

A Critique of the Pacific EPA Sustainability Impact Assessment.

Stephen Dearden, Department of Economics, Manchester Metropolitan University, UK

Email s.dearden@mmu.ac.uk

In 1999 the EC launched its Sustainability Impact Assessment Programme, which had as its goal the integration of sustainability concerns into the development of trade policy. It was to include the development of a methodological framework by the University of Manchester (IDPM) for assessing the sustainability impact of trade agreements, together with studies to inform the 'Doha Round' negotiations of the WTO. This paper considers the application of the IDPM methodology to the SIA being undertaken by Price Waterhouse Coopers (PWC) for the current EPA negotiations in the Pacific region of the ACP.

Introduction

In 1999 the EC launched its Sustainability Impact Assessment Programme (SIA), which had as its goal the integration of economic, social and environmental considerations into the development of its trade policy. It is an approach that emphasises the long-term inter-generational impact of policy decisions and the active involvement of stake-holders in the decision making process. The SIA programme included the development of a methodological framework for assessing the sustainability impact of trade agreements, while the subsequent studies were to inform the negotiations and the dialogue with civil society. The first application of this new approach was to be the negotiations being undertaken under the 'Doha Round' of the WTO. As part of this process the Institute for Development Policy Management at the University of Manchester (IDPM) was contracted by the Commission to develop a methodology for a preliminary SIA for the negotiations. Subsequently PricewaterhouseCoopers (PWC) have been contracted to undertake an SIA of the current Cotonou Economic Partnership Agreement (EPA)

negotiations. These are intended to replace, by 2008, the existing non-reciprocal trade concessions given by the EU to the African, Caribbean and Pacific (ACP) group of developing countries under the previous Lomé Agreements.

This paper will draw upon the IDPM methodology and compare it with the approach being taken by PWC. It will also attempt to identify those crucial issues that are relevant to the Pacific EPA negotiations and their SIA assessment, drawing upon the economic impact assessment that has already been prepared by Scollay (2002) for the ACP Secretariat. Finally it will provide a critical assessment of PWC's SIA report.

The EU's Economic Partnership Agreements

Trade relations between the EU and developing countries are governed by three major agreements, the General System of Preferences, 'Everything but Arms' (EBA) and the Cotonou Agreement. The General System of Preferences (GSP), introduced in 1971, offers non-reciprocal reductions in MFN tariffs for manufactured goods, ranging from 15% on sensitive products to duty free access. A safeguard clause remains allowing for the reintroduction of duties should imports threaten serious difficulties for an EU producer and a 'graduation mechanism' providing for the exclusion of specific country-sector combinations depending upon the exporting country's overall level of industrial development and degree of export specialisation.

The EBA agreement is a unilateral non-reciprocal trade concession offering tariff and quota free access to the EU market to all low-income developing countries (LDC). Some safeguard clauses remain, particularly in regard to rice, sugar and bananas. Since this concession is confined to low-income countries it is WTO compatible.

The issue of WTO compatibility (compliance with Article XXIV) was a central issue in the renegotiation of the Lomé Conventions, which governed trade and aid relations between the EU and the African, Caribbean and Pacific (ACP) group of developing countries. Under the new Cotonou Agreement the non-reciprocal Lomé trade preferences are to be replaced by WTO compatible Economic Partnership Agreements (EPA) for the middle-income ACP countries by 2008 when the current WTO waiver expires. WTO compatibility will require the reciprocal elimination of barriers on *substantially all trade*. The precise definition of *substantially all trade* is the subject of considerable debate. The EU appears to be adopting a definition that covers 80% to 90% of the value of trade. However the threat of reference to the Disputes Panel may be an important political influence in its interpretation and, further, Article XXIV may be subject to renegotiation during the current WTO trade round. The EPA may cover trade related matters including intellectual property rights, standardisation of certification, competition policy, labour standards, consumer protection and will include the trade in services.

Regional Trade

Any discussion of the Pacific EPA (PEPA) must take into account existing regional trade agreements. The Pacific Island Countries Trade Agreement (PICTA) commits ten of the island states to progressively establishing a free trade area. It came into force in 2003 and provides for the free trade in goods within eight years (ten for the smaller states). Sensitive products will remain protected until 2016. Meanwhile the Melanesians Spearhead Group – Fiji, Papua New Guinea (PNG), Solomon Islands and Vanuatu – were committed to moving to a free trade area by 2008, however it failed to realise the expected benefits and by 2000 Vanuatu and the

Solomons had effectively suspended their involvement. Currently intra-PACP trade is insignificant, at only 2% of total trade.

Of more significance is the Pacific Agreement on Closer Economic Relations (PACER) between the members of the Pacific Forum – the island states and Australia and New Zealand. PICTA is seen as a subsidiary agreement under PACER and came into force in 2002. It promises broad ranging trade negotiations on trade liberalisation in 2011 and provides an Australia and New Zealand funded trade facilitation programme. Although it does not contain any formal MFN obligations, the negotiation of a reciprocal free trade agreement by the PACPs with the EU would trigger similar negotiations with Australia and New Zealand under PACER. As PACER was seen as an attempt by these two countries to avoid the EU obtaining a trade advantages, especially in regard to services and investor protection, the most likely outcome of such negotiations is for the PACPs to offer similar terms to Australia and New Zealand as those that would be extended to the EU. The economic implications of such a reciprocal trade agreement are far more significant than the likely impact of concluding an EPA with the EU. Similarly the three Pacific US ‘compact’ ACP states – The Federated States of Micronesia, Marshall Islands, Palau – are likely to have to provide similar duty-free access for the US. Finally it should be noted that the five low income PACPs – Kiribati, Samoa, Solomon Islands, Tuvalu, Vanuatu - will qualify for non-reciprocal duty free access under the EBA.

The EU is currently a minor source for PACP imports, providing 4% of the total (€ 210 m.: 2003). By contrast Australia (39%), Singapore (15%) and New Zealand (11%) dominate imports for all of the PACP countries except the US ‘compact’ countries. Similarly PACP exports are principally to Australia (23%) and Japan (11%). The EU is the third largest export market, taking 9% of the world total, worth € 530 m. in 2003. However these EU exports are

dominated by three PACP states – PNG (67% of the PACP total : 2003), Fiji (20%) and the Marshall Islands (11%). In the case of the Marshall Islands exports to the EU are of cruise ships and yachts (89% of the total value of exports), for PNG palm oil (42%) and Fiji sugar (92%). Thus for Fiji the EU's Sugar Protocol is of particular significance. It currently offers a guaranteed market of 165,348 tonnes at the EU's high internal prices. In addition there is an Agreement on Special Preferential Sugar (SPS) until 2006, which provides for additional imports of cane sugar from the ACPs and India when a shortfall is predicted in supplies to the EU's cane sugar refineries. The price applicable to SPS sugar is 85% of the guaranteed minimum EU price under the Sugar Protocol. Fiji is currently allocated 30,000 tonnes (9.3%) of the SPS allocation. Under the EBA duty free access for sugar will be phased in between 2006 and 2009 with these quotas counted against SPS allocations.

Sustainability Impact Assessments

In 1999 the EC decided to undertake an SIA to inform their participation in the Doha Round of trade negotiations of the WTO. The IDPM was contracted to develop a methodology for the various phases of the SIA (see Kirkpatrick, Lee and Morrissey, 1999; Kirkpatrick and Lee, 1999 & 2002). Although an SIA's detailed requirements vary with each stage of the assessment process and between individual cases, they share common principles. It is these principles, outlined in the IDPM's Phase Three report (2002), that are considered within the context of the Pacific EPA negotiations.

The IDPM identified four stages when undertaking a full SIA assessment - screening and scoping; assessment of proposed measures; assessment of alternative mitigation and enhancement measures (M&E) and monitoring and post-evaluation. Here we will consider only

the first three stages. They recommended that the scheduling of the SIA process should be commenced sufficiently early to enable it to allow consultations – both during screening/scoping and upon completion - and for it to be taken into account during the trade negotiations. The timing of the PSIA was already a cause for concern, as PWC had yet to publish their preliminary studies while regional negotiations had already commenced. Although the Pacific Islands Forum Secretariat were consulted in the formulation of the contract for the SIA there was otherwise little awareness of this exercise.

Screening and scoping are intended to select and systematise the SIA of each trade measure. It should identify the specific aspects of each trade measure and the possible negotiation outcomes ('scenarios') which should be submitted for assessment. It will need to select which country groups or individual countries should be assessed, the time horizons over which the impact should be evaluated and identify relevant changes in the broader context of changes in the international trade environment. Finally it will need to specify the sustainability indicators to be used, data sources and the methods to be employed. Scoping is likely to employ simplified causal chain analysis (CCA) and include preliminary identification of the M&E that might later need to be appraised.

Country Grouping

It is clear from developments that a common ACP-wide EPA, that is the preservation of the existing Lomé structure, is not a feasible option. The first question therefore is whether a comprehensive PACP EPA is the only option worthy of assessment. Except for the four members of the Melanesian Spearhead Group there is no intention to move towards a customs union in the region, while the 'compact' countries will have particular sensitivities to an EPA

that might affect the relationship to the US. Indeed a divergence of interest is inevitable in view of the differing adjustment costs that an EPA would impose and the benefits that might result. Countries differ in the importance of the EU as an export market, in the share of imports from the EU, Australia, New Zealand and the US, in the vulnerability of local industries to import competition and the level and revenue importance of tariffs. For the five low income PACPs an EPA will offer no advantages over the duty-free access they are already guaranteed under the EBA.

Only for Fiji (sugar and tuna) and PNG (tuna and palm oil) is the EU an important export market. Even for Fiji the Sugar Protocol, rather than an EPA, is of prime importance. The future value of the Sugar Protocol will be dependent upon the EU guaranteed price, which is being reduced under the pressures for CAP reform; the EC has proposed that the guaranteed price should be reduced by 39%, beginning in July 2006. The EU sugar regime is also under threat from external pressures. Recently Brazil, Thailand and Australia won a challenge against the EU's sugar export subsidies in the WTO. Although this differs from the previous banana case, in that it is confined to the export subsidies rather than the system of import quotas, it nonetheless increases the pressure on the EU to undertake a fundamental reform of its sugar regime. This is reflected in the EU-PACP Negotiations Joint Road Map (EC 2004) - "In accordance with Article 36(4) of the Cotonou Agreement the Pacific ACP and the EC shall review the commodity protocols in the context of the new trading arrangements, in particular as regards compatibility with WTO rules, and *with a view* to safeguarding the benefits derived therefrom" (para. 11). The abolition of EU sugar export subsidies will be of the benefit to the Fijian industry selling into the world market, but any moves to open up the EU market to other countries sugar exports will be to its disadvantage. In the context of the EPA negotiations it is unlikely that sugar could be

excluded, as such an agreement would fail to meet the ‘substantially all trade’ WTO requirement in the case of Fiji and many other ACPs in other regions e.g. Caribbean.¹

An SIA focused upon PNG and Fiji, as the largest economies with a particular commodity focus and an export orientation towards the EU, appears to be one obvious choice. This meets the ‘trade structure’ and ‘vulnerability to changes in trade’ criteria for SIA selection recommended by the IDPM. However for a number of other PACPs the EU offers a potential to develop their fish exports, with the trade facilitation provisions, which might be offered under an EPA, crucial to the future development of this industry. For other PACPs the inclusion of the service industries in any EPA may be a major attraction, given the importance of tourism and offshore finance. For all PACPs access to the Investment Facility of Cotonou offers potential advantages. Finally, access to the French territories in the Pacific might offer high-income markets for some countries. Thus a more general SIA for the whole PACP group would be expected. The small size of many of the PACPs and their exposure to environmental risk, as well as a high incidence of poverty, might suggest individual SIAs, but this was an unrealistic expectation.

However for all the PACPs an EPA will trigger renegotiation of PACER. It is the assessment of the outcome of such a renegotiation that would present the greatest challenge to any Pacific SIA. The obvious scenario is to assume the extension of reciprocal free trade to Australia and New Zealand, and unlike an EPA with the EU, this will have significant implications for the ability of governments to raise revenues through import tariffs, given their dependence upon imports from these countries; Tonga, Kiribati, Vanuatu and Tuvalu have a particularly high share of tariff revenues in total tax income. It would also impose far more

¹ For a further discussion of the EU Sugar regime in regard to Fiji see Levantis (2005)

significant structural adjustment requirements on some economic sectors, especially manufacturing in PNG and Fiji. However such an outcome would minimise the economic welfare losses arising from trade diversion. Thus a PACP SIA, perhaps excluding the five low-income PACP members who benefit from the non-reciprocal EBA, and assuming the extension of reciprocal free trade to Australia and New Zealand, appeared a third obvious scenario for consideration.

Other groupings, based upon ACP sugar producers or small island states, are not only likely to present insuperable analytical difficulties, but do not reflect the reality of the regional negotiating focus that has emerged. This is reflected in the regional approach, approved by the EC, that PWC are taking to their SIAs. However the Pacific Islands Forum, which offers policy support to the PACP governments, is advocating an initial negotiating position that involves the 'opt-in' groupings suggested by Grnyberg and Unguglo (see Scollay page 68) – a master or 'umbrella' PACP wide agreement, with separate subsidiary agreements to which individual PACP's can then subscribe. The master agreement is intended to set out the principles to govern the subsidiary agreements, including dispute settlement procedures, but would be designed so as not to require notification to the WTO. The subsidiary agreements would cover services, trade facilitation, fisheries, mining, forestry and investment promotion as well as the trade in goods. Thus some PACPs would be able to avoid a commitment to reciprocal free trade, and triggering PACER renegotiations, while still subscribing to the overall EPA. This appears at first glance to diverge considerably from the EU's intentions and might represent an unwelcome precedent if granted to the PACPs. The question of the degree of divergence and flexibility in regional EPAs will be brought into sharp focus by this proposal. For the SIA this issue would need to be quickly

resolved since such a “pick and mix” EPA would present real problems of analytical complexity – effectively requiring individual PACP studies.

As well as having to make an assumption about the extension of an EPA to Australia and New Zealand under PACER, an SIA will have to make assumptions about the WTO framework. A principal concern for the EU, in the light of the Banana Protocol dispute, is that EPAs should be WTO compatible. With the ongoing negotiations for the Doha Round of the WTO the question of what ‘compatibility’ will mean is by no means clear. The central issue remains the requirement for reciprocity in any trade agreement covering middle-income developing countries and the inclusion of ‘substantially all trade’. Changes in the already ambiguous *de minimis* limits would allow the exemption of some products that might minimise the adverse impact of a free trade agreement (FTA). At this stage it is probably only feasible to adopt a cautious approach to the prospect of radical change in Article XXIV and assume the 80-90% trade coverage requirement being adopted by the EU.

In regard to Fiji, specific assumptions will also need to be made about the future of the Sugar Protocol. With the EU market opening to LDCs under the EBA there is some doubt as to whether the SPS will be renewed after 2006. The EU has already agreed a 36% reduction in the internal guaranteed price over a four years period. Although the EU is offering € 40 m. of additional assistance to the ACP sugar producers for structural adjustment further aid will depend upon the outcome of the negotiations on the EU’s next Financial Perspective². The most realistic assumption would probably be of one of unlimited quantitative access to the EU market, but at reduced prices.

² For a detailed discussion of the Sugar Protocol see Scollay Part IV (2002)

Areas for Negotiation

Any SIA will need to identify the significant components of the trade negotiations for analysis. For the trade in goods six aspects suggest themselves – products for exemption, imposition of labour standards (e.g. in the Fijian garment industry), product standards, environmental standards (e.g. ‘dolphin friendly tuna fishing’, sustainability), rules of origin and the time horizon for implementation of an EPA. Although the general interpretation of WTO requirements is that the implementation of a FTA should be completed over a time period that does not exceed ten years and the EU subscribes to this expectation - with all EPA’s commencing in 2008 with a ten-year transition period - there have been exceptions (e.g. EU- South Africa agreement). The question of the phasing of any tariff reductions will also be a subject of negotiations. However an SIA need not confine its assessment to the implementation period, indeed the most significant environmental and social impacts are unlikely to be felt in such a short time horizon.

Any attempt by the EU to impose environmental and labour standards upon its trading partners would be of significance for an SIA that is intended to take account of the broader social and environmental impacts of any policy. But such policies may be developing separately from the EPA negotiations, instead being of a ‘global’ nature within a WTO context, affecting all of the EU’s trading partners. PWC needed to consider the prospect of their inclusion in the EPA negotiations and, if not, likely developments in the broader international trading agenda of the EU. Similarly ‘rules of origin’ were identified as one of the outstanding issues that would need to be resolved in the EPAs during the Cotonou discussions. It is not clear whether this will be resolved at the ACP or regional level. This is an aspect that may require a specific sector analysis to be drawn upon in the overall SIA.

In regard to the trade in services the PACPs are looking for a liberalisation in EU market access in those sectors where they have potential, e.g. tourism, and for improved access for ACP nationals to the EU labour market (Mode 4). In an investment agreement they are seeking the provisions of investment facilities tailored to their particular needs and which ensures effective access to the provisions of the Investment Facility of Cotonou, which has so far proved problematic.

Finally, fisheries offer one of the most important development potentials for the PACP. A fisheries agreement must offer benefits in excess of existing multi-lateral and bi-lateral agreements. Currently, under Cotonou, tuna exports from Fiji, the Solomon Islands and PNG enter the EU with a 24% preference, this will need to be safeguarded. Further the EU is seen as a potential market for intermediate quality frozen fish, but this will require trade facilitation assistance to meet food safety requirements. A number of issues remain unresolved in regard to the rules of origin for fish products – defined by territorial waters rather than EEZ.

Sustainability Indicators

The IDPM's suggested a set of core and second tier sustainability indicators is presented in Table 1. These are intended to be limited in number, but comprehensive in their coverage of the goals of sustainable development – economic, social and environmental. The three *target* indicators are intended to indicate the final impact on sustainable development of any trade measure, supplemented by process indicators. The *process* indicators focus upon key procedures and practices which are needed to achieve long run sustainable development – i.e. they assess whether particular measures are consistent with sustainable development principles and whether they enhance institutional capacities.

The choice of indicators, especially the second tier, will depend upon data availability and the particular circumstances of countries being studied. In the case of the PACPs the economic assessment will need to recognise their shared economic characteristics and the impact an EPA might have upon their long-term performance. Thus indicators assessing the degree of economic diversification, rates of foreign investment, stock of skilled labour, trends in urban drift (migration from outer islands) and in emigration, will all be particularly relevant to the island economies of the Pacific. In addition an EPA will have a particularly significant impact upon government revenues, given their high dependence upon import tariffs. An indicator of public revenue diversification might therefore also be relevant. In terms of the social dimension of the SIAs it will be important to recognise the differing rural and urban experience in the PACPs; with rural sector measures of income per capita, education and health provision. Similarly for a number of the ACP states, such as Fiji, ethnic indicators of the incidence of poverty (e.g. income, employment) will be essential. Finally environmental indicators will need to include measures of water quality, pollution and sustainability of natural resources, especially tropical forests and fisheries.

The significance of changes in any indicator will depend upon the extent of existing social, economic or environmental stress, the direction of change, the magnitude of the change, the geographic extent of any impact, reversibility, and finally, the regulatory or institutional capacity to implement offsetting M & E measures.

Table 1 : Sustainability Indicators (Adapted from Table 4 IDPM (2002))

Indicator	Core	Second Tier
Economic	Real Income Fixed Capital Formation Employment	Savings, consumption Components Self/informal employment
Social	Poverty Health & education Equity	Income Life expectancy, mortality rates, nutrition, literacy rates, enrolments. Income distribution by gender, ethnic group
Environment	Biodiversity Quality Natural resource stocks	Eco-systems, endangered species Air, water, land Energy resources, non-renewable resources
Process	Consistency with Sustainable development Institutional capacity	Polluter pays Sustainability mainstreamed, 'ownership' and political commitment

The Second and Third Stages

In the second and third stages of an SIA place greater emphasis upon the assessment of the separate components within each measure, as well as employing more rigorous analysis including quantitative modelling. Causal chain analysis will be used to trace the major causal links between each trade measure and establish their eventual sustainability impact. Second tier and *process* indicators will be considered and SIA's applied to contrasting countries within the

broad country group being studied. The EPA scenarios that might be considered in the PACP context include complete reciprocal free trade, exclusion of the five LDCs and US ‘compact’ countries from the EPA, groups of PACPs for whom particular sector agreements might be significant (e.g. fisheries, tourism), extension of the FTA to Australia and New Zealand, reform of the Sugar Protocol, with the phased removal of quotas but reduction in the EU internal price and the fall back scenario of the GSP. The introduction of mitigating and enhancement (M&E) measures will introduce a new range of possible scenarios.

It is upon M&E measures that the stage three analysis focuses. M&Es can include agreements nesting within broader international trade agreements (e.g. WTO), trade-related measures that can form part of the EPA, measures to promote technical cooperation, capacity building, trade facilitation and the measures by national governments (i.e. structural reform, infrastructure investment, education and training, social policies).

EU support for the Convention for the Conservation Management of Highly Migratory Fish Stocks in the Western Central Pacific Ocean (‘Tuna Commission’) may be an important M&E measure for the fishing industry, especially as the EU has indicated that it wishes to be a full member. It has already provided € 21 m. since 1975 under the Regional Indicative Programme to support the Forum Fisheries Agency, which supports PACP member’s participation in the Tuna Commission and the development of a sustainable industry.

Since the Cotonou Agreement specifically emphasises that it is aimed “at enhancing the production, supply and trading capacity of ACP countries as well as their capacity to attract investment” (Article 34.3), trade facilitation measures should be a central issue. Trade facilitation will include technical assistance and funding to meet EU sanitary and phytosanitary requirements and measures to assist in market development. Widely defined, these measures

would offer the potential to overcome many of the adverse consequences of adopting an EPA and therefore will be of considerable significance in any SIA. Although the EU has indicated that the overall level of financial assistance to the ACPs must be within the envelope provided under the European Development Funds of the Cotonou Agreement, this includes a substantial Investment Facility for private sector development, which offers considerable potential for funding trade facilitation measures. For example, should the PACPs chose to include services (especially tourism) or fisheries in the EPA negotiations then the potential for additional training support and market development, through the National (NIP) and Regional Indicative Programmes (RIP), and investment funding through the Investment Facility, will be crucial in an SIA.

Similarly the level of EU aid will be important in offsetting the government revenue loss from the reduction in tariffs that would be required should the FTA be extended to Australia and New Zealand. Tonga, Kiribati, Vanuatu and Tuvalu are all particularly vulnerable to reductions in tariff income. As long as the *substantially all trade* requirement is fulfilled some products will be able to retain tariffs. Samoa, the Cook Islands and PNG are already pursuing a programme of tariff reduction with substitution of VAT and excise duties, while FSM and Tonga are considering a major restructuring of their tax systems. Nonetheless taxation reform is likely to present one of the major challenges to the PACPs in adopting FTA's with their major trading partners. In Fiji, for example, there is political opposition to tariff reductions and in the Marshall Islands to the introduction of consumption taxes. Meanwhile in Vanuatu there is opposition from elements in the financial services sector to the broadening of the tax base. The SIA will therefore need to make assumptions about the success of governments in achieving revenue substitution and the extent of EU transitional support. Any reductions in government revenue would need to

be offset by reductions in public expenditure and this may be of considerable significance in estimating the social impact of adopting the EPA/PACER in the medium-term.

Estimations of the economic and social impact will also be faced with the difficulty of anticipating the outcome of structural adjustment within particular sectors. In the case of Fiji major restructuring of the sugar industry will be required if the industry is to be internationally competitive. Currently the refusal of the indigenous Fijians, who communally own the land, to renew the leases of the indo-Fijian tenant framers, is reducing production. Issues of land reform are thus as central as quality control and investment in securing the long-term future of the industry. Meanwhile the Fijian garment industry, which in 1999 employed 17,000 with exports of US\$ 200 m., has guaranteed access to the Australian market under the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTEC). However reductions in tariffs in Australia and New Zealand has undermined Fijis trade preference, exposing their garment exports to intensive Chinese competition. A lower effective 'rules-of-origin' has offered some protection, but this is likely to prove temporary. As both sectors employed particularly vulnerable groups, indo-Fijians in the case of sugar and women in the case of garment manufacture, employment reduction in these sectors may have a significant impact upon poverty. Thus the social 'baseline scenario' is particularly problematic in the case Fiji.

The criteria for assessing M&E measures will include their cost-effectiveness, their feasibility in terms of the existing institutional capacity for their effective implementation and their contribution to achieving the sustainability objectives. Applying these criteria the SIA should identify a set of 'best' M&E measures whose impact upon the core economic, social environment indicators could then be assessed. The sensitivity of the choice of the M&E measures can be assessed by substituting some of the 'next best' M&E options. However

assessment needs, appropriate assessment methods, and sufficient good quality data, will have to be reconciled with the resource constraints of the SIA.

We can therefore identify a number of crucial issues on which any Pacific SIA will have to focus. It will have to consider the impact of the extension of the EPA to Australia and New Zealand, the possible inclusion of services (especially tourism) and fisheries, the extent of trade facilitation measures, the enhancement of investment through the Investment Facility of Cotonou and the overall level of EU NIP and RIP aid. It will have to consider the wider context of EU-ACP trade arrangements, in particular the possibility of a ‘two tier’ approach to EPA negotiations, with the establishment of uniform principles to be applied across all regional EPAs, and the future of the Sugar Protocol.

PricewaterhouseCoopers

We can now turn to the three central questions of this review. Firstly, the methodological approach of PWC; secondly, the influences upon the choices of alternative scenarios - i.e. who is setting the agenda, who has ‘ownership’; finally what influence, if any, has the SIA process upon the course of the EPA negotiations.

PCW (2003) explicitly acknowledge that they are following the IDPM methodology. They identify six broad areas that may be subject to negotiations under the EPAs – trade in goods/market access (e.g. import duties, quotas, safeguards, rules-of-origin, trade facilitation, agriculture, fisheries); investment; general trade-related areas (i.e. competition policy, intellectual property rights, standardisation, labour standards, consumer health, environment); specific trade-related areas (i.e. investment protection, public procurement) and legal issues (dispute settlement). In selecting the issues to be assessed they have adopted three criteria – core

components of Cotonou, areas subject to early negotiations and those identified, a priori, to have potential important sustainability impacts. Three broad regional groupings have initially been chosen based upon the Caribbean, Africa and Pacific. In phase 1 in-depth regional SIA's are being undertaken for West Africa and the Caribbean, as well as a preliminary overall ACP assessment.

Indicators will be selected, on a case-by-case basis, from a broad list of economic, social and environmental measures. The social indicators include access to basic services, economic opportunities (drawing upon the Poverty Reduction Strategy agenda), social safety nets (including food security), migration, gender equality, HIV/AIDS and group vulnerability to economic and social shocks. The environmental indicators (air and water quality, land and biodiversity) draw upon the approach of the OECD (2000). In addition to the usual economic indicators a particular emphasis is placed upon assessing the informal sector, in view of its significance in many ACP countries and its impact upon government revenues. Indicators are grouped under three headings. Firstly, 'activity based indicators' – means of production, activities and policies that may be affected by the EPAs (e.g. spending on schools). Secondly, 'results based indicators' – assessing the impact of the EPA in the areas identified (e.g. school enrolment). Finally 'impact indicators' - the long-term global indicators to which result based indicators contribute, but which may be affected by other variables (e.g. literacy rates).

Four 'conditioning factors' are identified as providing the context of the EPA negotiations. Firstly existing trade agreements, particularly the future of the EU's Commodity Protocols and the WTO trade round. Secondly, the economic context of the ACP states, both macro and micro, and including the impact of corruption. Thirdly, EU policies, particularly CAP reform. Finally, the situation of the least developed countries i.e. the EBA.

Again PWC follow the IDPM in their criteria for identifying M&E measures – impact, cost-effectiveness and flexibility. In addition they will be considering enforcement ability, transparency, equity, policy compatibility and political acceptability. M&E measures can both be trade related and general, and implemented over both the short and long-term.

The criteria for the choice of alternative scenarios will be determined by the available data and modelling techniques, issues that are “inspired by the context of the negotiations”, and issues which may have an impact upon the broader development objectives of the EU-ACP partnership. Five possible scenarios are suggested for economic modelling at the ACP level – the phasing out of the Commodity Protocols, zero tariffs, EU enlargement, CAP reform and possibly the impact of the WTO trade round. “It should be noted that the scenarios have not been chosen for their likelihood nor because the consortium considered them as options for the negotiations” however...“these details scenarios will be discussed with Commission and might also be made available for stakeholder input”. The lack of disaggregated data is likely to prevent such economic modelling at the regional level.

In their final Phase One report (2004) PWC indicate the focus that has emerged from their first regional studies of West Africa and the Caribbean. Of the economic sectors agriculture emerges as of particular importance given its dominance in many ACPs (e.g. 85% of the population are employed in subsistence agriculture in PNG and 66% in Tonga). It is a sector that presents major potential environmental problems and is important in its social impact through the predominance of small scale framers. The opportunities for diversification will be a crucial aspect to evaluate in any SIA.

In considering trade influenced economic changes PWC identify, amongst others, impacts upon traditional commodities that employ large numbers of the population (e.g. sugar),

changes that increase migration (i.e. outer island depopulation), activities that occur near coastlines (e.g. infrastructure development) and impacts upon food security (e.g. declining fish stocks) – all of which are of particular relevance to the PACP situation.

They also emphasised the potential for regional integration; this may involve consideration of the sub-groupings for any SIA as already discussed. Secondly, the opportunities for horizontal diversification; the potential to reduce dependence upon a particular economic activity is a central issue in assessing the impact of trade changes that may challenge such traditional activities. Thus the social and economic impact of the phasing out of the Sugar Protocol will depend not only upon the ability of the industry to restructure to become more competitive, but also upon the alternative employment opportunities or social support available to the displaced sugar farmers. Similarly the environmental impact will depend upon the harms and benefits from the traditional activities compared with those offered by the new.

In the case of the PACPS the development of the fishing and tourism industries must be a particular focus for assessing environmental impact. At the same time the constraints upon diversification (e.g. transport infrastructure, marketing, research and development) will need to be considered. Similarly, the potential for vertical integration (e.g. fish processing). This may be encouraged by asymmetrical and ‘back-loaded’ tariff reductions in the EPA, providing medium term ‘infant industry’ support.

PWC also consider the importance of investment (primarily through public-private-partnerships for infrastructure); the need to address technical standards as an obstacle to trade through technical assistance and Mutual Recognition Agreements and the liberalisation of services, including issues of technology/management transfer.

NGO Critique

Turning to the issues of the ‘ownership’ and influence of the SIAs, although the NGOs welcomed the principle of the adoption of SIA by the EU they have become increasingly critical of its employment in practice (NGO 2003). They have found very little evidence of it influencing trade negotiations at the WTO nor in the formulation of mitigating and enhancement policies. In particular they have criticised the assumption that increased trade liberalisation must be desirable and welfare enhancing. They argue that the “no liberalisation of trade in different forms” scenarios is excluded from SIA assessments³ “closing off alternative policy options and undermining the purpose of the tool”. The existing trade regime provides the baseline case for most SIA studies, thus only a scenario of increased trade restrictions are likely to be excluded from the assessment.

More tellingly they observe that it is the Commission that has determined the alternative scenarios to be evaluated and that these usually reflect its predetermined focus. The response that other interested parties may undertake their own analysis is dismissed, as other stakeholders will not have the resources available, nor are such studies likely to be as influential with the Commission if it does not have ‘ownership’. This does raise the central issue of the purpose of EU funded SIAs – are these technical studies to support the Commission’s negotiating process, objective assessments to be employed by all parties to the negotiations or public relations exercises to support the EC’s position in a wider stake-holder environment? Since the NGOs also see little evidence of the SIAs so far undertaken actually influencing the process of policy formulation, including at the Member State level, current evidence might suggest the latter.

³ “through an EPA the parties might seek ... to pursue trade liberalisation and enhance the competitiveness of their firms in global markets... (PWC 2005b p. 5)

The NGOs also criticise the emphasis upon adjustment on the part of the LDC trading partners without addressing the need for change in the EU's "damaging trade distorting policies". In EU terms this represents a call for 'coherence' in EU policies but it fails to give sufficient acknowledgement to the continuing pressure for CAP reform, both from a number of EU Member States and as part of the current WTO trade round. Indeed this has become a central issue in stalling the round.

Finally they emphasise the importance of ensuring that mitigating and enhancement measures are delivered. In the context of the ACP EPAs there is a significant advantage in that the Cotonou aid mechanism clearly provides such a potential mechanism, although the existence of the institutional framework alone is no guarantee it will be employed.

Assessment

PWC are clearly following the "Manchester" SIA framework and many of the issues they have isolated from their ACP and regional studies correctly identify aspects relevant to the PACPs. The existing social impact assessments being undertaken as part of PICTA, and the economic assessments already commissioned by the PIF, such as that by Scollay, provide a basis upon which a more comprehensive SIA could have been constructed.

However some fundamental questions remain unanswered. Firstly, how are the alternate scenarios to be selected? The existing Lomé trade agreement provides the 'base scenario', although this cannot continue beyond 2008. The 'notional agreement scenarios' – the most likely outcomes of the negotiations – are much more problematic. Although a reciprocal WTO-compatible EPA is the most probable, it will be complicated by the M&E measures and the possibility of a master/subsidiary agreement. Further complications arise from the lack of clarity

at the ACP level. In particular how far is a ‘two-tier’ EPA structure likely to emerge i.e. an ACP-wide agreement on broad principles, establishing consistency, within which regional EPAs will be constructed? The employment of a centralised Brussels team for the negotiations will enhance the EC’s ability to pursue such a strategy if it so chooses. Alternatively will each region be allowed substantial flexibility to develop an EPA responsive to its own particular circumstances and needs? In the case of the PACPs this is being expressed most forcefully in the proposal, advocated by the PIF, for a master/subsidiary ‘pick and mix’ EPA.

The Joint Road Map (EC 2004) gives some indication of the EC’s thinking. It emphasises the sustainable development objective of the EPA and the flexibility which it can embody. It specifically recognises the need for special and differential treatment for all PACPs to take account of their differing needs and levels of development. Such differential treatment is not “limited only to longer transitional periods and technical assistance (para.14)” and “may go beyond existing WTO measures”. “Flexibility will be built into the *broadly agreed framework* to allow individual countries to adjust the pattern and schedules of implementation”. The PIF proposal for a master/subsidiary structure of an EPA thus appears to be accepted in principle.

However it reaffirms the requirement that the “Pacific ACP-EU EPA be compatible with WTO rules *then prevailing* (para. 18).” But it also commits the EU to working with the PACPs to identify and further their common interests in the ongoing Doha Round negotiations, which may change these WTO requirements, particularly in regard to the issues of the definition of ‘substantially all trade’ and ‘special and differential treatment’ for the developing countries.

While answers to these questions would provide a clearer focus for the SIA, there is the further substantial complication of the triggering of PACER. The implications of the EPA for this trade agreement, and that of the US ‘compact states’, is specifically acknowledged in the

Joint Road Map and ‘will need to be reflected in all areas of negotiations’ (par. 17). Thus an SIA that fails to consider the implications of the extension of a matching FTA to Australia and New Zealand would be fundamentally flawed.

Finally there remains the question of the ‘ownership’ of the SIA. PWC acknowledge that the purpose of an SIA is to “increase transparency by developing a basis for discussion with European and ACP stakeholders about sustainability implications associated with the negotiations”. For the EC (2004) “particular attention will be paid to the ongoing EC SIA exercise with a view to both making optimal use of its results within the EPA negotiations and feeding ideas and outcomes of the negotiation process into the construction of a Pacific ACP-specific SIA exercise” (para. 33).

George and Kirkpatrick (2003) identified a number of potential challenges in undertaking such an SIA. Problems can arise in the consultative process including in identifying appropriate stakeholders, breadth of consultation versus depth and the limited capacity of civil society organisations. There is also the problem of adequate data and robust theoretical models. Models are limited in applicability to the trade in services, in identifying the causal relationship between economic, social and environmental impacts and in identifying the adjustment process to a new equilibrium. Although existing case studies can be an important source for any SIA, case studies are likely to be few. In the case of the PACPs social impact assessments have already been undertaken under PICTA (Forsyth & Plange 2001) but their approach has been subject to criticism (Kelsey 2004). The impact of any trade agreement will also be dynamic and long term, and this further increases the uncertainties inherent in any SIA, reducing their credibility and influence upon negotiators. Post-agreement monitoring of actual impacts and flexibility in the M&E response are the suggested methods of dealing with this problem.

However it must also be recognised that the impact of any trade measure upon a country is heavily dependent upon the national policy response. “Securing the potential gains from multilateral trade liberalisation requires well-developed markets, effective regulatory institutions and a stable and predictable policy framework. Where these necessary conditions are absent or weak, trade liberalisation is unlikely to be a sufficient condition for achieving sustainable development “ (George and Kirkpatrick (2003) Page 22). Thus ensuring the effective application of M&E measures will depend as much upon the national policy response as upon the measures themselves.

PWC’s Phase II Inception (2004b) and Mid-Term (2005b) Reports address some of these issues. They identified the major problem presented in ensuring informed involvement of the wider ‘stakeholder community’ in the EPA negotiations. Their lack of information about both the EPA and SIA process⁴ has led PWC to recommend the establishment of a ‘High Level Independent Advisory Committee’ and of a permanent ‘EU-ACP Cooperative Dialogue for Public Participation and Capacity Building for Sustainability’. (PWC 2005b ps. 6-7) The latter would provide the post-agreement monitoring that the IDPM recommends and offer a focus for discussions about the impact of trade upon sustainable development. PWC’s reports also emphasise the broader national framework necessary to realise the potential benefits of any EPA – employment creation, poverty reduction, a stable commercial framework, strengthening environmental protection and *trade liberalisation* (PWC 2005b pgs. 5, 31).

However for the PACP PWC decided to undertake an SIA confined to the fishing industry for the region. Although reiterating the scenario selection criteria – trade significance and *a priori* sustainability impact – the reason for the choice of fisheries for the Pacific SIA

⁴ Confirmed by the authors own interviews in Fiji and the Cook Islands in August 2004.

remains unclear. It does not appear to be a product of significant consultation in the Pacific region as this was undertaken during Phase II of the SIA. The fishery industry certainly offers the most significant potential benefits from a regional approach. Encouraging regional integration is a prime objective of EC development policy and central to the EC's approach to the EPA negotiations⁵. But it might also reflect the importance of sustainability issues in an industry where many tuna species are already fully or over-exploited. The EC has already encouraged sustainable management of the industry through its long-term financial support for the Forum Fisheries Agency under the PACP Regional Indicative Programme. However, although PWC states that the EU "is a minor player in tuna fishing in the West Central Pacific Ocean and is likely to remain one" (PWC 2005b page 27) they also acknowledge that the decline in the potential for fishing in EU waters means that EU vessels will have to look much further afield and that this may extend to the Pacific. Thus the selection of this sector for an SIA may reflect the EU's own interest in the potential development of this industry, including access for EU fleets.

The sector study recognises that fish exports to the EU are likely to be limited to niche markets for prepared products, but that these offer the maximum potential for local value added. Any regional Fisheries Partnership Agreement would need to ensure continued duty and quota free access to the EU market while encouraging local industry capacity building. It will also need to safeguard the existing financial interests of the three PACP's with established EU bilateral agreements⁶. To facilitate the local development of the industry the SIA recommends the application of compulsory local landing requirements, the accelerated reduction in tariffs on

⁵ Regional integration was one of the three categories of PWC's SIA's policy recommendations, together with trade measures and sustainability.

⁶ Kiribati, Solomon Islands, FSM

capital goods imports and the creation of a stable investment environment by the PACP's. Government policy would also need to prioritise transport infrastructure, subject to environmental impact sensitivities. Trade facilitation measures will need to address the EU's Sanitary and Phytosanitary (SPS) requirements, labelling and packaging requirements, and they argue that this is best achieved through the development of regional standards enforced by regional bodies. For the EU PWC recommends the payment by vessel owners of a lump sum for access to the PACP's EEZs directly to a regional body, to fund regional initiatives for the development of sustainable fisheries.

Conclusion

Although individual sector assessments⁷ will inform the SIA methodology it is difficult to see how these studies alone will provide the basis for the wider regional SIAs or meet the EC's own declared expectations for the Pacific SIA. Even a specific regional sectoral SIA may be of limited relevance to other ACP regions e.g. the tourism study for the Caribbean to the PACP. At the most recent PACP national level workshop in March and April 2005 discussions extended beyond a potential Multilateral Fisheries Partnership Agreement to encompass investment promotion and tourism agreements, while the PACP has commissioned studies of the potential for a commodity price stabilisation mechanism and migrant access to EU labour markets. Clearly the PACP's agenda in the EPA negotiations is considerably wider than that of fisheries.

The Pacific SIA also remains particularly weak in its discussion of the impact of the opening up of the PACP markets to EU exports under the required 'reciprocity' principle, other than a reference to the preservation of tariffs to protect 'sensitive products' such as processed

⁷ SIAs were also undertaken into Caribbean tourism and the agro-industry in West Africa.

fish (PWC 2005b page 29). Although this may be of little significance given the limited extent of EU exports to the PACP's, the extension of any tariff concessions to Australia and New Zealand under PACER, their major trading partners, will have a far more dramatic impact. It is already clear that both Australia and New Zealand regard the commencement of EPA negotiations as having triggered PACER renegotiations (Kelsey 2004). While the medium-term SIA report (PWC 2005a page 116) acknowledges the importance of this issue, the final Phase II report fails to address it (PWC 2005b).

At the same time the PWC SIA is unrelated to the emerging call for the benchmarking of the overall EPA negotiations. With the primacy given to the potential contribution of the EPAs to sustainable development it has been proposed that there is a need for the development of systematic criteria to assess progress in the negotiations (ICTSD and APRODEV 2005). Under the Cotonou Agreement there is a requirement to undertake a comprehensive review of the state of EPA negotiations in 2006. If the EU's Member States, European Parliament and Commission are to effectively undertake this review then there is an urgent need for the creation of such a framework.

But above all this review raises the question of the 'ownership' of the SIA process and whether the SIA will be usefully employed, either by the Commission or the PACPs, in the current negotiations.

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