co-operation

The release of Nelson Mandela from prison on 13 February 1990, and the announcement by then President F.W. de Klerk of a programme for reform in South Africa, prompted the British government to unilaterally drop certain EC sanctions against South Africa. While this decision was a contravention of the Single European Act, and was also seen as a premature decision by many anti-apartheid groups, it none the less represented a major turning point in EC relations with South Africa. The EC was compelled to consider the implications of a post-apartheid South Africa and what this would mean to SA-EC relations. A fact finding Troika was sent to South Africa in April 1990 to report back to the Twelve on prospects for "promoting the launching of a national dialogue" amongst all political parties in South Africa (cited in Holland 1995 b: 59). The Troika was encouraged by the prospects for substantive talks especially after the success of the first official ANC-Government meeting in May 1990 (Holland 1995 b: 59).

The acceleration of this change led to the unbanning of all political organisations and the relaxation of the State of Emergency (except in Natal). The government of SA had also committed itself to bringing about a non-racial democracy and to commencing negotiations on a future South Africa with all representative groups. The Community issued a statement that their objectives with regard to South Africa were to bring about:

> *the complete dismantlement of the apartheid system, by peaceful means and without delay, and its replacement by a united, non-racial and democratic State in which all*

*people shall enjoy common and equal citizenship and where respect for universally recognized human rights is guaranteed...*

*It is the intention of the European Community and its Member States to encourage by every means available to them the early opening of negotiations leading to the creation of a united, non-racial and democratic South Africa.*

(cited in Holland 1995 b: 60)

The eagerness displayed by Britain for the relaxation of sanctions against South Africa and the normalisation of the relationship was being countered by opposition from Denmark and Ireland, both historically strong, anti-apartheid countries. The EC had to reconcile these differing perceptions and the result, according to Holland, was an EPC statement reflecting flexibility and accommodation for these opposing viewpoints. The pressure of measures to *promote the profound and irreversible changes* that had been adopted in Strasbourg in 1989 were maintained, but were coupled with a new *willingness to consider a gradual relaxation of this pressure when there is further clear evidence that the process of change already initiated continues in the direction called for Strasbourg* (cited ibid.: 60).

While these responses were all relevant and necessary to the development of change, they were merely responding to change in SA, and not looking towards a future of co-operation. The concern was to bring about an end to apartheid, and provide support for this change. In this way, the EU provided invaluable support for South Africa's transition. While the rest of the EU largely sidelined the South African issue while negotiating the Maastricht Treaty, the British government took the initiative to investigate future EU-SA relations. The UK Government's Overseas Development Administration commissioned the Overseas Development Institute (ODI) to *consider the effects of different trade arrangements between*

*the EC and South Africa in a post-apartheid world* (Stevens and Kennan 1991: Annex 1: Terms of Reference/Scope of Work). The mandate given to the study was to examine:

> *the present structure of South African exports by destination and commodity, desegregating the latter to a degree sufficient to reflect EC trade regulations;*
>
> *the export structure which is likely to emerge under a majority government in the 1990s, taking due account of the developments in both external factors (eg an end to sanctions, the GATT Uruguay Round, changing trade patterns etc) and internal factors (eg changes in government policy on support to agriculture and industry, land reform, industry ownership and organisation etc), on the assumption that South Africa's trade arrangements with the EC undergo no significant change beyond an end to sanctions;*
>
> *the effects of various options for more preferential EC-South African trade arrangements to include a) GSP, b) Lomé membership, c) a Co-operation agreement on the Asia/Latin America or Mediterranean models and d) an "appropriate" hybrid of these.*
>
> (Stevens and Kennan 1991: Annex 1: Terms of Reference/Scope of Work)

The study was also charged with examining these factors and their effects, not only on South Africa and the EC, but also on third party countries, particularly South Africa's neighbouring states, taking account of all salient factors.

Stevens and Kennan identified six options for future possible trade relations between South Africa and the EC. The six options identified, in order of preference to South Africa were:

- full signatory membership of the Lomé Convention;
- 'associate' Lomé Convention status;
- a non-reciprocal association agreement;
- a reciprocal association agreement;

- the Generalised System of Preferences;
- standard most favoured nation status.

(Stevens and Kennan 1991: 1)

One of the problems outlined by the Stevens and Kennan study was the lack of accurate statistics on South Africa. The reasons for this were numerous and included deliberate manipulation of trade figures by the South African government and the diversion of trade as a result of sanctions. The problem of inaccuracy of South African trade statistics exists to date, with the Department of Trade and Industry lacking a statistical analysing capability and relying on often inadequate Customs and Excise records to get their information.

The ODI report identified minerals as South Africa's largest concentration of exports to the EC. This sector could not benefit any more from preferential trade agreements, nor from increased revenues. Neither (except in the case of coal) would it have presented the EC or any of its developing country trading partners with a competitive challenge. Coal should not have posed a problem as the EC could protect its domestic interests under any of the preferential options (ibid.: 2-3).

Apart from minerals, there were a number of commodities, mainly deciduous fruits, among South Africa's top twenty-five exports to the EC, for which trade preferences were seen to be beneficial. These commodities, although not the most important sources of export revenue for South Africa, were identified as labour intensive, and therefore important to South Africa's labour market. The report identified the only countries to potentially suffer from increased competition to be Chile and Argentina, and this effect would only have been marginal. The principal adverse effect for the EC would have been a loss of customs revenue. However. the

area of agricultural trade proved to be the most contentious in later developments of a trade agreement between the EU and SA.

The primary concern identified by the ODI report in 1991 was that of future exports. The desirable scenario for South Africa would have been trade diversification into new, and preferably labour intensive, export commodities. Such new exports were seen as likely to be associated either with a change to past trade/industrial policy or to a number of major mineral beneficiation projects that had been started. Other possible new exports that could have provided some concern for developing countries were textiles and clothing. This concern was especially appropriate to the EU in 1991 as their Multifibre Arrangement had recently expired (Stevens and Kennan 1991: 3).

The tentative conclusion drawn by the report indicated that a liberal trade regime could offer significant benefits to South Africa, even with its current export mix. Further, it was apparent that there would not be as many contrary effects for developing countries, or to the EC, as had been expected. Existing exports certainly did not present serious problems and any "new exports" were seen as unlikely to reach substantial proportions much before the end of the next decade, at best.

The report identified the Lomé Convention as the option offering South Africa the greatest benefits, as well as being the least disruptive to Southern African intra-regional trade. The report suggested that, should a future South African government seek Lomé membership, the EC should give the request serious consideration. It recognised that South Africa's economy, while sharing many of the characteristics, was not typical of an ACP state. The nature of Lomé IV was seen to preclude *carte blanche* entry to most of the sensitive products of current interest to South Africa. The value of Lomé to SA would therefore depend very much on a

product-by-product negotiation, for such items as pears and grapes, to increase and extend provisions that were negotiated for the existing ACP states. The result was that full membership of Lomé would have provided the EC, and other interested parties, with just as many opportunities to tailor preferences on sensitive items as would any of the other options. If full Lomé membership was precluded on non-trade grounds, the most advantageous option for South African would then be an associate Lomé Convention status.

This interim report provided the groundwork for a more comprehensive ODI report presented by Sheila Page and Christopher Stevens in 1992. By this stage, most sanctions on trade and investment against South Africa had been lifted. This had proved to be just about as difficult as instituting them had been. The Danish Government had failed to win parliamentary support for the removal of Community sanctions and, under the EPC, the decision to lift sanctions had to be unanimous. The sanctions were finally lifted during the first half of 1992, when the Danish government withdrew its reservations (Holland 1995 b: 62). The ODI report, entitled Trading with South Africa: The policy options for the EC, presented itself as *look[ing] at the role of the trade regimes which EC countries could offer to [South Africa] in the context of its new needs and objectives* (Page and Stevens 1992: vii). This refined report probed South Africa's trade composition more closely, making use of detailed import data from South Africa's major trading partners, the EC countries, the US, Japan, Zimbabwe and Taiwan. These, together with the available South Africa data, provided the material to build a picture of South African exports with which the EC could work. The existence of some representative trade figures for South Africa were essential to any agreement between the country and any other in the world. The competitive nature of global trade did not allow for a country to enter into a trade agreement with another country without first assessing the full extent of the impact that such an agreement could have on the domestic economy. The efforts of the ODI in this

research were thus a fundamental prerequisite for the establishment of any trading regime that South Africa could enter into.

A more serious concern outlined by the report was that the comparative advantage of South Africa's industry could not be accurately assessed due to the *substantial and sustained distortion to the South African economy over past decades*. The complex set of import taxes and tariff duties on manufactured goods, plus the subsidisation of local industries, made it *virtually impossible to identify accurately the items that the country might be able to export competitively in the future (and hence the degree to which other developing countries might face competition)* (ibid.: 3). This issue was of particular concern to South Africa as these industries, many of them large and state owned, provided for many jobs in the depressed economy.

The other area of uncertainty identified by the report was the Uruguay Round of the GATT negotiations. The Uruguay Round had not yet been completed, and it was unclear how far it would take generalised liberalisation on any of the products of interest to South Africa. This meant that the potential value of trade preferences to South Africa was very unclear. For this reason, the report advised that it was not sensible to attempt a detailed quantification of the potential benefits for South Africa at that stage.

The significance of these two ODI reports is that they identified the positions that South Africa could assume when embarking on formulating trade relations with the EC. The factors identified by the reports were largely proved to be accurate well into the post-elections period, and remained the basic foundation on which any negotiations would be built. The report also identified the dilemma faced by South Africa with regard to its classification within the WTO/GATT as a developed country, when it displays an overwhelming number of

characteristics of a developing country. This classification is not just pragmatism, but carries substantial consequences for the country. The regulations of the GATT and later the WTO made special provisions for *developing* countries that were not extended to *developed* countries. Further, and more importantly, the EU had special relationship structures for developing countries, the most easily accessible being the GSP. Of the six regime options identified by the ODI report, all but one of them required South Africa to have developing country status.

The EC position on South Africa had become far more accommodating during this period. The lowering of EC sanctions was coupled with diplomatic statements in support of the change in South Africa, with particular support being given to CODESA (Convention for a Democratic South Africa) and the return of refugees. At the same time, the EC was critical of the continued detention of political prisoners and the alleged involvement of the South African Defence Force (SADF) in instigating violence. The Danish government proposed that the EC adopt initiatives to reduce tension and violence in South Africa, such as supervision of the security forces, police training and monitoring of the electoral processes. Increasing violence in South Africa, and the ANC's boycott of the CODESA process, prompted further strong criticism from the EC. The EC's position was subdued as domestic problems surrounding the signing of the Maastricht treaty were preventing any concerted foreign policy actions (Holland 1995 b: 62-63).

An EC Troika visit to South Africa in September 1992 resulted in an EC observer team being sent to South Africa under UN Resolution 772. This team, which was known as ECOMSA (the EC Observer Mission to South Africa), arrived in South Africa in late October 1992. The team, consisting of policemen, lawyers and economists, was given the task *to seek, [through]*

*their presence in situations of potential conflict, to prevent violence, defuse tensions and promote peace* (Foreign Ministers 1992, cited in Holland 1995 b: 63).

The period that followed proved extremely difficult for South Africa, and fears of a breakdown in the peace process ran high. Throughout this period the EC provided support in the form of funding development projects, and providing support for the democracy education process. The EC budget for South Africa had been increased to 90m ECU, representing the EC's largest contribution to any country in Africa.

The major breakthrough in South African-EC relations came with the signing of the Maastricht Treaty on European Union, which came into effect on 1 November 1993[10]. Under this treaty the Union was divided into three pillars: The first (Titles II, III and IV) amended the EEC, ECSC and Euratom treaties[11] (as revised most recently by the Single Act), formally naming them the European Community. The second pillar (Title V) concerned foreign and security policy and was built upon the existing intergovernmental procedures of European Political Co-operation. The third (Title VI) covered justice and home affairs. The first and last sections of the Treaty (Titles I and VII) comprised a Preamble and Final Provision and sought to bind the three pillars together into the European Union (Duff et al 1994: 19). The member states of the Union set up institutions to govern the Communities. This novel system of government created significant federal-type elements represented by the Commission, the European Parliament and the Court of Justice. These coexist alongside the European Council and the Council of ministers, which represent the member governments in which ultimate power is still firmly vested. Collectively these institutions, together with associated consultative bodies, provide a series of arenas where the concerted collective effort required in the building of the

EC is continued. The process now extends far beyond governmental and business circles and engages many hundreds of thousands of people in almost every walk of life (ibid.: 8).

Under the Treaty European Political Co-operation (EPC) was replaced by a more effective Common Foreign and Security Policy (CFSP). South Africa was adopted as one of the first topics for "joint action" under the auspices of the EU and the CFSP. South Africa took its place amongst four other initial foreign actions, these being the promotion of peace and security in Europe, the Middle East, the former Yugoslavia and the elections in Russia. On the 7 December 1993 it was decided that, under the CFSP, the transition towards a democratic and non-racial South Africa would be supported through:

> *a co-ordinated programme of assistance in preparing for and monitoring of the elections of April 1994, and through*
>
> *the creation of an appropriate co-operation framework to consolidate the economic and social foundations of this transition.*
>
> (EC MEMO/95/61: 49)

This resulted in the active participation of the EU in the build up to the South African elections, providing voter education and monitoring of the electoral process. On 15 December 1993 the Community dropped the last of its sanctions against South Africa (the ban on nuclear collaboration and cessation of exports of sensitive equipment to the police and security forces). Diplomatic relations were normalised on 14 December with the signing of a diplomatic accord which facilitated the formal opening of the Commission Delegation in Pretoria (Holland 1995 b: 70).

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[10] It was at this point that the European Community (EC) became the European Union (EU).
[11] The EEC, ECSC, and Euratom Treaties were the three treaties that, starting with the ECSC in 1950, which led to European Union.

### 3.2 The New South Africa: From Apartheid to Democracy

By the time of the elections in South Africa, the European Union had firmly established a policy of support for change in South Africa, as well as the diplomatic structures to support their policy. The European Commission sent an exploratory mission to South Africa in early 1994 to assess what support the country should be given to help it emerge successfully through its transition. The result of this mission was the proposal of a package of immediate measures to be given to South Africa on the occasion of the inauguration of the new President. The package was intended to:

> *...send a strong political signal to the incoming government and to the South African population, thus proving [the EU's] firm determination to support the transition towards democracy and its willingness to contribute to the reconstruction and economic development of South Africa after the elections.*
>
> (Article 1, European Council 6294/94: 5)

It was suggested that these immediate measures

> *[Be] aimed at addressing the immediate needs and aspirations of SA, without prejudice as to the form of the future more global arrangement between the two parties (EU/SA), should be autonomous in nature and should help create the foundation upon which a long-term relationship could be built.*
>
> *[Be] Included as part of the initial package of measures should be the announcement of the EU's intention to work for the earliest possible lifting of remaining UN sanctions and concurrently to withdraw related EU measures.*
>
> *should also include an offer to conclude the agreement quickly,*
>
> *should have a simplified structure and contain measures that can be quickly put into effect. The practical purpose of this agreement would be to provide the legal basis for the development of future co-operation with the new SA government and the allocation,*

*as appropriate, of the corresponding funds from the Community budget. It should have only a few articles including:*

*a strong human rights clause, making the respect of democracy and human rights an essential element of the new relationship between the EU and South Africa;*

*a comprehensive co-operation clause, which could be drafted flexibly to include future development, covering all areas of co-operation which are within the limits of the respective powers of the Parties;*

*provisions wherever necessary to enable the EU (or SA, as may be the case) to engage in specific co-operation activities or the further development of certain policies.*

*[Furthermore] provision should be laid down, in parallel, in order to provide access to the appropriate budget lines for the funding of activities under this Agreement and*

*an offer to negotiate a comprehensive long-term relationship with South Africa should the new government so request.*

(Article 2, ibid.: 5-6)

These proposals were adopted at the Council of Ministers Meeting in Luxembourg on 19 April 1994. The conjecture was that this would be followed by a more comprehensive agreement that would be negotiated between the new South African government and the EU.

The package that was presented to South Africa by the European Union on 10 May 1994 consisted of:

Improved market access, through granting the benefits of GSP to South Africa, taking into account - inter alia - the specific characteristics of South Africa and the interests of other countries in the region;

An offer to provide South Africa with technical assistance in order to facilitate the opening-up of the South African market and the gradual integration of South Africa in the world economy;

Encouragement of and technical support to the process of regional economic co-operation;

Promotion of EU investments in small and medium-sized enterprises in SA, through the instruments of ECIP (European Community Investment Partners) and BC-Net (Business Co-operation Network), and through the encouragement of bilateral investment protection agreements between EU Member States and South Africa;

Preparation of co-operation in areas like industry, commerce, telecommunication, science and technology, education and training;

Continuation of the Special Programme for SA at a substantial level of expenditure;

Introduction of a political dialogue between the EU and the new government of SA.

(European Commission MEMO/95/61: 50).

Following a second exploratory mission of the Commission in July 1994, the simplified co-operation agreement between the EU and SA was formulated. This was signed in October and approved by the Council in December 1994. The agreement was described by the Commission as *an elementary text which basically contains a mutual undertaking to co-operate in all areas of respective competencies* (ibid.). Other than the political implications and the rhetorical support contained in the interim agreement, the significance for South Africa was minor. The most significant part of the agreement was South Africa's inclusion under the European Union's General System of Preferences (GSP).

The end of 1994 saw three important meetings for South Africa's relations with the EU: Firstly the EU-Southern Africa Council of Ministers meeting in Berlin[12]; secondly, an ACP

[12] This meeting is discussed in detail in chapter 5.

Council of Ministers meeting; and lastly, a Joint ACP-EU Council of Ministers meeting. In November, at the ACP-EU Council of Ministers meeting, South Africa's Minister of Trade and Industry, Mr Trevor Manuel, formally applied for full membership of the Lomé Convention. This application was made in response to the offer from the European Union to negotiate a comprehensive long-term relationship with South Africa. Applying for Lomé membership appeared to be the best option open to South Africa, as it not only offered the country the best trade preferences possible, but also accommodated the regional aspect of Southern African trade. South Africa was the only one of the 11 SADC countries that was not a member of Lomé. Mr Manuel recognised that Pretoria's accession to Lomé would have to occur in a manner minimising the negative consequences for existing ACP signatories. In particular, Mr Manuel emphasised South Africa's desire not to divert development assistance resources away from existing beneficiaries, accepting that EU aid to South Africa should continue to come from the EU's annual budget rather than the European Development Fund (Kibble et al. 1995: 52). In this light, South Africa's application for Lomé membership was warmly accepted by the ACP group, with the Ivorian minister for raw materials publicly declaring his support for its full membership (SouthScan, vol 9, no 45, 2 December 1994: 1). The ACP group saw South Africa's membership as having the potential to strengthen its hand in negotiations with the EU. This attitude reflected the fact that the ACP viewed little or no direct competition from South African trade resulting from SA's accession to Lomé.

The ACP Council meeting agreed to set up a joint working group with South Africa to report back to the Council on the impact of the latter's accession on existing ACP signatories, before the joint meeting with the ACP-EU in February 1995. Pretoria also expressed the desire to establish a joint ACP-EU working group on its application before that meeting. However, this does not appear to have taken place (Kibble et al. 1995: 54). South Africa was granted

observer status at the Lomé IV mid-term review where Article 364, governing the procedure should South Africa be granted access, was added to the Lomé Convention.

Following a visit to South Africa by Directorate General VIII Commissioner, Prof. João de Deus Pinheiro, the European Commission said that it had become clearer to both parties that South Africa would not get what is was seeking, both in terms of aid and trade (SouthScan, 26 May 1995). The EU informed South Africa in June 1995 that full access to the Lomé Convention was not a possibility (IRC News vol. 1, no. 1 1996: 2). The reason for the EU's objection to South Africa's accession to Lomé was based primarily on the incompatibility of South Africa's economy and level of development with the rest of the ACP. Article 363 of the Lomé Convention stated that applications *submitted by a State whose economic structure and production are comparable with those of the ACP States* would be considered by the Council of Ministers. South Africa's economy was clearly far more developed than those of the other ACP countries, being more comparable to middle income countries like Brazil and Venezuela. However, in terms of other indicators like the Human Development Index, South Africa was far more comparable with the ACP. In terms of life expectancy, literacy and adult education, it was on a par with most ACP countries (Page and Stevens 1992: 7).

Despite being excluded from full Lomé membership, South Africa could still have obtained partial Lomé membership, which would have entitled the country to participate in everything but the trade and development aspects of Lomé. Exclusion from the developmental aspects of Lomé were of little importance to South Africa, as the country was already receiving development assistance of a far greater value than it would have through Lomé (Jenkins and Naudé 1995: 43). While full Lomé membership was now impossible, the offer of *qualified* Lomé membership was still open. Under qualified membership, South Africa would be excluded from all forms of trade, the STABEX and SYSMIN stabilisation funds, and a number

of other Lomé financial funds. Qualified membership would have allowed South Africa access to certain political advantages, a possibility to be included in the terms of the rules of origin, the possibility of tendering for Lomé funded EDF projects and participation in regional development programmes. This membership would have had to be negotiated in parallel with a more comprehensive co-operation agreement (IRC News vol 1 issue 1 1996: 2). The Lomé IV mtr was due to be ratified in January 1997, giving South Africa and the EU until this date to formulate an agreement. If this did not occur it would mean that each of the member states of the Lomé Convention would have to ratify South Africa's accession individually. This would be a long and arduous process. The result was that both the first and second trade regime options identified by Page and Stevens (1992) in the ODI report, i.e. full Lomé membership and the associate Lomé membership that they had envisioned, were not available to South Africa. This associate membership would have included South Africa in the trade and development aspects of Lomé, whereas qualified membership excluded both these areas of the Convention.

With full Lomé membership an unrealistic option for South Africa, other options for a trade and development co-operation agreement between the EU and South Africa had to be examined. The third regime on the list of options in the ODI report was a *non-reciprocal association agreement*. This option was also annulled in the wake of the development of the World Trade Organisation. Article 24 of the GATT regulated customs unions and free trade areas and provided for a *common understanding of the obligation of [WTO] members* (GATT Article XXIV: preamble). This article required free trade areas, or customs unions, to be reciprocal in nature and specified that *substantially all* tariffs between signatories to an agreement had to be dropped within a *reasonable length of time*. Besides this ruling by the WTO, non-reciprocal trade agreements were increasingly being viewed as unsustainable. Even

from within the ACP the non-reciprocal nature of the Lomé Convention was being criticised. A Caribbean researcher and business representative at the ECDPM Conference on the future of Lomé was quoted as saying that *non-reciprocal preferences have reached their outer limits or are "past their sell-by-date" and could no longer be instrumental in improving [developing countries'] trade performance* (ECDPM 1996: 24). The possibility of a non-reciprocal trade and co-operation agreement between South Africa and the EU was therefore not only seen as undesirable, but also illegal in terms of the WTO regulations.

It was the fourth ODI option that the EU eventually offered South Africa in June of 1995. On 19 June the EU Council of Ministers approved directives for the European Commission to negotiate a framework for the longer term relationship between the European Community and the Republic of South Africa. The directives proposed that this relationship be built on two elements:

1) *a Protocol to the Lomé Convention covering the terms and conditions of South Africa's accession to the Convention, and*
2) *a bilateral Trade and Co-operation Agreement between the European Community and South Africa.*

With respect to market access, the Council decided that *South Africa will be invited to initiate a process leading to progressive and reciprocal liberalisation of trade with a view to establishing a Free Trade Area* (EC 1996 b: 3) .

The Council further stated that, *if the South African Government was ready to negotiate such an agreement, the Community should respond favourably on the principle of a Free Trade Area, corresponding to the Community's economic and commercial interests. This aim should reconcile compliance with the rules of the WTO and consideration for certain interests*

*and products that are sensitive with the Community. The Agreement would also cover the right of establishment, provision on services and the free movement of capital, and on the free settlement of current transactions in convertible currencies* (ibid.).

On 30 June 1995 the negotiations between the Community and South Africa were formally opened (ibid.: 3). The Commission had delegated the negotiation of the trade and development agreement to its Directorate General VIII (DG8), the Directorate responsible for development. South African relations had formerly been dealt with in both DG8 and Directorate General I (DG1), the Directorate for external relations. DG8 had historically been more sympathetic to South Africa's needs for an agreement that incorporated developmental aspects than DG1 had been (IRC News: 2). Commissioner Pinheiro of DG8 invited the South African Government, on behalf of the European Community, *to explore the option to start a process leading to progressive and reciprocal trade liberalisation with a view to establishing a Free Trade Area* (EC 1996 b: 3-4). In response to this Trevor Manuel stated that progressive and reciprocal trade liberalisation with a view to establishing a Free Trade Area would be acceptable as a *long term objective*. In the short and medium term, South Africa's objective was to *negotiate a comprehensive trade and co-operation agreement with the EU for the duration of the next 15 years at least.* During the first 10 years the agreement should, in the South African view, *contain features which are as close as possible to the Lomé Convention to support the current transition underway in South Africa and Southern Africa as a whole* (Statement of Minister Manuel 30 June 1995). Minister Manuel also presented the delegates at this meeting with a list of four reasons why the EU should negotiate this type of agreement with South Africa. The four reasons (and Minister Manuel's reasoning) were that:

1. The New South Africa had inherited trade discrimination from its Apartheid history. This discrimination needed to be removed and rectified.

2. Trade liberalisation and South Africa's re-integration into the global economy was a painful process and the country needed all the help it could obtain in this process. Attention was called to the promises of support made by the EU in the April 1994 Luxembourg Declaration.

3. The EU had expressed its objective to *contribute to the reconstruction and development of Southern Africa as a whole*, South Africa's development was intrinsic to this.

4. There were long term benefits in establishing strong links with South Africa, and with Southern Africa.

(Extracted from the address by Minister Manuel at the first EU-SA round of negotiations on 30 June 1995)

In addition to these four motivating points, Minister Manuel added seven additional principles that South Africa felt should guide negotiators in the process of the negotiations:

1. Fair trade: The removal of the effects of discrimination resulting from Apartheid South Africa's isolation.

2. No prejudice to the rights and interests of all parties concerned, especially those of SACU, SADC and the ACP member states.

3. The advancement and non-impediment of the current process of restructuring and democratisation of the Customs Union that had existed in Southern Africa for close to a hundred years. The agreement would also have to take cognisance of the development of a protocol for trade and industrial integration being developed in Southern Africa.

4. The negotiations should lead to the fastest possible implementation of what was agreed upon.

5. The negotiations would have to be based on trust and continuous consultation with all parties concerned, especially the ACP countries.

6. The negotiators would have to strive to achieve as their principle objective an agreement that increased the number of sustainable jobs and raised the standard of living in South Africa and Southern Africa.

7. Deliberation would have to begin with the reality and needs of SA and the Southern African region, informed by detailed impact studies. Part of this reality was reflected in fact that SA was part of a Customs Union with some similarities to the European Union itself and thus any framework agreement could not include any commitments that infringed on the rights, interests and preferences enjoyed by the partners in the Southern African Customs Union.

(ibid.)

Minister Manuel's request that the future agreement be as close as possible to the Lomé Convention showed South Africa's determination not to give up easily on a Lomé type agreement. This fact was not favourably received by the EU, who made a point of noting that the objectives, as stated by Minister Manuel, would be *difficult to reconcile with the mutually binding WTO/GATT rules, would not be consistent with the parties' mutual general interests, and would fall short of the political ambitions of the Community, as laid down in the June 19th directives* (ibid.: 4). This statement, made at the first round of technical discussions between the EU and SA in Brussels, was seen as *a great disappointment* to South Africa. SA saw Lomé trade options as the best option with regard to access to the EU market in order to rectify past Apartheid inherited discrimination (Dr. R. Davies' address to the ACP-EU Joint Assembly, 25-29 September 1995).

At the second round of talks, which took place in Pretoria in September 1995, South Africa accepted the invitation by the European Union to start a process leading to progressive and reciprocal trade liberalisation with a view to establishing a Free Trade Area (FTA). This decision was taken on condition that *nothing [was] agreed until everything [was] agreed* (EC 1996 b: 4). This clause included the acceptance of the partial membership of the Lomé Convention. South Africa included this condition in order to prevent being railroaded into an

imperfect agreement somewhere along the way. The idea was that the agreement in its entirety had to be healthy for South Africa.

At this point in the trade negotiations, South Africa requested the European Union to put forward a detailed description of what their FTA entailed. This meant that the European Commission, the EU's administrative branch, had to develop a comprehensive mandate for negotiations, a process that would prove to be a slow and involved one. The Commission needed to develop the mandate, conducting research into all aspects of the potential effect of a FTA with South Africa. This then would have to be given to the Committee of Permanent Representatives[13] (Coreper) who would assess the proposed mandate and make suggestions or point out problems. Coreper would then send the proposal back to the Commission for repair, and once Coreper has accepted it, the proposal would be sent to another committee known as the 113 Committee. The 113 Committee consisted of experts in international law and the workings of the international trade organisations. This committee would examine the proposal for compatibility with WTO regulations (Texeira interview, 24 January 1997). Once the 113 Committee and Coreper had accepted the proposal it would finally be sent to the Council of Ministers for ratification (Bosman interview, 25 October 1996).

On 23 October 1995 the Commission approved a recommendation for a Council decision on complementary negotiation directives for the planned Trade and Co-operation Agreement with South Africa. Shortly thereafter the proposal was submitted to Council for consideration and conclusion. The Commission's proposal was that the FTA with South Africa should cover *at the end of a 10 year period of transition, at least 90% of all trade between the Parties, with a possible element of differentiation between the two parties.* This included asymmetry in

[13] Coreper meets weekly and is an organ designed to take some of the pressure off the Council. Coreper acts as the first *check* of the Commission, attempting to iron out any problems before an issue is sent to Council.

implementation, meaning that the EU would have had to liberalise its economy to South Africa quicker than SA would have had to for the EU (Davies address, 1995). The FTA would include both the industrial and the agricultural sector. The proposal was to aim at a coverage of 97% of EU imports in the non-agricultural sector, and 55% in the agricultural sector. In turn South Africa would be asked to apply, at the end of the transitional period, a zero tariff for 88% of its non-agricultural imports from the EU and 95% of its agricultural imports. The proposal was supplemented by a list of products to be excluded from the agreement, issued by various Member States of the EU. These products, so called *sensitive products*, were identified by the Member States as being potentially threatened by trade with South Africa. France and Germany in particular had firm positions on items being excluded (MRB vol 5/2 1996).

In the meantime the European private sector had met at the *Investment and Trade in Southern Africa* conference at the Club de Bruxelles between October 19 and 20. This conference was extremely well attended, and European business expressed keen interest in both South and Southern Africa. What was clearly expressed was a lack of knowledge and great deal of confusion over what the region had to offer. This meeting also allowed the Director General of Development at DG8 to clarify how far the negotiation between the European Union and South Africa had progressed. There was a strong call by pro-Southern African lobbyists at the conference for an immediate review of the rules of origin applying to Southern Africa. The lobbyists were calling for the SADC region, including South Africa, to be treated as a single entity with regard to the rules of origin. British Labour MEP, Glenys Kinnock, attacked the present system, saying that it, *spells delays and uncertainty, which are unlikely to stimulate trading opportunities* (cited in Misser 1995: 21). The issues addressed at the conference, and

the level of interest in the region, were encouraging to South Africa's future investment opportunities, and reiterated the importance of a good outcome for the agreement.

In October and November 1995 two more rounds of discussion between the Commission and South Africa took place. All discussions focused on non-trade matters, where good progress was made (EC 1996 b: 4). In December 1995 South Africa effectively froze any further discussions with the European Union, until such time as the Commission had received a complementary negotiating mandate from the Council.

### 3.3. Obtaining an EU Mandate

In late January 1996 the process of preparing a mandate for the Commission hit a snag. On 22 June 1995, three days after the approval of the first set of negotiating directives for South Africa, the Council and the Commission concluded that in future, before taking steps towards establishing a free trade area, the Commission should:

- *assess the compatibility of the planned agreement with WTO rules;*
- *assess the implication of such an agreement for the Union's common policies and for its relations with its main trading partners.*

At the time of this conclusion it was unclear whether this should apply to South Africa, as the principle decision to invite South Africa to enter into an FTA with the EU had already been taken. On 27 October 1995 the 113 Committee expressed the view that the complementary negotiating directives which the Commission had presented to Council should indeed be assessed in the light of the conclusion of June 22nd. While this had been decided, the issue of when these studies should now be conducted had not been resolved. The obstacle encountered in late January was that some of the Member States argued that the studies should be

conducted in parallel with negotiations, and others argued for the completion of studies before issuing a negotiating directive. After the Coreper meeting of 23 January it became clear that several Member States required a written assessment of the impact of a trade agreement with South Africa before a negotiating mandate could be ratified (EC 1996 b: 3-7).

The impact studies were commissioned at the General Affairs Council on the 29 January 1996. Prof. Pinheiro announced that detailed impact studies would be conducted into the full effect of a trade and development agreement with South Africa. This would involve a lengthy and comprehensive study in each Member State and in all South Africa's trading sectors, including products for which no trade had as yet been recorded. This would also include an assessment of the requirements laid down by the WTO and other international trade bodies. For this reason, any further decisions on the FTA were postponed until the reports had been submitted.

South Africa had not been expecting this delay in the process of establishing the agreement. In a démarche issued on 12 February by the South African government to the EU, Pretoria expressed regret at the inability of the EU to reach an agreement and the consequent delay in negotiations (Press Release from the South African High Commission, London, 12 March 1996). What had started out as a display of goodwill and support for the new government, was rapidly turning into a competitive battle for who would gain the most from an agreement. From the South African viewpoint, the South African market would have little or no impact on the European one. An already cautious South African team became increasingly sceptical of the agreement from this point on, realising that any concessions that the country might gain from the agreement would have to be hard fought for. This was accompanied by a simultaneous, rapid closing of the so called "window of opportunity" that had been opened in the immediate post-apartheid era. South Africa was having to compete in a global environment that was becoming steadily less sympathetic to her political and social transition.

The brief period in which South Africa was riding on the wave of post-apartheid goodwill was over. South Africa realised that it was a country with an inefficient industrial sector, and a collapsed economy, coupled with massive social problems, making it an unwieldy navigator in the global market. With this realisation, a good trade deal with Europe was becoming more imperative and looking increasingly unlikely at the same time. Fear of losing more ground caused Pretoria to launch a sharp attack on the delays (MRB vol5/2 1996: 1-3).

Indications from the European Union were that they wanted an agreement signed before the Union's summer break to allow sufficient time for ratification of the agreement which could then have been enforced from early 1997. This desire was coupled with the desire of the Italian Presidency of the EU to present President Mandela with an agreement at the European summit in Florence in June. This push by the Italians was hoped to overcome some of the reluctance of the French, German and Spanish to rush the agreement along (ibid.). The political dimension of the agreement in Europe was having a surprising effect. South Africa's effect on the EC during the apartheid years had been one of dividing the Community into parties that were to varying degrees pro and anti sanctions. As mentioned previously, this had led to a near breakdown of EPC and the Single European Act. In the post-apartheid era a division, of lesser intensity, was once again being witnessed. The Scandinavian countries that had been very strong in the anti-apartheid struggle were now pushing strongly for a healthy trade and development agreement. France, Germany and Spain were finding themselves heavily under the influence of their farming lobbies, who felt seriously threatened by South Africa's agricultural sector. Britain, which had traditional economic links with its former colony and had always been anti-sanctions and pro-SA investment and development, was also pushing for a post-apartheid trade and development agreement.

In the meantime, the South African negotiating team expressed dismay at the delays incurred by the slow process of formulating the trade mandate. At a special meeting held in London on 10 and 11 March 1996, the South African Heads of Mission in EU Member States met to discuss trade relations. The meeting was aimed at sharing ideas and information. The result of the meeting was that the South African government expressed its dismay at the delays in the negotiations, saying that valuable opportunities were being lost for South African exporters at a time when they were critically important for social upliftment inside the country, and for the bolstering of the Southern African region. This was seen as being contrary to previous EU commitment to both South Africa and the region (Press release issued by the South African High Commission, London, 12 March 1996).

### 3.4 The Impact Studies

The first impact studies were completed by mid-February and covered 4 main areas:

1. Compatibility of the planned agreement with WTO rules
2. The economic and commercial interests of the EU in South Africa
3. Implications of an FTA for EU Common Policies
4. Implications on the relations with the EU's main trading partners

Research had been conducted into all conceivable impacts of the proposed FTA. The economic and product impacts had been assessed in terms of South Africa's overall economic structure, and through a sector by sector and product by product analysis.

The member states of the EU had been requested to submit lists of products for exclusion from the agreement. These lists were the cause of considerable problems for the EU's development of a mandate, as the list was far too large to be accommodated by the WTO. In late February

this list amounted to around 46% of all agricultural trade. The EU were working at whittling this list down to a more manageable and realistic figure.

The results of the impact study and the reduction of the exclusions list allowed the Commission to prepare its final negotiating mandate, which was presented to Council in March 1996. On 25 March the Council of Ministers authorised the European Commission to start negotiations with the government of the Republic of South Africa on the trade part of the planned Trade an Co-operation Agreement.

### 3.5 The EU Mandate

On 29 March 1996 the Director General of DG8, Steffen Smidt, presented South Africa with the planned bilateral agreement's trade proposal. The EU's new mandated proposal added three new political and commercial decisions to the June 1995 directives:

> the Community's support and encouragement of the process of trade liberalisation that was underway in South Africa;
>
> the parties' commitment to ensuring that their mutual arrangements did not impede the process of restructuring the Southern African Customs Union, which linked South Africa to four ACP States (the BLNS states);
>
> the commitment of both parties to encouraging regional economic co-operation and integration between the countries of Southern Africa, and the liberalisation of trade between those countries.

With regard to the second and last point, the Community invited South Africa to provide improved market access opportunities to its partners in the ACP group, alongside the liberalisation process to be effected in relation to the EU.

The duration of the transition period to establish the FTA, and fulfil the trade liberalisation that would be required, was set at a maximum of 10 years, starting from the entry into force of the agreement. This was done in accordance with the rules of the WTO as contained in Article XXIV. In exceptional circumstances, for specific products, the length of the transitionary period could be extended to 12 years. At the end of this transitionary period, the FTA would cover the bulk of trade between the parties, with a possible element of differentiation between the two parties. The FTA would cover the free movement of goods in all sectors, the liberalisation of trade in services, and the free movement of capital.

In order to ensure compliance with the WTO rules, the mandate did not commit itself to any percentage target for the trade coverage of the FTA. Instead, it was proposed that a formula for coverage in the future agreement be introduced. The objective was to avoid the need to re-negotiate the agreement, to ask for a waiver, to give erga omnes[14] concessions or to be involved in compensation claims or acts of retaliation. The FTA was to cover *substantially all trade*. However, the exact coverage of the FTA was not published; the coverage is widely reckoned to be around 96% of current trade. This figure should have comfortably met the WTO requirements. It was when the mandate was broken down into sectors that problems and disparities began to emerge.

### 3.5.1. Non-Agricultural trade

In the non-agricultural sector, the Community proposed to suppress duties and taxes having an equivalent effect in two stages. One group of products, including the products that were already covered by the GSP, could be liberalised immediately following the entry into force of

[14] *erga omnes*: "and so all", meaning an agreement covering all (100%) trade.

the agreement. For a second group of products, duties and taxes would be eliminated during the first three years of the agreement.

South Africa's obligations under this mandate would be to suppress customs duties and taxes having an equivalent effect in four stages: A first group of products was to be liberalised immediately following the entry into force of the agreement; a second group after the transitional period of three years; a third process of liberalisation would start four years after the entry into force of the agreement; and the last one would only start after six years. This staggered effect was intended to accommodate South Africa's developmental requirements and provide a buffer for the side effects of trade liberalisation. The definition of the different groups of products was to be a subject for negotiation.

The mandate also covered the liberalisation of products for which little or no trade had been recorded. These products would be subject to one of the dismantling processes, or would be excluded, depending on their degree of sensitivity, which would be assessed on a case by case basis in parallel with the negotiations.

For certain sensitive products, or for products where South Africa had proved strongly competitive on world markets, both parties would eliminate customs duties in parallel, notwithstanding the principle of asymmetrical dismantling. The identification of these products would again take place during the identification process.

### 3.5.2. Agricultural trade

The coverage of agricultural produce in the EU's trade mandate displayed a lot more protectionism on the part of the EU. The suppression of duties and taxes in the agricultural

sector were set to take place in four stages. Immediately at the entry into force of the agreement a first group of products would be liberalised. This group would include those products already covered by the GSP. For a second group of products, duties and taxes would be eliminated over a period of three years, starting from the entry into force of the agreement. For a third and fourth group, the Community would start eliminating duties no later than four and six years respectively after the agreement's entry into force.

In return, the South African market would have to liberalise its agricultural imports from the EU in two stages, the first of which would begin immediately at the entering into force of the agreement. For a second group of products, South Africa was requested to eliminate custom duties and taxes over a ten year period starting from the entry into force of the agreement.

The Mandate made specific reference to the Community's wish to ensure coherence between the trade arrangements with South Africa on the one hand, and the provisions of the agreements with other preferential partners of the Community on the other. This included the Union's common policies and broader economic interests. The EU made it clear that the liberalisation process would have to comply with the principles of the CAP. This would mean that Community preferences would have to be maintained and the FTA was not to affect the mechanisms for the operation of the corresponding common market organisations (CMOs). A general clause was suggested to assure the integrity of the parties' agricultural policies. This clause was to guarantee that *if, as a result of implementation of the parties' agricultural policies, specific rules [were] introduced, or if existing rules [were] modified, or if the provisions concerning the implementation of the parties' agricultural policies [were] modified or developed, both parties [could] adapt the arrangements laid down in the agreement in respect of the products concerned.*

The mandate for the agreement specified that trade liberalisation in fisheries products would be discussed in a specific fisheries agreement to be negotiated in parallel with the trade agreement. Specific sensitivities of certain fisheries products would also be dealt with.

For certain sensitive products tariff dismantling was foreseen in the form of tariff quotas, whose levels and growth rates would be mutually agreed between the Parties.

The list of agricultural products to be excluded from the agreement was contained in the mandate. This list of excluded products had been expected by South Africa. However the extent of the exclusions came as some surprise. The exclusion list that had been identified by the Commission contained the following products: cut flowers, lemons, fresh apples and apple juice, fresh and preserved pears, fresh oranges and frozen orange juice, preserved asparagus, preserved apricots, preserved peaches, grape juice, pineapple juice, some mixtures of preserved fruits and mixtures of juices, and wines. The total value of these lists equalled about 39% of the EU's agricultural imports from South Africa, only a little down on the previous 46%. Pretoria had been expecting exclusions in the region of 25% of agricultural produce.

As with the non-agricultural products, the mandate specified the arrangements for dealing with products for which little or no trade had been recorded. These products would be subject to one of the dismantling processes, or would be excluded, depending on their degree of sensitivity, which would be assessed on a case-by-case basis in parallel with the negotiations. The mandate stated that

> *...without prejudice to the results of this systematic examination and to the overall objective of the negotiations, the Community's position is that it does not envisage liberalisation of imports into the EU of maize, sugar, beef and veal and certain of their derivatives or*

*substitutes, butter, milk powder, certain preserved citrus fruits, vermouth and preserved tomatoes.*

### 3.5.3. General Provisions

The EU also defined its position on a series of general aspects of the planned agreement. These general arrangements were drawn from the most recent generation of Trade and Co-operation agreements that the EU had with third countries, and were proposed as follows:

> *On competition it is recognised that practices which have the effect of distorting, restricting or preventing competition, abuses of dominant positions as well as State aids which distort competition and hamper new investments can act as serious non-trade barriers. The agreement will therefore ensure that these practices be effectively outlawed.*
>
> *As regards the barrier of import quotas the Community suggests that the two parties retrospectively agree that no new import quotas nor measures having equivalent effect shall be introduced by either of the two parties after the beginning of the negotiations on 30 June 1995. A roll back clause shall be introduced to ensure that this undertaking has effectively been implemented. Existing import quotas or measure having equivalent effect shall be eliminated on the entry into force of the agreement. The parties shall not apply export duties or taxes having equivalent effect, nor quotas or measures having equivalent effect.*
>
> *The Community proposes that the parties further agree that they will not discriminate between the products of the other party by way of fiscal measures or practices.*
>
> *The agreement will also contain a clause allowing the parties, in case of major difficulties resulting from South Africa's or the EU's trade liberalisation towards each other, to temporarily suspend the liberalisation process for certain products, after consultation with the other party.*
>
> *Another clause would confirm that the agreement shall not preclude the maintenance of the Southern African Customs Union (SACU), or the establishment by either party of*

*free trade areas or other trade arrangements that contribute to increased trade liberalisation and regional economic co-operation.*

*Furthermore, the Community recalls, with due regard to Community legislation, that the specific interests of the Community's outermost regions, in particular of the local market of Réunion, must be taken into account.*

*An anti-dumping clause will be necessary. If one of the parties finds that injurious dumping or subsidization is taking place in trade by the other party within the provisions of the GATT, it may take appropriate measures against this practice, in accordance with the GATT/WTO rules and practices.*

*There will also be a safeguard clause. Where any product is being imported in such increased quantities and under such conditions as to cause or threaten to cause serious injury to domestic producers of like or directly competing products, appropriate measures may be taken. The drafting of this clause will reflect current CCEE safeguards and may include, for highly sensitive products, statistical surveillance mechanisms. Safeguard measures already introduced and notified in accordance with GATT/WTO rules will be maintained. Regional safeguard measures, consistent with WTO rules, may be adopted to take account of the economic situation in the EU's outermost regions, particularly in Réunion.*

*It is evident that the agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public security, health protection, the protection of national treasures etc.*

*Finally, the Community proposes that the parties shall agree to review the progress being made in the implementation of the Free Trade Agreement, and in particular in the liberalisation process as regards the most sensitive products, within 5 years from the date of entry in force of the agreement.*

(statement by Steffen Smidt, 29 March 1996)

### 3.5.4. Rules of Origin

The mandate also proposed that the agreement include a Protocol on the terms of South Africa's inclusion in the Lomé Convention's rules of origin. This *protocol [would] be inspired by the ongoing harmonisation process of preferential rules of origin applicable to third countries and [would] be consistent with those of the Lomé Convention* (statement by Steffen Smidt, 29 March 1996). As in the other Community preferential agreements, products would be considered to be originating if they were wholly obtained or sufficiently processed in the territory of the contracting parties. The criteria for determining whether a product had been sufficiently processed would refer to provisions set out in a list annexed to the Protocol.

With regard to the Lomé Convention, the Protocol would include, in particular, a cumulation procedure with the objective of promoting closer economic co-operation between the Parties, and furthering regional economic integration. The cumulation procedure would involve procedures of three parties: the EU, SA and the ACP countries. To avoid deflection of trade, this procedure would take account of the specific nature of the arrangements to be negotiated with South Africa as compared to the Lomé Convention arrangements, particularly where sensitive agricultural products were concerned.

### 3.5.5. Trade in Services

The Protocols covering trade in services included the right of establishment of companies of one party in the territory of the other, and the liberalisation of the supply of services by companies of one party to service consumers in the other. While this objective was covered in the Mandate, the Protocols established that these objectives would only materialise at a later

stage. The Protocol established that trade in services would be compatible with the terms and obligations laid out in the General Agreement on Trade in Services (GATS), annexed to the treaty establishing the WTO. In particular, the commitment was to accord each other MFN treatment in trade and services in sectors covered by these commitments. The parties would further be bound by Article 274 of the Lomé Convention, governing *qualification and treatment of business entities*.

It was suggested that, once the two parties had gained a certain level of experience in the implementation of the MFN and GATS treatment, recommendations would be formulated in order to extend the scope of the bilateral agreement to *reciprocal liberalisation in the area of services*. This would be subject to examination as soon as possible after the implementation of the agreement, and no later than five years after the entry into force of the agreement.

The Mandate provided specific formulations for dealing with the subject of maritime transport. Both parties were to undertake to apply effectively the principle of unrestricted access to the international maritime market and traffic on a commercial basis. In applying this principle both parties were to permit the shipping companies of the other party to maintain a commercial presence in their territory, for the purpose of carrying out shipping agency activities. This was to be conducted under condition of establishment and operation no less favourable than those accorded to their own companies, or to subsidiaries or branches of companies of any third country. The EU further suggested that both parties agree on the importance of exchanging information on the inspection of ships by the State of the port and agree to take action to make this exchange as effective as possible.

### 3.5.6. Free Movement of Capital

The provisions on the free movement of capital required the parties to undertake to allow payments for current transactions to be made in freely convertible currency. Both parties would further have to ensure the freedom of repatriation of foreign direct investment and all profits stemming therefrom. Finally, both parties would have to agree that, in case of serious balance of payment difficulties, certain restriction on current transactions be allowed to be introduced. This was to be conducted in accordance with the rules set out in the GATT/WTO and IMF, with a limited duration, and not going beyond what was necessary to remedy the imbalance of payments situation.

### 3.5.7. Other Trade Related Aspects

In concluding the mandate, reference was made to the other trade related subjects that had already been included in the general negotiating directives of 19 June 1995, and which were also subject to negotiation between the parties.

In these complementary directives, it was proposed that the parties should agree to adopt policies aimed at:

- evolving and recommending trade promotion measures suitable for fostering the development of trade, in particular in favour of SMEs (Small and Medium sized Enterprises) as well as organising trade and investments visits and industry trade fairs;
- supporting cross border initiatives facilitating regional trade, investment and payments in the interest of more economic cohesion of the Southern African region;

- promoting and facilitating co-operation between the customs services of both parties in order to ensure that the provisions on trade were observed and to guarantee fair trading. The co-operation would give rise to, among other things, the exchange of information and to training schemes, as well as to provisions for mutual assistance;
- achieving a level of protection of intellectual, industrial and commercial property which was equivalent to the highest international standards; South Africa would be asked to apply the multilateral convention on protection of intellectual, industrial and commercial property, without taking advantage of the exceptional transitional periods available to LDCs;
- ensuring the greatest possible reciprocal liberalisation of public procurement, in accordance with the principles of the GATT. South Africa should undertake to become a contracting party to the GATT Government Procurement Code and to negotiate additional liberalisation on a bilateral basis;
- encouraging convergence in respect of standardisation and certification by promoting the use of compatible systems of standards and certification, in perspective of the mutual recognition of norms;
- instituting co-operation in the field of trade statistics.

The EU saw the issuing of this mandate as a signal that the negotiations would now begin in earnest. DG8 Commissioner, Prof. João de Deus Pinheiro, welcomed the directives. Prof. Pinheiro said that the Commission felt the directives were *a well balanced attempt to respond to the South African demand for improved access to the Community market, and to encourage South Africa itself to open up to the global economy* (Statement by Prof. Pinheiro welcoming the mandate, 25 March 1996). The objective, presented by the mandate, and interpreted by the Commissioner, was to:

> *...negotiate a genuine FTA, which will have to be consistent with the rules of the WTO. Under these rules, tariff dismantlement must apply to "substantially all trade" between the parties, which allows only limited scope for exclusions. We are bound to achieve this over a*

*transition period of ten years, except for specific products where an extension to 12 years may be justified. The Free Trade objective will cover all sectors, agriculture included, which is an innovation when compared to other preferential agreements entered into by the Community. The free trade agreement will first apply to trade in goods, but its extension to trade in services is foreseen in the future.*

(ibid.)

The Commissioner warned that if the mandate proved to be incompatible with the WTO rules, or unacceptable to South Africa, it would be reverted to Council.

Director General, Steffen Smidt, expressed that the Commission was now fully equipped to undertake the trade negotiations with the government of South Africa. He expressed the desire that the negotiations begin immediately and be brought to a conclusion as soon as possible in 1996. The trade negotiations would be conducted in conjunction with those of South Africa's accession to the Lomé Convention and in parallel with other planned agreements covering co-operation in non-trade and non-Lomé areas.

### 3.6. South Africa's Response to the EU Mandate

South Africa's trade diplomats reacted angrily to the news that the EU ambassadors had bowed to the pressures of the protectionist farmer's lobby. The South African team expressed that, while they had been expecting a list of agricultural exclusions, they had not expected such a formidable one. This list, and the EU's support of protectionist policy, was in contradiction with earlier promises and commitments. Director for foreign trade at South Africa's Department of Trade and Industry, Mr Faizel Ismail, expressed his team's deep disappointment with the list. He said that *until we are convinced that there is something negotiable on the table, we may have to rethink the possibility of negotiating a trade agreement. Our initial*

*impression was that there would be no exclusions* (Business Day 25 March 1996). South African Minister of Foreign Affairs, Mr Alfred Nzo, also criticised the EU's trade mandate while speaking in the parliamentary foreign affairs debate. Mr Nzo further questioned the EU's commitment to their previous rhetoric, saying South Africa was *concerned that the EU's mandate for the trade negotiations [had] been eroded since the strong commitment in support of SA's transition to democracy which had earlier been expressed.*

Mr Willem Bosman, Director for Regional Economic Organisations at the South Africa Department of Trade and Industry, criticised the EU's lack of sensitivity to South Africa's Reconstruction and Development Programme (RDP). He said that the objectives set out by the EU in their trade mandate were the same as would apply to a developed country such as Australia. He said that South Africa's repeated requests for free access to the EU's market, while at the same time keeping the EU's trade access to our market at an absolute minimum for at least 10 years, had been ignored. Mr Bosman expressed dismay at the EU's insensitive mandate, which was contradictory to their stated objectives both in the Luxembourg Declaration and in the original FTA proposal of June 1995 (Report by Mr Willem Bosman, later submitted to Finansies en Tegniek Weekliks, 28 August 1996).

Another concern expressed by the South African negotiating team was the issue of linking the various parts of the negotiations. The European Union's Mandate required the simultaneous conclusion of all the agreements. This meant that the trade agreement and the qualified membership of Lomé had to be negotiated simultaneously. These had to be concluded in parallel with the bilateral agreement on sea fisheries, wine and spirits and, finally, that dealing with science and technology. According to Bosman, this was impossible to achieve and did not suit the SA negotiators, or tie in with the EU's stated wish of concluding the broad agreement as soon as possible (ibid.).

The nature of the EU mandate prompted South Africa to assess the full impact of a FTA with the EU. This impact assessment began in September 1995. However, without a mandate from the EU, it had been difficult to assess just what the FTA would have impacted on. The South African negotiating team announced that they would have to now prepare their own mandate in the light of the EU's mandate. This would have to be thoroughly researched, and the impact on not just South Africa, but also on the SACU and SADC, would have to be assessed. The extent of this assessment would mean that it would take some time to complete. Pretoria also indicated that its primary trade responsibility was to the Southern African region, and for this reason any agreement between the EU and SA would have to be acceptable to both SADC and SACU.

South Africa also wanted to accommodate both the private sector and labour, much as the EU had accommodated their agricultural sector. For this reason, the South African team decided to work in co-operation with the National Economic Development and Labour Council (Nedlac). Nedlac's origins lie in the struggle against apartheid, against unilateral decision-making, and in the calls from all sectors of society for decisions to be taken in a more inclusive and transparent manner. This had emerged out of the recognition of the importance of seeking consensus on major economic, social and developmental policies to ensure their success (What is Nedlac? http://www.nedlac.org.za/background.html). Nedlac's charter further stated that it *shall be a representative and consensus-seeking body where the parties ... will seek to reach agreement through negotiation and discussion based on proper mandates.* Requiring the agreement of Nedlac would mean that the more economically conservative labour movements in South Africa would have to agree to the negotiation of a FTA.

South Africa's investigation into the effects of a FTA, before granting a mandate for negotiation, meant that the preliminary discussions about the negotiations between SA and the

EU, that were due to start on June 20, could produce no fruit. This apparent lack of action on the part of South Africa prompted Director General Steffen Smidt to seriously criticise South Africa at an investment conference held in Cannes in June 1996. He accused South Africa of *foot dragging* and warned that the offer of a free trade agreement would not exist indefinitely. He also warned that the *window of opportunity* that had been opened to South Africa would not remain open for long. Director General Smidt also expressed his dismay at what he saw as South Africa's viewing of the FTA offer as unattractive.

The comments from Director General Smidt came at a bad time for South Africa, as it was trying to win foreign investor interests. The conference was attended by South Africa's Deputy President, Mr Thabo Mbeki, the Minister of Finance, Mr Trevor Manuel, and the Governor of the SA Reserve Bank, Mr Chris Stals. Mr Manuel's response to the accusations was to point to the fact that the *foot dragging* was in fact an attempt by the South African government to get consensus from all parties that would be potentially effected by the agreement, particularly that of the region (Business Day 19 June 1996).

Mr Manuel's response indicated that South Africa would not respond to the EU's offer of an FTA until all factors had been considered. The following chapter examines the South African economy and the possible effects that a FTA, such as the one presented in the mandate, could have on the SA economy. While no comprehensive impact studies of the FTA have been released to date, numerous draft studies have been conducted, and the implications of a FTA for South Africa can therefore be speculated upon.

# CHAPTER 4

## THE EFFECTS OF A FTA ON SOUTH AFRICA

At the end of 1996, the South African negotiating team made it clear that no agreement could be embarked upon before all factors had been considered, and all impacts assessed. This was a very difficult process for a number of reasons, some of which had been encountered by the European researchers in the early stages of formulating a proposal for a SA-EU agreement. South Africa's import and export figures during the apartheid years were extensively manipulated in an attempt to circumvent internationally imposed sanctions. The figures had been further manipulated by the need to support South Africa's protectionist policies under apartheid. Furthermore, because of the extensive sub-continental linkages, the impact upon the entire region, especially upon the SACU countries, would have to be thoroughly assessed. The poor trade statistics extended to the entire region, and this would also have to be taken into consideration.

By the end of 1996 no impact studies had been released by the South African government. This study, therefore, makes use of data from the EU and draws extensively from the Global Economic Strategy Project's (GESP) draft document of September 1996. This document was prepared by Kate Kuper of the Department of Trade and Industry, and Rashad Cassim of the Trade Policy Monitoring Project at the University of Cape Town. Its aims were to:

- Develop a policy tool which would act as a basis for determining the allocation of DTI foreign offices and domestic marketing resources. This would be done according to an assessment of the trade (and to some extent inward investment) potential for South Africa across a range of markets.

- Create a framework which took into consideration some of the important but less tangible qualitative factors which played a role in prioritising countries with which South Africa should have fostered economic relations. This would require a broader political economy approach.
- Begin a process whereby government and its social partners worked together to identify markets and sectors which held out the greatest potential for enhancing South Africa's economic performance in the global economy.

This report was aimed at SA's relation to the entire global economy, not specifically at the European market. The report supplied good trade data, and policy proposals for South Africa's general foreign trade stance.

The first thing to note, when assessing the effects that a FTA would have, is that the parties to the agreement were vastly different. The concept of an FTA, as defined by the GATT/WTO, was one designed to be implemented between parties that faced geographic proximity and similar levels of development. The EU-SA case was clearly neither geographically approximate, nor was it economically homogenous. The EU was a grouping of 15 highly developed economies representing the bulk of South Africa's foreign trade: absorbing more than 40% of SA's exports and supplying more than 33% of SA's imports (European Commission 1996: 13). On top of this, the EU contributed 52% of all foreign direct investment in the country (Fouéré address at FGD conference, 21 October 1996). South Africa was a developing country facing massive social and economic change, that represented only 1,9% of the EU's imports, and 1,3% of exports (EU 1996 b: 13). The importance of the European trade for South Africa is evidenced in Table 3

**Table 3: South Africa's most important trading partners**

| | 1990 ranking | 1991 ranking | 1992 ranking | 1993 ranking | 1994 ranking | **1994 in million rand** |
|---|---|---|---|---|---|---|
| European Union | | | | | | 52 082,5 |
| Germany | 1 | 1 | 2 | 2 | 2 | 16 692,5 |
| United Kingdom | 2 | 3 | 3 | 4 | 3 | 14 900,2 |
| Italy | 7 | 8 | 7 | 8 | 6 | 4 749,6 |
| Belgium | 9 | 10 | 9 | 7 | 8 | 4 344,7 |
| Netherlands | 6 | 7 | 8 | 9 | 9 | 4 003,5 |
| France | 10 | 9 | 10 | 10 | 10 | 3 712,0 |
| Others | | | | | | 3 680,0 |
| United States | 4 | 2 | 1 | 1 | 1 | 16 901,5 |
| Japan | 3 | 4 | 4 | 3 | 4 | 12 049,8 |
| Switzerland | 5 | 5 | 5 | 5 | 5 | 8 006,4 |
| ROC (Taiwan) | 8 | 6 | 6 | 6 | 7 | 4 421,3 |
| total all countries | | | | | | 134 544,7 |

(source: EU 1996 b: 13)

Not only was the EU, as a group, South Africa's largest partner, but six of the 15 member states were in SA's top ten trading partners in their individual capacity.

Despite the fact that South Africa's developmental level was of an inferior nature to that of the EU, South Africa had managed to maintain a trade surplus in the past. This surplus, however, was maintained only through the export of precious stones and metals, a sector that has rapidly declined in importance. Further, the EU maintained a large surplus on trade in industrial goods, and this had been growing as quickly as the decline of South Africa's precious stones and minerals. Figures for 1994 showed that South Africa had lost this trade surplus, and the future prospects indicated that the EU's surplus would grow exponentially. For this reason, the maintenance of a positive trade balance in agriculture was important for SA as it was one of the only areas in which SA could compete with the EU. If gold was excluded from the assessment, the EU would be seen to have had a trade surplus much larger than that indicated in the table. Table 4 displays the EU's trade balance with SA from 1992 through to 1994.

**Table 4 EU (15) trade balance with South Africa**

| | Amount in Millions ECU | | | x/m ratio |
|---|---|---|---|---|
| | 1992 | 1993 | 1994 | (average) |
| total | -3781 | -2855 | +622 | 75% |
| agricultural products (CN-code 1-24) | -621 | -476 | -542 | 30% |
| industrial products (CN-code 25-70, 72-98) | +1757 | +2311 | +3414 | 177% |
| precious stones and metals (CN-code 71) | -4917 | -4690 | -2250 | 2% |

(source: EU 1996 b: 14)

When assessing the impact that a FTA could have on the two parties, it is first important to look at all aspects of the current trade relations. An area that demands particular attention is the degree of access that each party has to the other's market prior to an FTA. It is in this area that South Africa faces the most difficult transitions. The trade access, prior to any agreement, allows 80% of South African exports to enter the EU market duty free. For EU products, however, the level of free trade access is low, with only 44% of goods entering the SA market duty free. These figures reflect South Africa's GSP treatment within the EU, with a high level of free access. They also reflect the nature of South African trade, being primarily in products that are zero rated in terms of GATT/WTO and the GSP. This is especially true for trade in metals and minerals. In turn, South Africa's high level of protectionism reflects the effects of the apartheid government's protectionist policies. These figures, relating to quantity of exports in real terms, are also reflected in the level of tariffs imposed. The average level of tariff in the EU is more than three times lower than that of South Africa, where the average tariff is as high as 20% for industrial products and 38% for agricultural products (EU 1996 b: 14).

These figures are manipulated further by requirements under the WTO. As a result of the WTO Marakesh agreement, the percentage of duty free access will be increased towards the year 2000 to 83% for access to the EU market, and 54% to the South African market. Given that negotiations towards a free trade agreement are unlikely to be completed before mid to late 1997, at the earliest, and following the slow progress to date, it is evident that the increase

in free access to the EU market, resulting from a FTA, is not going to be that substantial for South Africa. Conversely, the effects, faced by South Africa, of opening up an already sensitive market at a rate quicker than that demanded by the WTO will, in all likelihood, be extremely detrimental to South Africa's development and domestic industries. Under these terms, and taking the EU's mandate into account, the increase in free trade access to the EU market will only be in the region of between 6% and 10% depending on the level of coverage of the agreement. In turn, South Africa will have to carry out a massive opening of its economy, facing all the increased competition that accompanies this. According to Paul Goodison, of the European Research Office, to achieve the elimination of 90% of tariffs on all current trade, the EU will have to eliminate 7% of its tariffs on SA imports, and SA will have to eliminate 36% of tariffs on goods imported from the EU (Goodison address at the FGD conference: 21 October 1996). These figures are not in keeping with the spirit of development that was proposed in the Luxembourg declaration.

In addition to this, the EU's mandate required South Africa to use "applied" rather than "bound" rates when negotiating its tariff reduction commitments for the proposed FTA. Bound rates were the maximum rates that SA had already committed itself to in the WTO. In many cases, the country has reduced its tariffs below the bound rates in order to either simplify its tariff structure or for the purpose of industrial or agricultural policy. These lower rates are the "applied" rates. South Africa reserved the right to raise the tariff up to its bound rates if industrial, agricultural or other policy decisions so demanded. The EU's insistence on the use of applied rates has effectively eroded South Africa's use of legitimate (WTO compatible) trade policy instruments (Faizel Ismail in Business Day 18 July 1996).

As mentioned above, South Africa's exports to the EU are mostly zero rated, due to the fact that they are primary products. This reflects the properties of South Africa's export profile, of

which close to two-thirds are commodities - primarily minerals and agriculture (the latter make up less than 10% of total exports). The contribution of minerals to South Africa's total exports is close to 50% (Kuper and Cassim 1996: 21). This figure excludes limited processed mineral products such as ferro-alloys and steel. Of these minerals, the majority export earner is gold. The relative importance of gold, however, has been declining over the past decade, from 43.5% in 1985 to 29.7% in 1994. In terms of value, South Africa's non-gold mineral exports have increased, although at a slower rate than total export growth. Gold, however, is pulling the entire mineral sector's growth rate down and, as indicated in Table 5, minerals as a percentage of all exports, have declined in importance from 66.7% in 1985 to 49% in 1994.

**Table 5 Minerals and Gold as a Percentage of Exports.**

| Year | 1985 | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 |
|---|---|---|---|---|---|---|---|---|---|---|
| Minerals as % all Exports | 66,7 | 66 | 60 | 57,5 | 57,1 | 54,2 | 53,2 | 49,1 | 48,7 | 49 |
| Gold as % all Exports | 43,4 | 42,5 | 40,3 | 38 | 33,8 | 31,2 | 30 | 29 | 29,7 | 29 |

(Source: Department of Mineral and Energy Affairs, cited in Kuper and Cassim 1996: 22)

According to Kuper and Cassim (1996), South Africa has come to rely less on gold mining, both in terms of its contribution to GDP and export revenues in the post apartheid era, while the importance of other commodities has increased. What this means is that, despite some evidence of diversification, primary commodities collectively remain important to South Africa owing to diversification within the commodity sector (Kuper and Cassim 1996: 22). A FTA with the EU would have little effect on the future export of South Africa's minerals as these products face largely zero rated entry to the EU.

On the agricultural issue, the South African party felt that the exclusion of 39% of agricultural produce was not only a contradiction of previous EU commitment to South Africa's

development, but was also unnecessary. The South African Department of Agriculture noted that South Africa's agriculture could have very little impact on the EU agricultural market, the primary reason for this being the opposite seasons. When Europe has its summer, South Africa is in the middle of winter. This means that the two regions could supply one another in alternating seasons. In addition, the cost of transporting fresh produce from South Africa to the EU adds tremendous costs to the products; costs that the European producers do not face. South Africa's erratic rainfall was also cited as a reason why the EU need not fear South Africa's agriculture. South Africa's agricultural production is subject to large fluctuations due to these annual changes in rainfall. These reasons, coupled with the competition that South Africa would face as a result of the CAP, means that South Africa's agricultural produce could have very little impact on the EU market. In addition, South Africa's agricultural exports account for only 10% of total exports to the EU. South Africa's agricultural sector, however, could benefit tremendously from better access to the EU. The sector is labour intensive, and any increase in agricultural exports would mean job creation. It is also one of the few sectors where South Africa could achieve some level of comparative advantage in Europe. These benefits could all be achieved at very little cost to the EU.

South Africa's future success was firmly located in its ability to expand its manufacturing exports (Kuper and Cassim 1996: 23). This relies on the ability of South African industry to attain comparative advantage in the global manufacturing market. There was a general consensus in 1996 that South Africa's manufactured goods accounted for less than 25% of total exports, of which close to 40% were destined for a few countries in Southern Africa. The relative importance of manufactures as a percentage of total non-gold exports, increased from less than 25% in 1975 to an estimated 35% in 1993 (ibid.). While these figures for manufactured goods were showing increases within the South African economy, in terms of

global figures, South Africa has been slipping. South Africa's share in world manufactured products declined from 0,47% in the 1970s to 0,34% in the 1990s. The only area where South Africa has maintained its share of the world market is in iron and steel production (ibid.: 26). Iron and steel are both zero rated in the EU, and therefore would also not be affected by the FTA.

The new South African government has inherited many inefficient and non-competitive industries from the Apartheid government's protectionist policies. The possibility of either making these industries competitive, privatising them, or closing them down is, however, not achievable overnight. South Africa already faces high rates of unemployment, and market instability. The process of rapid closing down or privatisation of all inefficient, government owned, industry in the country would have a devastating effect on the already weak labour market. Also, many of these inefficient industries are located in areas where there is no alternative employment, and where the industry, no matter how inefficient, supports an entire community. A good example of this is SASOL, where the immediate deregulation of the industry and/or its complete privatisation, would most likely have resulted in its closure, leaving an entire community destitute. Instead, the government embarked on a slow transformation process, which included the phasing out of the oil, coal and chemical group's tariff protection over four years (Financial Mail 7 June 1996). The irresponsible closing down of these industries could have resulted in tremendous social repercussions. Furthermore, in the case of Mossgas, it was estimated that closure would cost the South African tax payer R1,2bn (Financial Mail 16 February 1996). These industries were, however, not sustainable in the long run, with the Mossgas plant costing the South African government R365m per annum to subsidise (ibid.). A balance had to be struck between liberalising the economy, attaining comparative advantage and competitiveness, protecting social interests and the internal South

African economy in order to protect jobs and small industries and reforming state sponsored industries. As a result a policy of privatisation was embarked upon by the government. However, this policy had to be implemented with care, one of the main reasons being the strong anti-privatisation drive from the country's trade unions. The labour movement was against the privatisation of industries as they would then, potentially, face the full effect of trade liberalisation, which in attempting to gain competitiveness, would cost jobs that were deemed to be inefficient (Financial Mail 15 December 1995). South Africa's Deputy Minister of Environment and Tourism stated that privatisation would not be embarked upon as an ideological pursuit, but would rather be conducted in a manner in which the best outcome for the workers could be achieved (Financial Mail 12 January 1997). The reforms required by a SA-EU FTA would be insensitive to these particular problems being faced by South Africa in its transition. While international competitiveness, and South Africa's success in the global economy, were essential to South Africa's long term survival or success, these can not be attained at the expense of the South African labour market, or at the expense of the Southern African region.

The preferential market access offered by the EU would be of great benefit to South Africa. However, this access would be relatively small in comparison with the effect of allowing a regional grouping, comprising some the world's top countries, to have preferential access to an undeveloped and highly protected market. South Africa is undergoing transitions that are both numerous and diverse. In trying to rectify inherited political instability, structural defects, social inequalities, regional relations and an inefficient and undeveloped economy, South Africa has to develop its international economic policy with extreme care. There are too many factors that could be adversely effected by rushing into an agreement with the EU. Despite this precarious position, many interested parties, both South African and European, as well as some

third parties, are criticising South Africa's lack of action. The regional aspects of the FTA are of particular concern to South Africa. The following chapter examines the regional dynamics that are involved, and the effect that the FTA could have on the region. It assesses the regional implications through examining the two organisations whose members would be affected most by a FTA: The Southern African Development Community (SADC) and the Southern African Customs Union (SACU).

# CHAPTER 5

## SADC, SACU AND THE EU

The end of apartheid, and the resultant progression into a new era, affected not only South Africa, but the entire Southern African region. Much weight was placed on the success of the region. Colleen Lowe Morna wrote, in Africa Report, that *from a region wracked by war and despair, southern Africa has been miraculously transformed into Africa's brightest hope for peace and prosperity* (Morna 1995:65). While this hope for the Southern African region existed, it was recognised that this bright future would only be achieved with hard work and co-operation amongst the regional members. The World Bank and the Development Bank of Southern Africa prepared a report on the region's future, assessing the process that would have to be embarked upon to achieve a successful outcome for the region. This success was identified as possible only through the combined effort of the entire region.

Ten years ago the region was dominated by apartheid and civil war. It has now truly entered a new era, with all countries in Southern Africa being self governed, and containing reasonably legitimate democratic governments. The wars in both Mozambique and Angola have wound down and, for the first time in the region's history, there is potential for co-operation for prosperity rather than liberation. This emancipation has also opened the way for regional organisations to take on a new role in assisting the region in its development. Some sort of forward movement is sorely needed in the region, where per capita income declined by 0,8% from 1980 to 1992, compared with the 2 and 6% per capita income growth on other low and middle income countries and East Asian countries respectively (Schweikert 1996: 48).

South Africa is by far the dominant power in the region; the South African average GNP per capita was almost 3,5 times that of the rest of the region in 1993 (Based on World Bank data published in the World Development Report, 1993). South Africa is viewed as a benevolent, though domineering, relative - crucial to regional economic development, but feared for its dynamism (Hull 1996: 35). South Africa has, however, realised that its growth and development are intrinsically linked to that of the region. According to Alec Erwin, who replaced Trevor Manuel as Trade and Industry Minister in 1996, South Africa's growth can not be achieved unless it can integrate its economy with those of the region (Business Day 4 November 1996).

The regional organisations that are of primary importance to the region are the Southern African Development Community (SADC) and the Southern African Customs Union (SACU). These two organisations have fundamentally different roots and are designed to serve opposing ideologies. However, in the post-apartheid era, they are both intrinsic to the survival and successful development of the region. The EU, in its dealings with South Africa, declared its support for the region and these two organisations, backing the drive to make Southern Africa a symbol of hope for the rest of Africa. This chapter examines these two organisations, and how they affect, and are affected by, the EU-SA trade agreement. The chapter also looks at the relationship between the EU and the region.

### 5.1. From SADCC to SADC

The Southern African Development Co-ordination Conference (SADCC) was formed in Lusaka, Zambia on 1 April 1980. The organisation was originally intended to unite the Southern African states against apartheid South Africa. The central aim of the organisation was to reduce the regional dependence on Pretoria. SADCC fought for 12 years against

apartheid and was effectively crippled by both South African destabilisation in the region, and the civil wars in Angola and Mozambique. This was compounded by the policies of the individual member states, who were not prepared to forego the necessary sovereignty to make the regional organisation work. Despite achieving little in the way of concrete gains, the organisation managed to weather the apartheid years, and provide a semblance of regionalism in the sub-continent.

The change that was occurring in the region in the early 1990s prompted major reform in the organisation, as the original purpose of SADCC had changed somewhat. On 17 July 1992, at the Summit of Heads of State, the Southern African Development Community (SADC) replaced the Co-ordination Conference. This event took place in Windhoek, Namibia, the capital of SADC/SADCC's newest member, and also a symbol of the change taking place in the region. The new objectives given to SADC were to:

- *Achieve development and economic growth, alleviate poverty, enhance the standard and quality of life of the peoples of Southern Africa and support the socially disadvantaged through regional integration;*
- *Evolve common political values, systems and institutions;*
- *Promote and defend peace and security;*
- *Promote self-sustaining development on the basis of collective self reliance, and the interdependence of member states;*
- *Achieve complementarity between national and regional strategies and programmes;*
- *Promote and maximise productive employment and utilisation of resources of the region;*
- *Achieve sustainable utilisation of natural resources and effective protection of the environment;*

- *Strengthen and consolidate the long-standing historical, social and cultural affinities and links among all people in the region.*

(Introduction to SADC: http://business.kent.edu/sabos/intro.htm)

With the end of apartheid in April 1994 it was hoped that SADC could, with the help of South Africa, become an effective regional grouping. On 3 August 1994 the South African Cabinet decided to accept an offer of SADC membership and, on the 29 August 1994, South Africa formally acceded to the SADC Treaty (South Africa and SADC: Http://www.southafrica.net/government/foreign/sasadc.html). The admission of South Africa to SADC, as its 11th member would, at the very least, enlarge the regional market and bring new opportunities for co-operation, including possibilities for a regional minerals-based industrialisation strategy (Tsie et al. 1996: 11).

However, the risks involved in integrating South Africa into Southern Africa were just about equal to the benefits. If all trade restrictions were lifted, other Southern African state's economies would be flooded by cheaper, aggressively marketed South African goods. This was accentuated by the fact that the Northern investors, where they showed any interest in the region, were interested only in South Africa. According to Dr. Balefi Tsie (1996: 12), without political commitment to balanced regional development, the *logic of the market* would intensify the existing acute disparities in economic activity. Furthermore, Southern Africa was seeing wide and worsening inequality in the distribution of incomes within, and between, countries, high inflation, unemployment, low levels of per capita income, low growth rates and very high indebtedness.

The conclusions of a report by Chipeta and Davies (cited Tsie et al. 1996: 12-13) on SADC's economic position and future were that:

- the market for basic goods was limited;
- close interaction between the countries of the region meant unemployment was easily interchanged;
- large debt ratios reduced the amount of foreign exchange available for imports, and hence, for production;
- the secular long term decline in the terms of trade meant a gloomy outlook for primary produce exporting countries;
- Lack of peace would worsen this situation for the countries affected

Another problem identified by the report was that local industries in Southern Africa would find it difficult to compete with increased imports from South Africa. By early 1996, some repercussions of South Africa's economic involvement in the SADC region were that:

- some 50,000 SADC workers lost their jobs in the South African mining sector;
- investment flows appeared to be polarised towards South Africa;
- there was a brain drain towards South Africa from the region;
- the gap in visible and invisible trade in favour of South Africa was growing.

(Chipita and Davies op cit: 13)

The risks that had been identified, and the problems that had already occurred, illustrated the importance of developing a constructive, sustainable development and trade strategy for the region. There was some concern about the rush of countries within the region seeking to form bilateral trade agreements with South Africa. Bilateral trade agreements were not favourably viewed by the WTO, which encourages a more regional approach. The reason given for this is that preferences granted to only a single country do not promote trade and competition in production. The European Union expressed its strong support for the Southern African region, offering its experience in regional groupings to be made available to Southern Africa.

The EU had supported the SADC region since 1986 through its Special Programme of assistance to the victims of apartheid. This programme distributed funds exclusively through NGOs, financing more than 700 projects for a total amount of around 450 Million ECU, these funds going primarily to the Front-line States, all of which were members of SADCC. Further, all members of SADC, apart from South Africa, were also members of the Lomé Convention.

In a display of support for the Southern African region, the EU hosted a landmark meeting in Berlin in September 1994. This meeting brought together the Foreign Ministers of all the SADC countries and the Foreign Ministers of all the EU countries. In his opening address, Mr Manuel Marin, the then Commissioner of DG8, noted that the political transition that had taken place in South Africa was part of a process in the region, paving the way to a better future for Southern Africa. He urged the Southern African region to establish, not only economic co-operation, but also mechanisms for securing peace and stability in the region in the long run. He also said that the EU supported South Africa's insistence that any future EU-SA relations take full account of the regional aspects and lead to a closer integration in Southern Africa.

Rhetorical support for the region was extremely high at the conference. The EU expressed its support for, and co-operation with, Southern Africa in nine areas:

- Political Dialogue: there should be regular political dialogue between the EU and the SADC countries, consisting of regular exchanges of views on general matters of foreign policy, particularly with a view to promoting peace and long term stability in the Southern African region.
- Regional Integration: the EU offered to share experience in the field of regional integration and in this respect to assist SADC inter alia, through exchange of personnel, training, assistance and advice on organisational matters.

- Trade and Economic Co-operation: the parties undertook to promote regional trade in order to promote economic development within the region. This would be conducted within the parameters set by the WTO/GATT and the Lomé Convention.

- Private Investment, Small and Medium Sized Enterprises and Promotion of the Private Sector: the parties recognised the key roles of domestic and foreign private investment, and the private sector, in the promotion of economic and social development of the Southern African region. Special emphasis was therefore placed on the development of small and medium sized enterprises. In order to promote an environment healthy to the development of the private sector. The parties undertook to promote the conclusion of bilateral agreements between the Member States of the EU and the SADC Member states.

- Development Co-operation: the parties declared their intention to closely co-ordinate the planning and implementation of regional development programmes and projects in the fields of transport and communications, energy, trade promotion, livestock protection, poverty alleviation, population and social development, food security, education, training and health. In this respect the parties recognised the importance of the co-ordinating role of the EU and the SADC secretariat.

- Natural Resources and the Environment: the parties recognised the importance of the global environment and the conservation of natural resource. The EU undertook to support the Southern African region in four fields:
  - the fight against desertification and soil erosion
  - water resource management
  - sustainable agriculture
  - management of natural resources

- Science and Technology: the parties agreed to intensify scientific and technological co-operation both with and within the SADC region. Possible areas of co-operation were identified as:
  - promotion of the utilisation of regional resources compatible with the environment
  - industrial research and development
  - ecological research

- agricultural research
- energy technology, especially new and renewable resources
- water processing technology
- tropical medicine

- Tourism: the parties underlined the major contribution which tourism could make to development. The remarkable opportunities for Southern African tourism were noted. The parties agreed to co-operate on bringing about conditions that were healthy to the development of tourism.
- Cultural Co-operation: the parties agreed to foster contacts in the fields of culture, education and science, especially co-operation between institutions of higher learning, sports and socio-cultural organisations.
- Co-operation in Combating International Crime: the parties undertook to co-operate closely in the fight against international crime, including in particular, arms smuggling, illicit cultivation, trafficking and consumption of drugs, money laundering and illegal dumping of toxic waste.
- Other Areas: co-operation in other areas would be included upon mutual agreement.

(Declaration by the EU/Southern Africa Ministerial Conference of 5/6 September 1994 in Berlin)

The final item of the conference was a follow up clause, in which the parties agreed to *continue their comprehensive dialogue and commit their respective competent institutions to making appropriate proposals to follow up the Conference* (ibid.).

One of the issues addressed at the conference was a push by some of the SADC members to set an agenda to address the day-to-day problems of co-operation, where the reality of EU support fell well short of the rhetoric. The EU's political support for this item, however, was not forthcoming. The final item on the conference's agenda, dealing with follow up to the

conference, failed from its outset. The EU member states set up a working group to discuss follow-up and, at their first meeting, this group ruled out the possibility of establishing any new mechanisms, or duplicating existing ones, in order to promote follow-up action. This meant that all the political dialogue that took place in Berlin had no real impact on the range of day-to-day co-operation problems which arose in EU-Southern African relations. Further, no link was made with the need to ensure coherence between the trade and co-operation framework in existence for the ACP-SADC countries and the new trade and co-operation framework that was to be established between the EU and Southern Africa. As a result, a range of issues arising in EU-South African relations, which could have had serious implications for the neighbouring ACP-SADC countries, would potentially be ignored in the EU-SA bilateral negotiations (Tsie et al 1996: 16).

The EU further claimed to be restricted in its actions with regard to Southern Africa as any special treatment to the Southern African region would prejudice the Lomé Convention. As all but one of the SADC countries were members of the ACP, all developmental and trade relations had to be conducted within this framework. In terms of Lomé, the EU could not give Southern Africa special treatment.

By early 1996, the SADC region had become a formidable force in Africa. The International Herald Tribune labelled the region the *Economic Giant of Africa* as the SADC countries accounted for 40% of Africa's total population, 81% of the continent's total GNP, 81% of Africa's total imports and 80% of its exports (Southern African Development Community http://business.kent.edu/sabos/intor.htm). The region took a significant step forward at the SADC summit in Maseru in August 1996 when it signed a trade protocol which envisaged the elimination of import duties over a three year period (Business Day 26 August 1996). This agreement required ratification from the parliaments of all 12 SADC members, and would

come into effect once three-quarters of the members had given their consent. By all accounts, the summit was extremely successful with all SADC member states, with the exception of Angola, signing all the protocols presented. The summit expressed the wish that the SADC region's Free Trade Agreement be the first to be signed since the formation of the WTO's existence. The agreement would also be remarkable due to the diversity in the scale of the various regional economies (ibid.).

At the AWEPA (Association of West European Parliamentarians for Action against Apartheid) Conference on Reconstruction and Democratisation in Southern Africa, held in Cape Town on 9 September 1996, Director General of DG8, Steffen Smidt, addressed the issue of the EU's support for regional co-operation and economic integration in Southern Africa. According to Smidt the *...ACP states are generally too small and too poor to base their growth only on their domestic market. ACP economies need regional co-operation and integration as a springboard for their own development and an entry point to the global economy* (Director General Steffen Smidt addressing the AWEPA Conference, 9 September 1996, Cape Town). The Director General outlined the EU policy towards Southern Africa, which focuses on three complementary objectives:

1) *The Community gives its full backing to SADC political co-operation. This involves:*
   - *Willingness to assist the launching of specific initiatives in the area of Conflict Prevention and Peace Keeping;*
   - *Institutional support to Southern African political sector structures;*
   - *Promotion and facilitation of intra-regional parliamentary contracts;*
   - *Support for combating drug-trafficking.*
2) *The Community fully supports regional economic integration through trade liberalisation. The challenge for the region is to develop an internal division of labour*

*that is equitable and sustainable, and that helps in reducing the divides which still characterise the region.*

3) *A third priority of the EU policy is to further trade and economic co-operation between Southern Africa and the EU. This involves devising stable and open conditions for mutual trade, and supporting structural reforms that will enhance the region's competitiveness.*

(ibid.)

Director General Smidt also expressed his support for the region and regional integration in a number of other areas, praising the development of the SADC "Organ" on politics; the Cross Border Initiative which brought government and private sector interests together, and the SADC trade protocol. He praised the objective of the development of a regional FTA, saying that if quickly ratified and properly implemented, the regional deal would help the new South Africa to open up to its neighbours in a transparent and predictable way. It would reduce the economic divide between SACU members and the other SADC states. It would also accelerate the growth of regional trade, which was seen as far too low. Director General Smidt also addressed the issue of the SA-EU FTA and its implications for the SADC region. He said that every effort was being made to design a FTA that took the region's best interests into account. He said, however, that it was extremely difficult to assess the effects that a SA-EU FTA could have on the region as the situation was so unique, and dynamic. He referred to the "bicycle syndrome": *a bicycle only stands when it moves, and we cannot properly understand the interaction of an FTA which would only exist 10 years from now if we study its impact on the realities of yesterday. As the bicycle moves, the landscape is bound to change* (ibid.).

In October 1996, two years after the Berlin conference, a second SADC-EU Ministerial Conference took place in Windhoek, Namibia. At this Conference DG8 Commissioner, Prof.

Pinheiro, spoke of the globalisation trend taking place in world trade. He referred to a threefold increase in world output matched by a sixfold increase in world trade, accompanied by the globalisation of capital and services in the wake of a new industrial revolution. This, accompanied by the rapid developments in communications and transport, were opening markets and increasing ties between people, and having a profound impact on the economic outlook at continental level. These factors required a change in thinking and behaviour. This interdependence called for a new co-operation effort at the world level. The Commissioner pointed out that the strongest argument and greatest scope for such co-operation existed at the regional level. In the light of this development the Commissioner expressed the EU's support for the development of this type of co-operation within the SADC region. He also expressed his strong support for the trade protocols that had already been signed between the countries of the region, expressing particular support for the SADC region's aim of establishing a regional FTA. Finally, Prof. Pinheiro commented that in his view regional integration should not stop at a FTA with a few financial transfers tacked on to it. He called for a common economic and social area, an organised space in which everyone pulled together. He also called for the establishment of priorities of action to maintain vital momentum towards a co-operative strategy for growth and development (Professor Pinheiro's Introductory Statement on Regional Integration and Co-operation at the EU-SADC Ministerial Conference 15 October 1996).

Support for the SADC FTA also came from the various member states of the EU in their individual capacities. The British representative, Baroness Chalker, expressed particular support for the regional FTA initiative, and mentioned that her government was conducting research into ways in which they could offer practical help to the process. This would include a programme aimed at developing institutional capacities in the SADC countries to achieve the

ambitious goals set out in the Trade Protocols. Baroness Chalker said that one of the key challenges for SADC and its member states is to attract an increased level of private investment (Statement by Baroness Chalker at the SADC-EU Ministerial Conference 14-15 October 1996).

### 5.2. SADC's Position

The reaction of the SADC member states was, however, very different. The general feeling amongst the SADC members was that the EU's policy and rhetoric was contradictory in its SA-SADC approach. While the EU provided a lot of spoken support for the SADC region and regional integration, it undermined this process by negotiating a bilateral agreement with South Africa. The other SADC countries are extremely wary of South Africa's relative position of power within the region. They fear that a FTA between SA and the EU would accentuate this position, and further marginalise SADC regional interests.

The SADC Secretariat addressed this issue in a paper entitled EU - RSA Free Trade Area: Some Critical Critical Aspects in September 1996. Here the SADC Secretariat put forward the argument that:

> *...with a SADC FTA in place, a free trade arrangement between the EU and SA would represent, de facto, a FTA between the EU and SADC. Therefore, why EU - RSA negotiations, when, in the medium run, the subject of negotiations concerns and affects all SADC member States? Therefore, not only South Africa's concerns, but all SADC countries' concerns should be considered in the negotiations of the FTA with the EU. Failing to do so, after the SADC Trade Protocol has been signed in Maseru/Lesotho, in August 1996, means questioning the collective political will of SADC member States to go for integration and their commitment to implement what has been signed by SADC Heads of State.*
>
> (SADC, September 1996)

On the issue of the EU's contradictory stance, the SADC Secretariat felt that the EU's political commitment to the SADC region, as begun in the Berlin Initiative, was being completely undermined by the EU singling out SA. SA had been a full member of SADC since 1994, and singling it out from SADC was tantamount to driving a wedge between SA and her neighbours and partners in SADC. This approach was seen as counterproductive to SADC's integration efforts.

The SADC Secretariat felt that the EU's focus on South Africa was understandable from a purely economic perspective. SA represented a much more important market for the EU than the other Southern African States did. From a developmental point of view, however, SADC felt that the EU had expressed equal commitment to both the SADC states and SA. South Africa had also expressed commitment to the SADC region, and by negotiating a bilateral agreement with the EU, SA herself was acting against spoken and legal objectives. The SADC secretariat felt that SA should focus on extending the FTA and not limit its scope to the EU. SA was seen to be unable to develop in isolation from the SADC region, and the SADC region was also seen to be dependent on SA for development. The resultant relationship was one that required mutual co-operation.

With regard to the SADC Trade Protocol of August 1996, South Africa had certain legal obligations to the SADC region. These ruled that SA could not grant more preferential market access conditions to the EU than to her SADC partners. This established an upper limit to the speed at which a possible EU-SA FTA could be put in place. This was seen as one positive factor for an EU-SA FTA for the SADC region, as it would effectively force SA to open its regional market quicker than would otherwise have been required.

The SADC paper also examined the viability of a SADC-EU FTA. SADC had only just signed a FTA arrangement for the region, the result being a regional trade liberalisation process, accompanied by a need to restructure the economies of all the member states. This would involve rationalisation and a significant modification of the individual member state's comparative advantages. SADC felt that the region would be unable and ill-equipped to deal with the added and profound adjustments that would be required to establish a FTA with the EU at the same time. With the regional integration process already having a strenuous impact on SADC producers, they could not be exposed to additional competitive pressures from European producers who had had ample time to rationalise and modernise in the context of European integration. It was felt that such new challenges for SADC's regional producers should not be embarked upon before, or, at the same time, as they took the first step of rationalisation and acquiring competitiveness in the regional context.

In summarising their stance, the SADC secretariat said that

> *...the idea of a SADC-EU FTA should be kept under active consideration. However, SADC is not ripe for it now. For SADC, the priority is the creation of a unified regional market over a period of eight years in the context of the Trade Protocol as the framework.*
>
> (SADC, September 1996)

Furthermore, the SADC secretariat heavily criticised the EU's stance on SA's Lomé membership. The EU's treatment of SA as a "middle income country" was considered detrimental to the majority of South Africans. SADC noted that the international institutions, like the WTO, had not yet taken a decision on South Africa's developmental status, as the issue was so complicated. SADC felt that South Africa's "middle income" status could only be attributed to a tiny minority of its population, located in small enclaves of an affluent society in

a few urban areas. For the rest, SADC identified a developing country just like the rest of the SADC region. They felt that the country as a whole could not be denied specific preferences under the Lomé Convention because of a tiny elite.

South Africa's exclusion from Lomé was seen as a further wedge between SADC and SA, as all the SADC members were signatories of the Lomé Convention. Denying South Africa access to the Lomé Convention had the equivalent effect of discriminating against the SADC region, as regional co-operation under the terms of Lomé could not take place. From the point of view of poverty, the SADC secretariat felt that South Africa's people suffered an equal affliction as those of the rest of Southern Africa. The offer of a FTA as compensation for denying Lomé access was viewed as a poor policy decision by the EU.

With regard to the future prospects for an EU-SADC FTA, SADC expressed further concern, especially in the area of agricultural produce and about the effect that the CAP would have on SADC-EU trade under a FTA. The SADC secretariat felt that they should not expose the region to the artificial competitiveness of European agricultural products created through subsidies. In general, however, it was felt that a FTA between the EU and SADC would be a positive development for the future.

A future FTA would have to be carefully considered, and there would have to be appropriate periods of adjustment for the parties. This is especially true for SADC, as they would have to adjust to an inefficient and often inactive market to be able to interact with the competitively aggressive European market. The issue of a FTA linked to a development policy, like the one offered to South Africa, would have to be extended to the entire SADC region. The SADC secretariat noted that the entire region was facing a need for development and, that the entire

region had been destabilised and had suffered under apartheid acts of aggression. This was another reason put forward for SADC's inclusion in the FTA.

SADC harshly criticised the EU's exclusion of 39% of agricultural produce. According to the secretariat: *This represents a matter of serious concern to South Africa and, in fact, Southern Africa at large. The products included in that list seem to cover virtually the whole array of agricultural commodities for which South Africa - and, in deed, SADC, has, or could possibly attain a comparative advantage vis-à-vis the EU* (SADC, September 1996)

In concluding the paper, the SADC secretariat expressed its concerns, raising the following questions:

> *Does the EU propose a free-trade arrangement or a trade limitation arrangement? Does the EU intend to support development of RSA/SADC through such an arrangement, or does it intend to artificially support the EU countries' agricultural producers through an agreement by which any possible inflow of competing imports from the SADC region is suppressed? Does the EU favour growth through competition and development through trade creation - or does it want trade regulation and a penalisation of EU consumers and SADC producers at the expense of the latter's development? ... The modalities presented, in March 1996, by the EU, for the establishment of a FTA with RSA could not be accepted by SADC as a sound basis for an eventual FTA with EU at a future stage.*
>
> (SADC Secretariat, 27 September 1996, Gabarone)

The position of the SADC countries with regard to a FTA between SA and the EU is therefore clear. Any attempt by South Africa to include SADC in the FTA decision making process would undoubtedly produce an opposition stance from the SADC states. This would possibly extend to the formation of a SADC - EU FTA at the current stage. Despite its initial objective

to reduce dependence, the SADC states were linked to South Africa both geographically and ideologically. This dependence extended to a certain degree of economic dependence on South Africa as the regional powerhouse, mainly in the supply of transport, and the use of labour. The SADC states were not, however, integrally linked to South Africa's domestic economy. A small number of the SADC states, however, namely the member states of the Southern African Customs Union (SACU), were firmly linked to South Africa's economy. South Africa's consideration of a FTA with the EU would consequently have to be far more sensitive to the needs of, and consequences for, the SACU states than for the rest of the SADC members.

### 5.3. SACU

SACU is the oldest customs union in the world, established in 1910 between South Africa and the old High Commission territories: Botswana, Lesotho and Swaziland. Namibia joined SACU on its independence, having formerly been a de facto part of SACU due to its administration by South Africa (Tsie et al 1996: 8). This group became known as the BLNS (Botswana, Lesotho, Namibia and Swaziland) states. The customs union had no internal tariffs or trade barriers, and applied a common external tariff and barrier to imports from outside of the union. In conjunction with the Common Monetary Area[15] (CMA), it provided monetary and commercial integration through easy currency convertibility, preferential trade agreement, and an absence of trade tariffs (Hull 1996: 35). SACU was widely seen as a major contributor to the polarisation of accumulation within Southern Africa, owing to tough competition from South Africa in BLNS domestic markets. The Union was also seen to have protected inefficient South African industries from cheaper goods outside, deepened the economic and

[15] The CMA consisted of South Africa, Lesotho, Swaziland and Namibia, all of which use the South African currency, the Rand.

political dependence of BLNS countries on their neighbour, and enabled Pretoria, in the apartheid era, to claim that some of its exported products originated from BLNS states. SACU's decision making and organisation of the customs union were firmly entrenched in Pretoria's hands (Tsie et al 1996: 8).

The future of SACU seemed uncertain in the post-apartheid era. Much of the international community viewed SACU as an instrument of apartheid that had no place in post-apartheid Southern Africa. This perception was quickly dismissed when it was realised that the dependent relationships that had developed as a result of SACU would be impossible to usurp in a hurry. The revenue sharing formula, that was intended to compensate for both the loss of sovereignty and economic and financial polarisation, dominated the incomes of two of the SACU members; both Swaziland and Lesotho relied heavily on the income received from the Customs Union. Lesotho, in particularly would be severely afflicted, as SACU receipts provided more than half of the government's revenue (European Commission Document DE 78 1994: 25). Any reforms to the South African international trade policy would therefore have a massive effect on the economy of Lesotho and, to a slightly lesser extent, the economy of Swaziland.

SACU had embarked on a process of change in the post-apartheid era. This had primarily taken the form of diversifying the decision making from Pretoria to a more equitable power distribution located in all the SACU member states. All parties to the agreement would have a say in future tariff policy and related matters. This was likely be supplemented by a permanent secretariat staffed by citizens from member states, with its headquarters in either Lesotho or Swaziland. SACU's budget would be derived from contributions of member states deducted directly from their respective shares of the common revenue pool.

South Africa's accession to the WTO would necessarily result in a massive loss of revenue for BLNS as the Marakesh round's demands for reductions in tariff barriers are implemented. In order to accommodate these future losses, SACU will re-evaluate the revenue sharing mechanisms and more of the revenue will be spent on industrial promotion and job creation in BLNS.

As the EU is South Africa's, and consequently SACU's, largest trading partner, any agreement between SA and the EU to reduce tariff barriers would have a much greater impact on BLNS than it would have on either South Africa or the EU. BLNS governments therefore commissioned the Imani Development Consultants to conduct a *Study on the Economic Impact of the Proposed EU-SA Free Trade Agreement on BLNS Countries*. The Imani study assessed the impact of a trade agreement across five possible scenarios. All scenarios assume that the new SACU revenue formula is adopted. The findings of the study are presented in Table 6.

The first two columns show the costs of entering an FTA. Column 1 estimates what revenue each government would lose if it entered a FTA with the EU and South Africa. The second column estimates what they would lose on the export side because the FTA would exclude some of the products on which they now have free access under Lomé. The third and fourth columns are relevant if they remain outside the FTA. The cost of Borders measures the additional border controls. It includes the annual cost of staffing and running the posts and the capital costs of erecting additional border control points to calculate the collection tariff on EU imports through South Africa (amortised over 20 years, assuming an interest rate of 16%). Column four quantifies the value of Lomé access to the EU (compared to the alternative, which would be GSP). The 1996 figures used current SACU tariffs, and the 2004 figures used the planned (lower) tariffs.

**Table 6: Comparison of Scenarios (thousand rand)**

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | No FTA is signed | | The FTA is signed | | | | |
| | 1996 Revenue Loss | Cost of FTA exclus. | Cost of Borders | Lomé Value r.t. GSP | with Lomé | Lomé ends | BLNS join | BLNS stay outside | | BLNS ignore it* | |
| | | | | | | | | with Lomé | Lomé ends | with Lomé | Lomé ends |
| | A | B | C | D | | -D | -A-B | -C | -C-D | -A | -A-D |
| 1996 | | | | | | | | | | | |
| Botswana | 8191 | 6286 | 1800 | 69115 | 0 | -69115 | -88205 | -1800 | -70915 | -81919 | -151034 |
| Lesotho | 73323 | 15 | 5200 | 144 | 0 | -144 | -73338 | -5200 | -5344 | -73323 | -73467 |
| Namibia | 49362 | 6162 | 1800 | 44332 | 0 | -44332 | -55524 | -1800 | -46132 | -49362 | -93694 |
| Swaziland | 78683 | 9931 | 3800 | 14212 | 0 | -14212 | -88614 | -3800 | -18012 | -78683 | -92895 |
| 2004 | | | | | | | | | | | |
| Botswana | 61343 | 6286 | 1800 | 69115 | 0 | -69115 | -67629 | -1800 | -70915 | -61343 | -130458 |
| Lesotho | 54906 | 15 | 5200 | 144 | 0 | -144 | -54921 | -5200 | -5344 | -54906 | -55050 |
| Namibia | 36963 | 6162 | 1800 | 44332 | 0 | -44332 | -43125 | -1800 | -46132 | -36963 | -81295 |
| Swaziland | 58920 | 9931 | 3800 | 14212 | 0 | -14212 | -68851 | -3800 | -18012 | -58920 | -73132 |

(Imani 1996).

Columns 5 - 11 combine these estimates, providing the calculations on which the five scenarios are based:

- 1 (column 5): This could be considered the base of the present case for BLNS countries. There is currently no FTA, and they continue to have access to the EU equivalent to what they have under Lomé. South Africa continues to collect tariffs on EU goods, although the distribution to BLNS is on the new formula. The first conclusion must be that this case is superior to any of the others.
- 2 (column 6): This shows an alternative projection where Lomé is not renewed. They return to the normal developing country access (they lose the advantage of Lomé access over GSP). South Africa does not sign the FTA.
- 3 (column 7): If BLNS countries joined, they retain access better than GSP for the goods which are included in the FTA, but they lose access on those excluded, which have to be subtracted. They lose their share of the total SACU tariff revenue lost on EU imports.
- 4 (column 8): Here it is assumed that BLNS does not join an EU-SA FTA, but that they keep the benefits of Lomé access, with the cost of setting up borders assessed.
- 5 (column 9): Presents the same scenario as 4, but assumes that the Lomé situation ended.
- 6 and 7 (columns 10 and 11): Here BLNS decides that the costs of a FTA are too high. Not only the quantifiable costs, but also the impact on consumers and investors of setting up new barriers, damaging all present methods of doing business among the SACU members. They accept the costs of loss of EU revenue, but do not have the costs of border controls. This loss is clearly much higher. It is also assuming that the EU allows the lack of border controls in a FTA. This may not be allowed due to the potential for South African goods to be re-routed through the other SACU countries, making use of the Lomé Convention's preferences.

(Imani 1996: 46-48).

The results of this study show that whichever of the five scenarios are followed, BLNS would face fairly substantial revenue losses. The choice of whether to join an EU-SA FTA will be largely determined by the future of Lomé. If Lomé is expected to continue, BLNS countries would lose by joining the FTA, whether they put up borders or accept the loss of revenue. They have nothing to gain on access, and some products to lose. They would lose tariff revenue, and the cost of putting up borders is less than what they would lose.

If Lomé does not continue, the benefits of free trade access relative to GSP, for Botswana and Namibia, are sufficiently important that they should join. For Lesotho and Swaziland the benefits are less and the revenue costs greater, so that if it were possible to put up border controls, they would have a financial advantage in staying out. If this is not feasible, so that the only real option is to allow EU goods to enter duty free, then obviously it would be better to join. If this were the choice For Botswana and Namibia, it would strengthen the case for joining.

In summary, the FTA would be worse than Lomé, but better than GSP for BLNS countries. The deciding factor would be the relative costs of putting up borders (and effectively killing the customs union) and losing tariff revenue (Imani 1996: 48).

There were many factors that were not calculated into the Imani study, all of which have a potentially large negative impact on the future of BLNS. These include the erosion of Lomé preferences that BLNS countries enjoy, although this would only be minimal. For Namibia and Botswana, the added competition of the EU's subsidised meat producers would have a large impact on their share of the South African meat market. One of the biggest impacts would be on products where the EU and SA compete directly in the EU. Many BLNS exporters survive only because of the tariff barriers faced by South Africa. An example of this is Namibian

exports of Hake, Namibian fish enter the EU duty free, and the South African fish face a 15% duty (Imani 1996: 49). The Namibian fish exporters would suffer tremendous losses if these tariffs were dropped.

### 5.4. Options

As can be seen from the Imani study, and the brief examination of other incalculable factors, the BLNS and SACU situation is extremely sensitive. BLNS countries (with the possible exception of Botswana) are in an already precarious economic position. The additional weight of losses of SACU revenue, and the other impacts of an EU-SA FTA, would be extremely difficult for these countries to bear. It is imperative that South Africa include these countries, and SACU as an instrument, in the calculations of the costs of a FTA with the EU. The SADC region, while important for the future of South Africa, will not be subject to such an immediate and large impact as the SACU region will be. Ideally, and in the post SADC Trade Protocol era, legally, the South African government is obliged to include the SADC region in any negotiations it has for potential trade agreements with any external parties. This obligation is even more necessary in the case of the SACU region, where BLNS survival is linked to the outcome of the FTA. Compensating BLNS for losses incurred in the short-term is no solution for the potential longer term loses experienced by those countries. South Africa's obligations to those countries lies not only within the framework of SACU, but could also be motivated from her own viewpoint. If South Africa excluded BLNS it would mean a potential breakdown of political diplomacy in the sub-continent. South Africa can not afford to alienate itself from its immediate neighbours; it has too many links to those countries, a notable case being the water supply coming from Lesotho. Further, a breakdown in the economies of BLNS could impact heavily on South Africa's local political economy.

The following chapter examines the South African standpoint in the second half of 1996. South Africa adopted a far more regional, and *South,* stance during this period and also opened up the decision making process to a greater number of people from various and diverse backgrounds. This reflects the South African negotiating stance in late 1996.

# CHAPTER 6

## FROM FTA TO TDA: SOUTH AFRICA'S NEGOTIATING POSITION

Speaking at the end of a two day conference of senior diplomats, academics and foreign policy analysts in September 1996, Deputy Minister of Foreign Affairs, Azis Pahad, said that the consultative process on SA's future should continue with workshops to refine the diplomatic approach to specific issues. Minister Pahad said that government and civil society should jointly organise discussions aimed at better defining a range of issues, including SA's national interest, its response to economic globalisation, and conflict prevention. With the changes in the global concept of national sovereignty brought about by international moves towards trade liberalisation, the task of foreign affairs and the military in defending national independence required new definition. States were no longer able, and were often not inclined, to protect their citizens from the effects of globalisation, and this task was increasingly falling on civil society (Business Day: 11 September 1996). It was in this vein that the Foundation for Global Dialogue (FGD) in conjunction with the Friedrich Ebert Stiftung (FES) hosted a conference/workshop on the European Union and South African trade and development relations. This took place in Johannesburg on 21 and 22 October 1996, and was presented in two sessions. The first session was open to both South African and European (or any other nationals) participants, and was designed to provide a background on the issues being discussed. Various experts from academia, the four South African Ministries involved in the negotiation process, the European Commission and European Union, and independent European and South African researchers were involved in the process. The second session was initially reserved for South African participants, and was intended to be a workshop to promote dialogue and participation in the process of negotiating a trade mandate for South

Africa. Although reserved for South African participants, the second day of the conference also included a small number of interested European parties, but excluded the European Union and the Commission.

The opening day of the conference set the groundwork for the discussions on the second day, and comprised an overview of the EU's trade and development policy, the EU's approach to trade and development with South and Southern Africa and three presentations on South African trade policy by the Department of Trade and Industry (DTI). The presentations by the DTI were of particular interest as they presented South Africa's planned approach to an EU-SA agreement for the first time. Up to this point, the South African team had adopted a position of responding to the EU's proposals, and never actually formulating their own concept of what a comprehensive agreement should entail.

The lead-up to the conference saw a debate developing in the Business Day newspaper on the pro's and con's of a FTA. The first article, which appeared on 18 July 1996, came from Mr Faizel Ismail, Chief Director of Foreign Trade Relations at the DTI. His article questioned whether the EU's offer of a FTA was a threat to or an opportunity for South Africa. Mr Ismail expressed his concern about the nature of Free Trade Areas and the fact that comparative international experience had illustrated that they yielded mixed results. He probed the issues, which have been presented in chapters three and four, in which the benefits of greater market access to the EU, increased investment flows and the possible resultant growth, had to be measured against the negative impact on industry, agriculture and employment. Ismail's article severely criticised the EU's handling of the trade agreement. He said that what had started out as a promise by the EU to support SA's transition to democracy by providing better access for South Africa's exporters in the EU market had become an attempt to secure and gain privileged access to SA's markets for EU companies. In the light of the EU's exclusion of 39%

of agricultural trade, he questioned the ability of the EU to deliver a "free" trade agreement to SA (Faizel Ismail in Business Day, 18 July 1996).

The second article relevant to this debate was by Simon Barber, the Business Day's political foreign correspondent in the United States. Barber presented a position on the EU-SA FTA that expressed the view of the proponents of trade liberalisation, primarily that of the IMF. From this perspective, the FTA between South Africa and the EU was seen to be a very positive move, as it would add discipline to SA's trade reforms. Trade reforms were seen as necessary for South African industry to become competitive on the international market, which was seen as essential in dealing with the unemployment problem in the country. The article referred to a report by the IMF in which the organisation expressed concern about South Africa's trade liberalisation process. It supported the SA tariff reduction under the WTO and the elimination of import surcharges, the winding down of export subsidies and the deregulation of agricultural marketing. Despite these positive acknowledgements, the IMF was *uneasy* about the tariff cuts resulting in a high degree of *escalation, a term which means that the more a particular product is processed the higher the tariff rate to protect it from imports*. Another criticism against South Africa's tariff reform was one that had been used by South Africa as a reason not to accept the EU's FTA; that being the issue of *applied* versus *bound* rates. The IMF expressed concern over the fact that South Africa reserved the right to increase tariffs that were currently below those required by the WTO. The IMF report concluded that lack of tariff reform would prevent the creation of employment in the country (Simon Barber in Business Day 16 August 1996).

The final article came from South African Member of Parliament, Dr Rob Davies. In this article he examined the IMF's criticisms of South Africa's trade liberalisation process. Davies criticised the IMF's statements that the FTA was positive because it would add discipline to

SA's tariff reform programme. He felt that South Africa had to be careful not to allow negative factors to be recast as positive ones, thereby imbalancing the distribution of costs and benefits. Furthermore he contended that any connection between current negotiations and expressions of desire to assist SA in its efforts to promote democracy, reconstruction and development was purely coincidental. According to Davies, *unilateral trade reform* had been a recipe peddled by the IMF throughout the developing world. Whether any form of tariff reduction under any circumstances was an optimum policy for promoting growth and development in developing countries was, however, quite another matter. He referred to a paper presented at the North-South Round Table held in Johannesburg in October 1995. In this paper, Frances Stewart argued that whereas protectionist policies emphasised capacity development at the expense of efficiency, adjustment policies adopted in much of Africa in the 1980s, *focused almost exclusively on efficiency, (paying) no attention to capability building, thus effectively killing the goose that could lay the golden egg of efficient African industrialisation*. Davies advocated a path forward that navigated a deliberate course between these two extremes (Rob Davies, Business Day: 21 August 1996).

The South African Parliament had also been looking into the issue of the FTA between the EU and SA. On 12 August 1996 the Portfolio Committees on Agriculture, Water Affairs and Forestry, Foreign Affairs and Trade and Industry held a joint meeting with officials from the Departments of Trade and Industry and Foreign Affairs. This meeting was convened to discuss the preparation of a mandate to guide the South African team negotiating the agreement with the EU. Any agreement reached between the parties would have to be ratified by the South African parliament before it could be implemented. The Parliament felt that an agreement that they would ratify should result in:

- The removal of the discriminatory treatment which currently applied to South African exports when compared to those of comparable countries;
- The securing of significantly improved access for South African exporters to the EU market in both currently traded and future tradable goods and service that could contribute to a narrowing of the current imbalance in trade with the EU;
- Meaningful economic benefits from qualified membership of the Lomé Convention, particularly access to provisions for cumulation under the rules of origin of the Lomé Convention that did not require elaborate bureaucratic procedures to be followed;
- A distribution of costs and benefits between South Africa and the EU which took account of the different sizes of the economies of the two negotiating partners, their different levels of development, the relative importance of mutual trade as a proportion of total trade, the trade imbalance, the adjustment costs required by any agreement, the developmental needs of South and Southern Africa and which therefore gave effect to the repeated expressions of desire on the part of the European Union to reach an agreement that would assist in the promotion of economic growth, development and democracy in South and Southern Africa;
- An agreement that reinforced, rather than undermined, efforts to promote regional co-operation and integration in Southern Africa, and in a context where the EU was reviewing its future relations with the ACP after the expiry of Lomé IV, that created positive precedents for ACP countries.

(Portfolio Committees on Agriculture; Water Affairs and Forestry; Foreign Affairs; Trade Industry: 12 August 1996).

The Parliamentary Committees went on to say that in order to achieve this, the South African negotiating team should focus on its own proposals, and not simply react to the mandate approved by the European Council. In so doing, the Parliament proposed sending a message to the EU negotiators that the negotiations would take place between two parties, each with constituencies to whom they were accountable, and in which no one mandate should have precedence over the other. Further, the needs of SADC and SACU were once again raised.

The Parliament felt that mutually agreed mechanisms needed to be put in place for a continuing exchange of views, and assessment of the impact of proposals emerging during the negotiations. It was also felt that due to the possible precedent that a FTA between SA and the EU could set for the future of the Lomé convention, the ACP should also be regularly consulted.

The Parliamentary portfolios presented four suggestions with regard to general principles and broad strategic positions:

1. Reciprocity: The Portfolio Committees proposed that reciprocity only kick in after a period of non-reciprocal concessions. An agreement should therefore provide for non-reciprocal concessions by the EU immediately, with some understanding or agreement at a later stage. This was the basis for a number of association agreements that the EU had or was negotiating - the most notable being the negotiations with the Russian Federation.
2. Nature of Free Trade Areas: The WTO rules on FTA's were drawn up having in mind regional integration programmes between group of countries in geographically defined areas. They were not intended to apply to cross-continental reciprocal agreements between developed and developing countries. The EU's proposal that better than MFN access be accorded to certain developing countries in return for reciprocal concessions by these developing countries was seen as a new departure in international trade arrangements. Further, the issue of *substantially all* trade was questioned. What had been discovered in the course of negotiations between South Africa and the EU was that there was no rule or established convention specifying that a WTO-compatible FTA should cover any fixed percentage of the total trade. Nor was there any ruling that the percentage be the same for both sides. The Portfolio Committees said that they believed an agreement compatible with the principles that both sides claimed to support should have resulted in the EU market opening up to a significantly higher percentage of duty free exports from SA than SA be required to open up to the EU.

3. CAP: In the light of the CAP, and the EU's inability to remove CAP subsidies, the EU had to accept SA's right to impose countervailing duties.

4. Linking agreements: Finally concern was expressed about the EU's attempts to link a trade agreement to its demands in many other areas. Not only were many of these proposed linked agreements not directly "trade related", and not only did they amount to a major challenge to the integrity of domestic policy making, but making a trade agreement conditional on reaching agreement in all these areas could only result in inordinate and unnecessary delays.

(ibid.)

Recognising the limited role that they could play in the actual negotiation process, the Parliament nevertheless proposed to assume an active and engaged stance through:

- requesting a briefing, and holding hearings with interested parties, on the negotiating mandate that emerged from the processes underway;
- actively accompanying the negotiations in a manner to be determined;
- requesting regular report-backs on progress and problems being encountered;
- establishing and maintaining contact with colleagues in the European parliament and in the parliaments of SACU, SADC and ACP countries;
- holding hearings on any agreement that was eventually submitted to parliament for ratification.

(ibid.)

What is evident in these developments leading up to the FGD/FES workshop is a shift in the South African approach. The South African team was going to have to develop its own negotiating stance, and not merely respond that of the EU's. The message from Parliament, and from observers, was that the concept of an FTA with the EU was skewed against South Africa from the very definition of an FTA by the WTO. South Africa was going to have to

look beyond the traditional framework for an international trade agreement and develop its own paradigm.

A new framework for a bilateral agreement between the EU and South Africa would have to exist within a number of constraints so as not to impose on existing programmes of reform and development. These included policies already in existence within South Africa, as well as those in the Southern African region.

### 6.1. The GEAR Strategy

The first of these domestic considerations was the government's GEAR (Growth, Employment and Redistribution) strategy. The GEAR strategy is a macroeconomic policy approach designed to bring about certain developments in South Africa as it moves towards the next century. The GEAR seeks to bring about:

- a competitive fast growing economy which creates sufficient jobs for all work seekers;
- a redistribution of income and opportunities in favour of the poor;
- a society in which sound health, education and other services are available to all; and
- an environment in which homes are secure and places of work productive

(GEAR 1996: 1.1)

In order to bring about this optimistic scenario, the GEAR strategy plans to implement a number of economic reforms alongside existing programmes such as the Reconstruction and Development Programme (RDP). It believes that, in the context of an integrated economic strategy, it can successfully confront the related challenges of meeting basic needs, developing

human resources, increasing participation in the democratic institutions of civil society and implementing the RDP in all its facets (ibid.).

The GEAR strategy also notes that the growth trajectory of 3% per annum is grossly insufficient to bring about job creation. Job creation is identified as the primary source of income redistribution. Furthermore the inadequate growth rate has:

- failed to reverse the unemployment crisis in the labour market;
- provided inadequate resources for the necessary expansion in social service delivery; and
- yielded insufficient progress towards an equitable distribution of income and wealth.

(ibid.: 1.2)

In order to sustain growth on a higher plane, the GEAR strategy identifies the need for a transformation towards an outward oriented economy. With regard to this, the strategy sees recent exchange rate developments as a springboard for enhanced economic activity. If left uncontrolled, an uncoordinated and conflicting response to the rapid drop in the Rand could cause further crisis and contraction (ibid.).

The GEAR strategy is to attain a growth rate of 6% per annum and job creation of 400 000 per annum by the year 2000, concentrating capacity building on meeting the demands of international competitiveness. Severe inter-related developments are called for, including:

- accelerated growth of non-gold exports;
- a brisk expansion in private sector capital formation;
- an acceleration in public sector investment;
- an improvement in the employment intensity of investment and output growth; and

- an increase in infrastructural development and service delivery making intensive use of labour-based techniques.

(ibid.: 1.3)

In order to bring about the substantial expansion that has been envisaged, it is recognised that a major transformation in the environment and behaviour of both the private and public sectors would have to occur. These would have to include:

- a competitive platform for a powerful expansion by the tradable goods sector;
- a stable environment for confidence and a profitable surge in private investment;
- a restructured public sector to increase the efficiency of both capital expenditure and service delivery;
- new sectoral and regional emphases in industrial and infrastructural development;
- greater labour market flexibility; and
- enhanced human resource development.

(ibid.)

The government of South Africa anticipates the macroeconomic strategy would work in conjunction with the other policy programmes, such as the National Crime Prevention Strategy. These policies would complement each other, and together form the government's approach to development and growth, building a bridge between a constrained environment and sustainable expansion within an increasingly competitive international context. The core elements of the integrated strategy are:

- a renewed focus on budget reform to strengthen the redistributive thrust of expenditure;
- a faster fiscal deficit reduction programme to contain debt service obligations, counter inflation and free resources for investment;

- an exchange rate policy to keep the real effective rate stable at a competitive level;
- consistent monetary policy to prevent a resurgence of inflation;
- a further step in the gradual relaxation of exchange controls;
- a reduction in tariffs to contain input prices and facilitate industrial restructuring, compensating partially for the exchange rate depreciation;
- tax incentives to stimulate new investment in competitive and labour absorbing projects;
- speeding up the restructuring, compensating partially for the exchange rate depreciation;
- tax incentives to stimulate new investment in competitive and labour absorbing projects;
- speeding up the restructuring of state assets to optimise investment resources;
- an expansionary infrastructure programme to address service deficiencies and backlogs;
- an appropriately structured flexibility within the collective bargaining system;
- a strengthened levy system to fund training on a scale commensurate with needs;
- an expansion of trade and investment flows in Southern Africa; and
- a commitment to the implementation of stable and co-ordinated policies.

(ibid.: 1.4)

In his presentation at the FGD/FES workshop (October 21 1996), Alan Hirsch, chief director of Industrial and Technology Strategy at the DTI, identified two make or break variables in achieving the 6% growth and the creation of 400 000 jobs. These are:

- an increase in annual gross domestic foreign investment to 23% over a five year period;

- an increase in annual exports by 10% per annum over five years.

Achieving this trade policy presented by Hirsch involves:

- reducing, rationalising and refining the protection of industries;
- reducing and removing demand-side intervention;
- introducing and expanding supply-side support: e.g. technology development, training, investment and input costs;
- facilitating exports in new ways:
  - export marketing assistance programmes,
  - pre-shipment export finance guarantees for SME's,
  - facilitating access to export advice through a competitiveness fund and a sectoral partnership facility which resemble World Bank programmes and other SME programmes to improve access to export markets.

(Address by Alan Hirsch, 21 October 1996).

According to Hirsch, the creation of a trade and development agreement between the EU and South Africa could support the GEAR strategy in a number of ways:

- it could provide opportunities for development assistance to improve productivity in partnership with the EU;
- it could create opportunities for increasing and diversifying mutual trade through the restructuring of the relationship that could be developed;
- it could provide investment opportunities in an outward-oriented project.

(ibid.)

A positive trade and development agreement between South Africa and the EU could, therefore, work in unison with the existing development programmes. This would require that

South Africa take on a more proactive role in the development of the concept of the agreement. The path that South Africa could take is appearing to move away from the EU's proposed FTA, towards a new concept embodied in the terms *trade* and *development*.

### 6.2. South Africa's Trade Policy on SADC and Africa

Mfundu Nkuhlu (October 21 1996), director of Africa Bilateral Trade Relations at the DTI, presented South Africa's position with regard to the Southern African region. From the beginning of the negotiation process, South Africa had insisted on the interests of the Southern African region being taken into consideration in the process of developing a trade agreement. Nkuhlu referred to the trade imbalance that existed in the Southern African region: SA exported R10,5 billion to SADC, and imported R1,5 billion from SADC. Further, 30% of SA's exports to the region were manufactured goods, whereas SA imported principally primary product from the region. Nkuhlu pointed to different sizes in economies, different structures of production, incoherent policies and import substitution, industrialisation and the legacy of colonialism as the main reasons for these trade imbalances. This resulted in an imbalance in the regional economy, with the SADC countries being dependent on South Africa. The regional transport systems, labour migration and revenue transfers all functioned well. *The vision for the region's economic development [was] to promote sustainable growth and development, economic co-operation and integration to achieve restructuring* (address by Mfundo Nkuhlu, 21 October 1996). In order to achieve this, the South African government would have to:

a) engage in regional projects for Southern Africa's growth and development;

b) break with existing relations of dependency: To do this, it must restructure relations towards an approach of co-ordinated development, either in clusters or spatially; assist in infrastructural development throughout the region; provide favourable market access for its LDC partners and co-ordinate macro-economic policies;

develop integrated regional approaches for water, transport and energy; restructure SACU's revenue sharing formulas;

c) promote growth and stability;

d) view integration as a combination of co-operation, co-ordination and integration of policies. To achieve this political commitment, human and other capacity and equitable distribution of net gains, convergence of macro-economic policies, institutional capacity, political stability and social integration were imperative.

(ibid.)

None of this integration or regional co-operation can take place when South Africa and the SADC region are facing radically different market access to their largest trading partner. With all the SADC countries, except for South Africa, being members of the Lomé Convention, there is a rift between the region and South Africa. This would only be accentuated by the development of a bilateral agreement between the EU and SA. An FTA would not foster closer regional co-operation within SADC.

### 6.3. FTA to TDA

The concept of a trade and development agreement (TDA) had already been mentioned in the build up to the presentation by Faizel Ismail, chief director of foreign trade relations at the DTI. In his presentation, Ismail (October 21 1996) proposed the concept of a TDA; in this case a framework for a trade agreement with the EU that was integrated within a development strategy. This TDA was to be inextricably linked to the region's development and best interests. It would take account of the needs of the region's least developed countries (LDCs), namely Mozambique and Lesotho. Ismail said that the South African negotiating team would be responsible for ensuring that the best interests of the region as a whole were considered.

Perhaps the most important aspect of the development of the concept of a TDA is in its challenging quality. The TDA was designed to introduce a new paradigm into the established structures set up by the GATT/WTO and other international trade organisations. As has been mentioned before, the concept of an FTA was developed to be implemented between parties with geographic proximity and comparative levels of development. Within the WTO structure there was no alternative to a FTA agreement to govern preferential trade access between two parties. The TDA proposal of the DTI would introduce a structure in which a preferential trade agreement between two unequal parties, on opposite sides of the globe, could be developed in such a way as to ensure the weaker of the parties is not compromised by the agreement, but could instead prosper from it. The South African team was optimistic about its chances of success in getting an agreement of this type accepted by the WTO, as there was seen to be a gap that an agreement of this type could fill. Further, due to the fact that the WTO is still a new organisation, its rules and structures are not yet carved in stone. Ismail felt that a strong case could be made for a TDA type agreement within WTO structures as the current structures are insensitive to the needs of developing countries who are not party to the writing of the rules. There is a definite need for WTO rules that focus on development and the upliftment of developing countries.

The general objective of a TDA is to obtain EU market access, incorporating various strategic objectives in attaining this market access. The consultative process that would form the mandate to negotiate a TDA would include the participation of, and consultation with, industry, agriculture, trade unions and finally the Southern African region. Ismail said that the mandate would follow an analysis of all possible scenarios. The mandate would then be further developed through analysing the development of negotiating positions, taking the negotiation

process into account. All the relevant stake holders would then need to be consulted on the mandate before it could be presented to the EU.

Ismail pointed to the fact that South Africa had never requested an FTA from the EU. What South Africa had called for was:

- a bilateral agreement that was as close as possible to the Lomé Convention, or qualified Lomé membership;
- an end to the discrimination that South Africa faced in the EU market, where South Africa's competitors faced better market access through various other agreements;
- a move to try to balance the trade between the two parties, where South African exports to the EU consisted of primary products or primary processes;
- to increase South Africa's share of the EU market, where it had been facing decline in recent years;
- to attempt to balance the high trade deficit that SA had with the EU;
- that an agreement support the South African move to restructure and adjust its economy;
- that the agreement support the development and integration of the Southern African region.

(address by Faizel Ismail, 21 October 1996)

The TDA was to be based on principles that:

- supported the RDP and GEAR
- were mutually beneficial and balanced
- removed discrimination
- encouraged investment in Southern Africa

- built regional integration
- provided access to some Lomé provisions such as cumulation, which supported regional integration

(ibid.)

The TDA envisioned by Ismail would address the issues about which South Africa has concerns. These are, primarily, that a trade agreement between the two parties should be asymmetrical in content in order to facilitate development and, that the WTO rules should be adapted so that they support development. The exclusion of 39% of agricultural exports from an agreement was seen as unfair in keeping with the spirit of development. This was aggravated by an uneven playing field with the presence of the EU's CAP agricultural subsidies. Is was felt that South Africa should be compensated for adjustment costs, and non-traded goods should be added to this list. The issue of NTBs also needs to be addressed, as these pose massive barriers to South African trade. This issue was also brought up by Willem Bosman of the Department of Foreign Affairs, who felt that the EU is using NTBs and accusations of dumping to keep South African products out of the EU market (interview with Willem Bosman, 25 October 1996). Ismail's TDA included the conditions of cumulation of origin and development finance in the overall agreement.

With regard to the region, the Southern African interests were put at the forefront. BLNS was to be compensated for revenue loss and trade diversion due to the agreement. Other Southern African countries would also be compensated for trade diversion. Most importantly, the SADC trade protocol would have to be fully implemented before any reciprocity could be granted to the EU.

On the Lomé front, South Africa's TDA would take account of the ACP interests. South African exports would not be allowed to threaten the ACP's trade with the EU. Further, the implications of an agreement with the EU that created a new paradigm of thought on bilateral trade agreements between unequal parties could have tremendous consequences for the ACP. With the expiry of Lomé looming, this type of agreement could set a precedent for future ACP-EU relations. South Africa seeks qualified Lomé membership which entails being included in the rules of origin and cumulation of product structures. Further, South Africa seeks access to tendering for the 7th and 8th European Development Fund (EDF).

With regard to linking the agreements, the linkages included in the FTA are seen as putting unacceptable pressure on South Africa to make bilateral commitments on multilateral issues. These conditions also expect South Africa to raise certain standards (environmental, health and safety) within a very short time frame, while at the same time trying to achieve a level of competitiveness. These issues, while important, should not, in South Africa's opinion, be attached to the bilateral trade agreement.

This TDA agreement is, however, still very much on the drawing board. The concept of the TDA would have to be developed and all parties consulted and, if the TDA is found to be acceptable then it would be presented to the EU some time in early 1997. The steps taken by South Africa in developing the concept of a TDA are significant. The South African negotiating team was taking the offer of a trade and co-operation agreement into its own hands and moulding it for its best interests. This represents a major move from the former stance of merely reacting to the EU's proposals. South Africa displayed tremendous self confidence in coming up with this proposal as it not only challenged the EU's proposed agreement, but challenged the international institutions governing international trade agreements. This move aligned South Africa firmly with the region, and with the UNCTAD group of countries that

fought for better international conditions to enhance development and favour developing countries.

The TDA concept poses a challenge to the EU to take up its proposed rhetorical role of supporting South and Southern Africa's development. Pretoria views a TDA as supporting South and Southern Africa's growth, development and integration. According to Willem Bosmann of the DFA, Mr Angelos Pangratis of the European Union's delegation in Pretoria has responded positively to the concept of a TDA (interview with Willem Bosmann 25 October 1996). The EU has always encouraged South Africa to present its own ideas on what a bilateral agreement should entail.

Some concern was expressed as to why the EU should even consider an agreement of this type. The proposed TDA concept has a lot of benefits for South Africa, but the benefits for the EU are both distant and unclear. Despite the expressed desire to assist in South Africa's development the EU has its own constituency to consider. The EU could not enter into an agreement with South Africa until it is agreed to by its member states. Moreover the timing of South Africa's proposal is not very good. The EU is in the process of preparing itself for some dramatic structural changes within its own regional economy, all of which require extreme measures from all the member states. Entering into an agreement with South Africa that does not produce immediate results, and that allows South Africa to gain preferential access to the EU market in an asymmetrical agreement, is not likely to be widely welcomed. South Africa's proposed agreement is not only going to have to take the considerations of the region and the ACP into account, but also those of the EU. South Africa will have to somehow make their TDA attractive to an EU that is in the grips of an internal economic upheaval. It remains to be seen whether this can be accomplished.

South Africa presented a copy of their trade mandate to the EU in December 1996. The date of resumption for the negotiations was set for 24 January 1997. The presentation of the SA trade mandate to the EU was shrouded in secrecy. Many of South Africa's attempts to introduce transparency to their decision making process were effectively annulled by their actions with regard to the presentation of this mandate. The EU's failure to follow up on the rhetorical support for the regional involvement in the decision making process is particularly disappointing. While the EU received its copy of the SA mandate in mid December 1996, the SADC states did not receive a copy until the week before the negotiations were due to restart in January 1997, a month after it was sent to the EU (Financial Mail 24 January 1997). The mandate was also not made available to other interested parties, and therefore a copy was not available for scrutiny at the time of writing this thesis.

# CHAPTER 7

## CONCLUSION

The global environment in which South Africa finds itself in the post apartheid era is not one that is particularly accommodating to the needs, aspirations and desires of a young democracy looking to break its historic mould and develop into a productive and successful state. This environment is characterised by the global capitalist system in which states compete fiercely with one another within the global trading markets. In this system power is based on economic might and wealth, and this has largely replaced the previous order which was based on security and military might. Within this system, states are grouping together to form regional trading blocs. These blocs have developed out of a need to consolidate power, as the individual state no longer has sufficient strength within itself to compete in the global economy. It is one of these regional trading blocs that South Africa is coming up against in its relations with the EU. The EU is the largest, and most advanced, trading bloc in the world, and represents South Africa's largest trading partner. As such, a high degree of co-operation with the EU is seen as extremely important to SA's growth and development.

Attempts to develop a long term relationship structure between the EU and SA in the post apartheid era have so far been very unproductive. They have been plagued by incompatibilities between what is required from such a relationship by South Africa and the EU. Both parties have different, and often opposing, interests that are difficult to reconcile. What South Africa requires is a relationship in which it could gain preferential access to the EU's market, while at the same time being granted space in which to reform its domestic economy and level some of the social imbalances. The EU's rhetoric declared support for South Africa's needs, however the EU has a constituency to answer to. The EU forms part of the competitive global

environment, and this does not allow for displays of altruism. The EU's constituency wants much the same thing that South Africa seeks from an agreement. The EU is looking to expand its export market in South Africa while at the same time protecting certain *sensitive* areas of its own economy - in this case the agricultural sector.

The EU's objectives as declared in the Luxembourg declaration of 1994, and presented to President Mandela at his inauguration on 10 May 1994, were intended to *...send a strong political signal to the incoming government and to the South African population, thus proving its firm determination to support the transition towards democracy and its willingness to contribute to the reconstruction and economic development of South Africa after the elections* (Article 1, European Council 6294/94: 5). The EU trade mandate that was eventually presented to South Africa in March 1996 had the appearance of an agreement that would ensure the EU access to South Africa's market, while at the same time protecting its own market from any South African products that had the slightest chance of competing with EU products. In two years the political rhetoric displaying strong support for South Africa's development and success has been replaced by an attitude reflecting the EU's staunchly competitive nature, providing far fewer concessions for South Africa than had initially been suggested.

A similar situation was witnessed with regard to the EU's support for the Southern African region. The Berlin Council of Ministers meeting in 1994 promised strong EU support for Southern African integration. This support was either not followed up on, or was contradicted in practice. The EU had declared its support for the Southern African region and for regional integration as a symbol for co-operation in Africa. However, by offering South Africa a bilateral trade agreement the EU effectively undermined its own objective of supporting

Southern African integration by placing one of the region's members on a different platform to the others.

The reasons for this rift between the declared objectives and the realities that eventually emerged can be found in the nature of the global system. This point is fundamental to the Globalist outline as presented in Chapter 1. In re-examining the Globalist's guidelines it can be seen that the overall structure of the global environment is one in which states compete with one another in a setting where wealth and economic might represent the units of power. In order for a state to be successful it has to compete with the other states within this system. The evolution of this system is such that it has developed into an environment in which there are three clearly identifiable groups. The EU falls into the first group which consists of the states that have high levels of industrialisation, economic wealth and high levels of development. As result, they have a lot of influence over the way in which states interact and have, historically, dominated the international system. The second group of countries has emerged fairly recently and is known as the newly industrialised countries: these countries have managed to break out of the quagmire and have embarked on successful programmes of industrialisation and development. This has largely been achieved at the cost of human rights, and through tightly state-controlled fiscal policies. The third group of countries suffers from extremely low levels of development, and cannot seem to break out of their lot in the global system. They are confined to supplying primary products to the developed countries and buying manufactured goods, or services, from those countries. This situation is extremely difficult for the developing countries to break out of, and to this effect the Globalists assume that there is a *mechanism of domination* that keeps the developing countries where they are. These mechanisms of domination can be see in the organisations and mechanisms of the North, such as the World Bank, the IMF, the WTO and, as has been shown in Chapter 2, even the

Lomé Convention. These organisations are fundamentally supposed to assist the South, however they are constructs of the North in which the South has very little say. The track record of these organisations in dealing with the developmental problems of the North has not been very good. Finally, the Globalists recognise economic factors as fundamental. In this case the EU's support for both the regional integration of the Southern African region and the support of South Africa's democracy have been overruled by its economic interests. Displays of support for South African development, and Southern African integration, would not benefit the EU in any way, and therefore the incentive is not there to follow up on the promises of support.

When South Africa's position is examined, the scenario that presents itself is very dismal. South Africa's chances for success lie in its ability to diversify its exports, and to move from exports of raw materials, primarily metals and minerals, to exporting manufactured goods. The reason for this was identified by the World Bank in the study mentioned in Chapter 2, where the demand for primary products in industrialised countries was shown to grow at approximately the same rate as incomes, while that for imported manufactured goods grew approximately twice as fast (World Bank cited in Ravenhill 1985: 151). Further, the return on manufactured goods is far greater than that on primary products, so in order for South Africa to reach the necessary levels of growth identified by the GEAR document, it needs to focus its exports on manufactured products, which are the big earners. Manufacturing is also a large employer, which was another fundamental reason for the sector's development in a country that faces unemployment levels approaching 50%, and where the government is looking to create 400 000 jobs in four years.

The reaction of the EU to South Africa's manufacturing exports indicates that the country does not pose a threat to the EU. For South Africa to become at all competitive in the international

manufacturing market, its industry will have to face massive reforms and development. The FTA agreement proposed by the EU would not assist this development in the manufacturing sector as the EU's manufactured goods would enter the South African market with greater ease. This would come at a time where reform programmes and historical legacies have left the South African domestic economy particularly vulnerable. It would increase the levels of competition within South Africa, and in many cases, potentially destroy the domestic producer, causing job losses and undermining the government's programme for growth. While the proponents of trade liberalisation would argue that this is good as it forces South African industry to become efficient, the social situation in South Africa cannot absorb the impact of the effects of massive, rapid trade liberalisation. While this needs to take place, it needs to happen within a controlled environment that supports the other government programmes such as GEAR and the RDP.

The one area in which South Africa could have competed effectively was agricultural trade. However, the problems that exist in this sector are both numerous and diverse. Firstly the agricultural sector, while important to South Africa's economy, is not going to bring about the necessary change and economic growth that the country requires. Agriculture is a sector that produces low returns and is subject to large fluctuations in production due to South Africa's erratic rainfall. In terms of trade with the EU, the South African agricultural sector would have to come up against the CAP, the EU's protectionist agricultural regime. The CAP not only heavily subsidises the EU's agricultural produce, but also effectively lobbied the exclusion of 39% of agricultural trade from the mandate for trade negotiations with South Africa. While this represented a large exclusion in terms of agricultural trade, agriculture constituted only 10% of total trade, therefore the exclusion was only around 3,9% of total trade. This figure was, therefore, not that significant to the overall SA-EU trade agreement, even when

considering the fact that this was one of the few sectors in which South Africa had comparative advantage. South Africa, none the less, invested a lot of energy and time in this issue, when they could have been focusing on some of the more significant aspects in the agreement.

Thus the crucial issue facing South Africa is that it develop its manufacturing sector and focus on the export of manufactured goods. The EU's response to the South African manufacturing sector makes it clear that it does not pose a threat to the EU market. The EU market for manufactured goods is already so saturated that the inefficient South African manufacturing sector can have no real impact on it. The agricultural sector is where South Africa could have had an impact on the EU market, and where South Africa has some chance of attaining comparative advantage. This is, however, not the sector that SA can use as its engine for growth and is also the sector that the EU has largely excluded from the agreement. Fighting for *apples and pears* is not going to gain many substantial benefits from a trade agreement for South Africa.

The relationship between the parties is inherently unbalanced, with the EU being by far the dominant party. South Africa relies heavily on the EU's trade and investment as the region represents its largest trading partner. South Africa, however, represents just one of many developing country markets for the EU. From the outset, therefore, the relationship was disproportionate and South Africa has to watch the situation extremely carefully to prevent being bulldozed into an imperfect agreement by the EU. This explains SA's often cautious and hesitant approach to the agreement and the negotiations, and their insistence on comprehensive analyses being conducted before any negotiations can be embarked upon.

In order for South Africa to try to balance the relationship a little more it needs to insist on the inclusion of the Southern African region in all aspects of the proposed trade agreement. This is also true in light of South Africa's various obligations to the region, both legally to the SADC and SACU, as well as to their markets in those regions. Of greatest importance is the fact that Southern Africa accounts for 40% of South Africa's manufactured goods exports. As manufacturing has been identified as the only available engine for SA's growth, the region's position as the greatest consumer of these products is extremely important to SA. South Africa identified its membership of the Lomé Convention as the one mechanism that would have brought about some sort of benefits for the region. As a member of Lomé, South Africa would have been included in the cumulation and rules of origin clauses, and this alone would have allowed the country to reach much greater levels of co-operation with the region. The EU's approach to Southern Africa could also have become more holistic, treating South Africa as a member of the region, and not individually. Further, South Africa's inclusion as a possible tender for Southern African projects under the EDF would have meant that the region could have benefited further from Lomé development projects in the region, by being responsible for the work carried out. South Africa could also have received some substantive benefits from the trade aspects of Lomé.

For the EU, the South African accession to Lomé is not seen as an option because the country does not fit the ACP member profile. It is far too developed and the EU fears that the inclusion of SA within Lomé would have a negative impact on the other members of the ACP and that South Africa would upset the balance of this organisation. The imminent demise of the Convention is also a factor speaking against South Africa's accession. Further, the EU would not gain anything from this situation. The EU requires some incentive to open its market to South Africa, and this incentive is not contained within the Lomé Convention.

South Africa's request for a relationship that was as close as possible to the Lomé Convention was designed to allow them to enter into a bilateral agreement with the EU that would also allow the regional benefits available from Lomé membership that are mentioned above. Perhaps the biggest mistake that South Africa made was that it did not present a detailed plan of what a relationship of this type should entail. The South African team should have created an outline of their envisaged agreement, and should have marketed this to the EU. As the weaker party in the relationship, South Africa should have made a much earlier attempt to gain power through thoroughly preparing an agreement proposal that would have both assisted SA's development and appeared attractive to the EU.

The proposal by the EU to create a Free Trade Zone with South Africa was a logical step for the Union to take. It contained within it all the incentives required to enter into an agreement with South Africa. The agreement would require SA to open its market and would provide South Africa with some concessions. The EU did this while protecting its sensitive areas, a realistic ingredient in a competitive global environment. From the EU perspective the proposed mandate was perfectly reasonable. From the South African perspective the mandate was extremely disappointing as it did not present the golden platter of support that the country had envisaged. South Africa was suffering some illusions about its role in the global economy, and the value of its new found democracy to win it support. The South African response to the EU's proposal is indicative of this. The South African team should have been expecting an agreement envisaged by the EU, and should have had a constructive response ready to present to the Union. By failing to do this the country is losing credibility, time and ground. The further South Africa gets from its popular crest of 1994, the less likely the goodwill and accompanying concessions of the global community will be. The longer the negotiations are delayed the less likely it is that South Africa will gain much sympathy from the EU. The

internal problems facing the EU, coupled with those of its neighbours in Eastern Europe, will simply add to this. As the situation was develops, South Africa is playing an extremely uncompetitive game in the international system.

The eventual formulation of the concept of a Trade and Development Agreement is a large step in the right direction for South Africa. This proposal contains the South African approach, and details what South Africa seeks from an agreement with the EU in a constructive fashion. The demands on the EU are lower and more realistic, but so are the concessions that will be granted to the Union. It is difficult to assess this agreement as it has not been available for close scrutiny. As was mentioned at the end of Chapter 6, this unfortunately points, once again, to the incompetency and shroud of secrecy that has surrounded the South African negotiating team's approach. The FGD/FES workshop was supposed to introduce an element of transparency to the negotiation and decision making process. The TDA, however, was essentially an agreement that had already been formulated within the Department of Trade and Industry, and the presentation by the DTI at the workshop was very sketchy. It appears that SA has also not followed up on the proposal to include the region in the decision making process. This was blatantly apparent in the recent re-opening of negotiations between the EU and South Africa in Pretoria on 24 January 1997. South Africa delivered its mandate for a trade agreement to the EU in mid-December 1996. However, this mandate was not made available to the SADC and SACU members until days before the negotiations (Financial Mail, 24 January 1997). This fact does not bode well for the region, or for the aspirations of regional integration. South Africa's criticisms of the EU's FTA mandate could apply equally to the South African role in the Southern African region. South Africa's rhetorical support and commitment for regional integration is highly suspicious in light of their approach to the agreement. The South African team's insistence on the inclusion of the

region's interests in any agreement appears increasingly to have been used as a bargaining chip in the agreement, with any benefits for the region arising from the agreement being purely coincidental.

The importance of the agreement between the EU and SA must also be considered for its potential impact on future agreements of this type. The South African team has acknowledged the fact that the agreement has the potential to set a number of precedents. Amongst these are the precedents that could be set for post-Lomé Convention agreements. The future of the Lomé Convention is uncertain with various options for the future being assessed. An agreement between South Africa and the EU would be the first post WTO bilateral trade agreement between a developing country and the EU. If South Africa had settled for an agreement that was completely dictated by the EU it could have had serious implications for the ACP in the run up to the negotiations for a post Lomé IV agreement which are due to begin in 1998. For this reason issues such as the EU's exclusion of 39% of agricultural produce are extremely important. While it has been suggested here that this would have very little substantive impact on an SA-EU agreement, excluding 39% of ACP agricultural trade from an agreement between the ACP and the EU would have a devastating impact on the ACP states that rely heavily on agricultural trade.

The South African proposal to introduce new legislation with the WTO is the second area where a SA-EU agreement could have a large impact. The WTO regulations have on FTA's proved to be inadequate when dealing with an agreement between countries of disparate development that are not geographically approximate. The belief of the South African negotiation team that they could introduce new regulations to govern these types of relations would have tremendous implications for the entire globe. Numerous South American and Latin American countries have already sought closer links with the EU, and with NAFTA.

New WTO regulations could create a framework within which these interactions could take place. The creation of such a framework has the potential to impact either positively or negatively on developing economies. It could either add to the mechanisms of domination that are identified by the globalists, or it could break this pattern. South Africa's negotiation of an agreement with the EU that could truly lead to closer co-operation, trade liberalisation and simultaneous sustainable development, would contribute tremendously to the plight of the South.

As South Africa and the EU enter the next phase in this long negotiation process they will be charting new ground. In this round South Africa has largely set the margins in which the negotiations will take place. The EU should have a better idea of what the South African party wants from the agreement. South Africa must also be careful not to make unrealistic demands on the EU. As the weaker party with the most to gain and to lose from an agreement, South Africa should consider its approach very carefully within the context of the current global environment. It should market its proposals and not expect concessions from the EU that are going to be of no benefit to the Union. If a constructive agreement is not forthcoming South Africa should not push the issue, and should focus on its regional policy. Further, the negotiations with the EU have consumed a tremendous amount of resources. While the country has been focusing on an agreement with its largest trading partner, other regions are being sidelined. The Asian-rim countries represent large and rapidly growing economies which contain potentially massive markets for South Africa. South Africa needs to look beyond the traditional trading partners and develop new links within the global economy.

Finally, the South African approach to the region must be consistent. The region represents not only South Africa's largest opportunity for growth, but also an area of potential conflict. South Africa should be careful not to propagate a microcosm of dependency in the region.

Any agreement with the EU must be implemented both with the best interests of the region in mind, and with the consent of the region. By pursuing a paternalistic approach with regard to the region's involvement in the trade agreement, and making all decisions on behalf of the region, South Africa is undermining regional integration as much as the EU is.

The central question identified in Chapter 1 was whether the international system, as it exists, would allow for the altruistic behaviour of states. Specifically: Would the European Union be able to follow up on its rhetorical support for the development of South Africa? As a result of this study it appears that the altruistic behaviour of states is not likely to occur. In the competitive environment there is a need for incentives. For South Africa, or for any other developing country, to succeed in the global environment it needs to begin by taking some sort of control. The evidence has shown that the globalist mechanisms of domination exist, and are controlled by the countries of the North. The Lomé Convention's failure is definitely linked to the failure of the ACP states to play an active role in the decision making and direction of the organisation. In this context the developing world, and South Africa, needs to play the game by the rules established by the global environment. Concessions and support will not be obtained free of charge, they have to be fought for, and traded. South Africa would most likely have gained nothing from the EU's proposed FTA. However, by taking some command of the situation with the TDA, the country is taking its development into its own hands, rather than relying on the rhetorical goodwill exhibited by the North.

# BIBLIOGRAPHY

## PUBLICATIONS

Abada, S. E. D. 1996. *ACP-EU fishing agreements: accord or discord?* The Courier, no. 156 (March-April).

Allen, D.; Smith, M. 1991. *Western Europe's Presence in the Contemporary International Arena.* The Future of European Political Co-operation: Essays on Theory and Practice, Martin Holland (ed.), Macmillan, London.

Amin, S. 1993. *South Africa in the Global System,* Monthly Review, vol. 45, no. 2.

Barber, S. 1996. *Free Trade Pact with EU could help fight unemployment,* Business Day (16 August).

Boardman, R.; Shaw, T. M.; Soldatos, P. 1985. *Introduction.* Europe Africa and Lomé III, University Press of America, Lanham.

Breytenbach, W. 1995. *South-North Bargaining: What Role for South Africa?* Africa Insight, vol. 25, no 4.

Brigaldino, G. 1996. *Africa-Europe relations at a turning point,* The Courier, no. 157 (May-June).

Bulmer, S. 1991. *Analysing EPC: the Case for Two-Tier Analysis.* The Future of European Political Co-operation: Essays on Theory and Practice, Martin Holland (ed.), Macmillan, London.

Caas, F. 1995. *Southern Africa: The State of Democracy,* The Courier, no. 153 (September-October).

Cassim, R. 1995. *The prospects for Southern Africa in the international economy.* The Courier, no. 153 (September-October).

Cosgrove, C. 1994. *Has the Lomé Convention Failed ACP Trade?* Journal of International Affairs, vol. 48, no. 1, (Summer).

Davies, R. 1996. *SA needs to steer accurate course in trade talks with EU,* Business Day (21 August).

Dedman, M. J. 1996. The Origins and Development of the European Union 1945-95: A History of European Integration. Routledge: London.

Dehousse, R.; Weiler, J. H. H. 1991. *WPC and the Single Act: from Soft Law to Hard Law?* The Future of European Political Co-operation: Essays on Theory and Practice, Martin Holland (ed.). Macmillan: London.

Drechsler, W. 1996. *Verkünder harter Wahrheiten,* Der Tagesspiegel (13 April).

Duff, A.; Pinder, J.; Pryce, R. 1994. Maastricht and Beyond: Building the European Union. Routledge: London.

Europa World Year Book 1996, Volume I, Part One, 1996, Europa Publications Limited, London.

European Centre for Development Policy Management (ECDPM). 1996. *Beyond Lomé IV: Exploring Options for Future ACP-EU Co-operation.* Policy Management Report Number 6 (October), European Centre for Development Policy Management (ECDPM): Maastricht.

European Commission. 1994. Development: Southern Africa and the European Union, DE 78 (July), Brussels.

Frey-Wouters, E. 1980. The European Community and the Third World: The Lomé Convention and Its Impact. Praeger: New York.

George, S. 1991. *European Political Co-operation: a World Systems Perspective,* The Future of European Political Co-operation: Essays on Theory and Practice, Martin Holland (ed.). Macmillan: London.

Goutier, H. 1995. *South Africa-the link between rich and poor,* The Courier, no. 153 (September-October).

Haas, E. B. 1961. *International Integration: The European and the Universal Process,* International Organization, vol. 15, no. 3.

Harsch, E. 1996. *The Global Coalition for Africa: Towards a Broader Dialogue?* Review of the African Political Economy, no 67.

Holland, M. (ed.). 1991 (c). The Future of European Political Co-operation: Essays on Theory and Practice. Macmillan: London.

Holland, M. 1983. An Introduction to the European Community in the 1980s. Juta: Kenwyn.

Holland, M. 1988. The European Community and South Africa: European Political Co-operation Under Strain. Pinter: London.

Holland, M. 1991 (a). *EPC Theory and Empiricism,* The Future of European Political Co-operation: Essays on Theory and Practice, Martin Holland (ed.)., Macmillan: London.

Holland, M. 1991 (b). *Sanctions as an EPC Instrument,* The Future of European Political Co-operation: Essays on Theory and Practice, Martin Holland (ed.). Macmillan: London.

Holland, M. 1994. *Plus ça change ...? The European Union "Joint Action" and South Africa* CEPS Paper # 57, Centre for European Studies: Brussels.

Holland, M. 1995 (a). *Bridging the Capability-Expectations Gap: A Case Study of the CFSP Joint Action on South Africa,* Journal of Common Market Studies, vol. 33, no. 4 (December).

Holland, M. 1995 (b). European Union Common Foreign Policy: From EPC to CFSP Joint Action and South Africa. Macmillan: London.

Holland, M. 1995 (c). *South Africa, SADC, and the European Union: Matching Bilateral with Regional Policies,* The Journal of Modern African Studies, vol. 33, no. 2.

Horner, S. 1995. *SADC's New Role: development through economic integration,* The Courier, no. 153 (September-October).

Hull, A. P. 1996. *Rational Choice, Security, and Economic Co-operation in Southern Africa,* Africa Today, 43 (January-March).

Imani Development (International) LTD. 1996. Imani Development Consultants Draft Report Study on the Economic Impact of the Proposed EU-SA Free Trade Agreement on BLNS Countries, (September). Imani Development (International) LTD: Harare.

IRC News. 1996. vol 1, no 1, International Research Consultancy, Cape Town.

Ismail, F. 1996. *Is EU's 'free trade' offer to SA a threat or an opportunity?* Business Day (18 July).

Jenkins, C.; Naudé, W. 1995. *SA and Europe: Free Trade Options* Indicator South Africa vol. 12, no. 4 (Spring).

Kibble, S.; Goodison, P.; Tsie, B. 1995. *The Uneasy Triangle-South Africa, Southern Africa and Europe in the Post-Apartheid Era,* International Relations, vol. XII, no. 4 (April).

Kühne, W. 1996. *Krisenherd vor Europas Tür: Deutsche und europäische Verantwortung für Afrika,* Internationale Politik, no. 9 (September).

Lomé 2000: Debating future co-operation between Europe, Africa, the Caribbean and the Pacific. 1996. Lomé 2000: Debating future co-operation between Europe, Africa, the Caribbean and the Pacific, no. 1 (January), European Centre for Development Policy Management: Maastricht.

Lomé 2000: Globalisation and Development. 1996. Lomé 2000: Globalisation and Development no. 3 (October), European Centre for Development Policy Management: Maastricht.

Mearsheimer, J. J. 1990. *Back to the Future: Instability in Europe After the Cold War,* International Security, vol. 15, no. 1 (Summer).

Meierhenrich, J. 1996. *Hoffnung für Südafrika?* Internationale Politik, no.9 (September).

Michaely, M., Papgeorgiou, D., Choksi, A. M. (eds.). 1991. Liberalizing Foreign Trade Volume 7: Lessons of Experience in the Developing World, International Bank for Reconstruction and Development/World BankBlackwell: Cambridge.

Mills, G. 1995. *South Africa and Southern Africa,* The Courier, no. 153 (September-October).

Misser, F. 1995 (a). *European Investment in Southern Africa: The Private Sector View,* African Business (December).

Misser, F. 1995 (b). *South Africa: No Easy Ride,* African Business (September).

Misser, F. 1996 (a). *European Union/Africa: Fisheries Agreement Under Fire,* African Business (April).

Misser, F. 1996 (b). *Lomé: A Farewell to Alms?* African Business (April).

Misser, F. 1996 (c). *South Africa-EU: Deadlock turns into farce,* African Business (March).

Monthly Regional Bulletin: Southern Africa. 1996. *Hard infighting begins ahead of free trade talks with SA*, Monthly Regional Bulletin: Southern Africa (February).

Morna, C. L. 1995. *New Era of Co-operation,* Africa Report, vol. 40 no. 3 (May/June).

Mosia, L. 1995. *The Economy: The gateway to Europe,* Enterprise: networking for South Africa's entrepreneurs and leaders, vol.90 (August).

MRB Monthly Regional Bulletin. 1996. MRB Monthly Regional Bulletin, vol 5/2 (February).

Oyowe, A. 1996. *The Way Ahead for Africa: The second plenary of the Global Coalition for Africa,* The Courier, no. 156 (March-April).

Page, S.; Stevens, C. 1992. Trading with South Africa: The Policy Options for the EC. The Overseas Development Institute: London.

Parfitt, T. 1996. *The Decline of Eurafrica? Lomé's Mid-Term Review,* Review of the Africa Political Economy, no 67.

Parker, M. 1994. *Interview: Trevor Manuel, Minister for Trade and Industry, South Africa* African Business (November).

Percival, D. 1995. *Successful conclusion to the Lomé IV mid-term review: Agreement clinched at eleventh hour,* The Courier, no. 153 (September-October).

Pijpers, A. E. 1991. *European Political Co-operation and the Realist Paradigm.* The Future of European Political Co-operation: Essays on Theory and Practice, Martin Holland (ed.). Macmillan: London.

Pinder, J. 1995. European Community: The Building of a Union. Oxford University Press: Oxford.

Putnam, R. D. 1988. *Diplomacy and domestic politics: the logic of two-level games.* International Organization, vol. 42, no. 3 (Summer).

Ravenhill, J. 1985. Collective Clientelism: The Lomé Conventions and North-South Relations. Columbia University Press: New York.

Regelsberger, E. 1991. *The Twelve's Dialogue with Third Countries: Progress Towards a Communauté d' action?* The Future of European Political Co-operation: Essays on Theory and Practice, Martin Holland (ed.). Macmillan: London.

Risse-Kappen, T. 1996. *Exploring the Nature of the Beast: International Relations Theory and Comparative Policy Analysis Meet the European Union,* Journal of Common Market Studies, vol. 34, no. 1 (March).

Rosenau, J. N. 1987. *Thinking Theory Thoroughly,* International Relations Theory: Realism, Pluralism, Globalism, Paul R. Viotti and Mark V. Kauppi (eds.). Macmillan: New York.

SADC Introduction to SADC: http://business.kent.edu/sabos/intro.htm.

Schweikert, R. 1996. *Regional Integration in Eastern and Southern Africa,* Africa Insight, vol. 26 no. 1.

Somerville, K. 1996. *ANC's Man in the Hot Seat: Is Trevor Manuel the Right Person to Head SA's Finance Ministry?* African Business (May).

South Africa: The Journal of Trade, Industry and Investment. 1996. *South Africa's foreign trade in a post-sanctions environment,* South Africa: The Journal of Trade, Industry and Investment, 3rd Quarter.

Stevens, C. and Kennan, J. 1991. *The Options for EC Trade Policy Towards a Post-Apartheid South Africa.* Unpublished interim report of the Overseas Development Institute (December).

Stevens, C.; Kennan, J.; Ketley, R. 1993. *EC trade preferences and a post-apartheid South Africa,* International Affairs, vol. 69, no. 1. (January).

Stewart, J. 1996. *Don't Fret About Europe.* Enterprise: networking for South Africa's entrepreneurs, vol. 100 (July).

The Courier. 1996. *Lomé IV Convention: as revised by the agreement signed in MAURITIUS on 4 November 1995,* The Courier, No. 155 (January-February).

The Economist. 1985. *EEC: Anti-apartheid, yes, er, but,* The Economist, vol. 296 (August 31).

The Economist. 1995. *South Africa and Europe: Knock knock,* The Economist, vol. 333, (December 24).

Tsakaloyannis, P. 1991. *The EC, EPC and the Decline of Bipolarity,* The Future of European Political Cooperation: Essays on Theory and Practice, Martin Holland (ed.), Macmillan: London.

Tsie, B.; Goodison, P.; Kibble, S. 1996. *Trading Blows: Southern Africa, South Africa and Europe in the post-apartheid era,* CIIR Briefing, Catholic Institute for International Relations:London.

UNCTAD Trade and Development Report, 1995. 1995. United Nations Conference on Trade and Development, Geneva.

United Nations. 1995 (a). Basic Facts about the United Nations, United Nations Publications: New York.

United Nations. 1995 (b). World Investment Report: Transnational Corporations and Competitiveness. United Nations: Geneva.

Vale, P. 1995. *Securing Southern Africa,* The Courier, no. 153 (September-October).

Vernier, G. 1996. *Lomé IV mid-term review: Main innovations,* The Courier, no. 155 (January-February).

Viotti, P. R.; Kauppi, M. V. 1993. International Relations Theory: Realism, Pluralism, Globalism (2nd ed.). Macmillan: New York.

Wessels, W. 1991. *EPC After the Single European Act: Towards a European Foreign Policy via Treaty Obligations,* The Future of European Political Co-operation: Essays on Theory and Practice, Martin Holland (ed.). Macmillan: London.

What is Nedlac? http://www.nedlac.org.za/background.html

World Bank Southern Africa Department. 1993. South Africa: A Review of Trade Policies. The World Bank: Washington DC.

World Bank Southern Africa Department. 1994. South Africa: Economic Performance and Policies. The World Bank: Washington DC.

## OFFICIAL DOCUMENTS OF THE EUROPEAN UNION, SOUTH AFRICAN GOVERNMENT AND SADC

Bosman, Willem (Director of Regional Economic Organisations at the South African Department of Foreign Affairs).. *Series of three articles on the negotiations between South African and the European Union*, later presented to Finansies en Tegniek Weekliks 1996 (August).

Commission of the European Communities.1995. *Proposal for a Council Regulation (EC) on Development Co-operation with South Africa*, COM (95) 174 final (10 May), Brussels.

De Almeida, J. V.. 1996. *Prof. Pinheiro welcomes mandate to negotiate a free trade agreement with South Africa*, IP/96/258 (25 March). European Commission: Brussels.

*Declaration by the EU-Southern Africa Ministerial Conference* ( 5/6 September), Berlin.

European Commission Document. 1994. *Commission Proposes Agreement for Future Relations with South Africa* Ref: IP/94/867, Brussels.

European Commission *Memo: The Republic of South Africa and the European Union*, MEMO/95/61, Brussels.

European Commission. 1995. *Information Memo: Signing in Mauritius of the Agreement Amending the Fourth ACP-EC Convention of Lomé (4 November 1995).* (25 October), Brussels.

European Commission. 1996. *Towards a free trade area between the European Union and South Africa: an assessment*, (7 February), Brussels.

European Council: General Secretariat *Press Release: General Affairs: South Africa*, 6294/94 (Presse 70 - G), 1746th Council Meeting, 18 and 19 April 1994, Luxembourg.

European Parliament *Minutes of Sitting Thursday 18 July 1996: Co-operation with South Africa (debate)*, PE 251.057, July 1996, Strasbourg.

European Parliament Sessions Documents *Recommendation for Second Reading: on the Common Position of the Council on the proposal for a Council Regulation (EC) on the development co-operation with South Africa*, C4-0221/96 - 95/0110 (SYN), European Parliament Committee on Development and Co-operation, Rapporteur: Mrs Maren Günther, 26 June 1996, Strasbourg.

European Parliament. 1996 (a). *Verbatim Report of Proceedings: Co-operation with South Africa*, (July), Strasbourg.

European Parliament. 1996 (b). *Verbatim Report of Proceedings: Progress in CFSP*, (July), Strasbourg.

GEAR. 1996. *Growth, Employment and Redistribution: A Macroeconomic Strategy*, South African Government Policy Document, (14 June), Pretoria.

Kommission der Europäischen Gemeinschaften *Mitteilung der Kommission an den Rat: Vorschläge für Maßnamen, die der neuen südafrikanischen Regierung unterbreitet werden sollen (Anfängliche Maßnahmen und Interimsabkommen)*, KOM (94) 123 endg., 6 April 1994, Brussels.

Kommission der Europäischen Gemeinschaften *Vorschlag für eine VERORDNING (EG) DES RATES: Über die Unterstützung von Rehabilitationsprogrammen im Südlichen Afrika*, KOM (95) 175 endg., 10 May 1995, Brussels.

Kommission der Europäischen Gemeinschaften *Vorschlag für einen BESCHLUSS DES RATES: Über eine Garantieleistung der Gemeinschaft für etwaige Verluste der Europäischen Investitionsbank aus Darlehen für Vorhaben in Südafrika*, KOM (95) 543, 2 December 1994, Brussels.

Kuper, Kate; Cassim, Rashad. 1996. *Global Economic Strategy Project*, (September), Draft Document of Foreign Trade Relations at the DTI, and The Trade Policy Monitoring Project at UCT.

Lomé IV mtr 1996. *Lomé IV Convention: as revised by the agreement signed in MAURITIUS on 4 November 1995,* The Courier, No. 155 (January-February).

Portfolio Committees on Agriculture; Water Affairs and Forestry; Foreign Affairs; Trade and Industry *Submission on Preparation of a South African Mandate for Negotiation of a Bilateral Trade Agreement with the European Union* Parliament of the Republic of South Africa, (12 August 1996), National Assembly, Cape Town.

SADC Secretariat. 1996. *EU - RSA Free Trade Area: Some Critical Critical Aspects*, September, SADC, Gabarone.

South African High Commission Press Release. 1996. *South African Heads of Mission in EU member states meet in London*, (11 March), South African High Commission, London.

## INTERVIEWS, SPEECHES AND STATEMENTS

Bosman, Willem: Director of Regional Economic Organisations, South African Department of Foreign Affairs, interviewed 25 October 1996 in Pretoria.

Chalker, Baroness Linda *Statement at the SADC-EU Ministerial Conference* 14-15 October 1996, Windhoek.

Davies, Robert *Address to 21st session of the ACP-EU joint assembly, on behalf of the South African Observer Delegation,* Parliament of the Republic of South Africa, 25-29 September 1995, Cape Town.

Fouéré, Erwan *Address at the South African Workshop on Trade and Development Relations with the European Union: Examining the respective negotiating Positions*, 21 October 1996, Johannesburg.

Goodison, Paul *Address at the South African Workshop on Trade and Development Relations with the European Union: Examining the respective negotiating Positions*, 21 October 1996, Johannesburg.

Hirsch, Allen *Address at the South African Workshop on Trade and Development Relations with the European Union: Examining the respective negotiating Positions*, 21 October 1996, Johannesburg.

Ismail, Faizel *Address at the South African Workshop on Trade and Development Relations with the European Union: Examining the respective negotiating Positions*, 21 October 1996, Johannesburg.

Manuel, Trevor *Statement at the opening ceremony of the negotiations between the Republic of South Africa and the European Union on a long term framework for agreement*, 30 June 1995, Brussels.

Marin, Manuel *Opening Address to the Conference of the Foreign Ministers of the European Union and of the member States of the Southern African Development Community (SADC)*, 5/6 September 1994, Berlin.

Nkuhlu, Mfundo *Address at the South African Workshop on Trade and Development Relations with the European Union: Examining the respective negotiating Positions*, 21 October 1996, Johannesburg.

Pinheiro, João *Statement welcoming the European Union's Mandate*, 25 March 1996, Brussels.

Pinheiro, João *Introductory Statement on Regional Integration and Co-operation at the EU-SADC Ministerial Conference*, 15 October 1996, Windhoek.

Poulsen, Lønsmann Ole *Statement on Overall Objectives and Political Dialogue*, EU-Southern Africa Ministerial Conference, 5/6 September, Berlin.

Rabbitte, T.D. *Statement on International Co-operation*, CORDIS information document: http://www.cordis.lu/irish/src/speech6.htm, 25 September 1996.

Smidt, Steffen *Statement on: The Community's trade proposal for the planned bilateral agreement between the EU and South Africa*, 29 March 1996, Brussels.

Smidt, Steffen *The EU's Support for Regional Co-operation and Economic Integration in Southern Africa*, paper presented at the AWEPA Conference on Reconstruction and Democratisation in Southern Africa, 9 September 1996, Cape Town.

Texeira, Carlos: The Delegation of the European Union in Pretoria, interviewed telephonically 24 January 1997.

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Die Zeit

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