

EU GSP Reform and the EPA Negotiations between EU and Africa

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EU GSP Reform

- EU's new GSP Reform to be operational by 1 January 2014.
- Major changes – high-income (above \$12,275) and middle income (GNP between \$3,976 – \$12,275) developing countries will be graduated out of any EU GSP scheme.
- No. Of beneficiaries of EU's GSP (GSP; GSP+; EBA) reduced from 176 countries to about 80 countries. (Half of those countries taken off the list have or are negotiating FTAs with EU).

EU's New GSP:

Changes for Developing Countries

- 1) GSP -> MFN (Argentina; Brazil; Uruguay; Russia etc)
 - 2) GSP -> GSP+ (could likely include Philippines; Pakistan)
 - 3) GSP -> preferential agreements (eg. EPAs and FTAs eg. Mexico)
 - 4) GSP+ -> MFN (eg. Panama; Venezuela; Ecuador etc)
-
- ❖ EU's GSP imports to be halved from 60 billion Euros to 37.7 billion Euros.
 - ❖ GSP and Raw Materials: GSP benefits can be taken away in case of 'serious and systemic unfair trading practices including those affecting the supply of raw materials which have an adverse effect on the Union industry.'

EU's Market Access Regulation 1528/2007

EU's Market Access Regulation 1528/2007 for ACP countries:

- EU would provisionally apply the EPAs. ACP countries that initialed EPAs could export duty-free quota-free to the EU from January 2008.
- In September 2011, the EC decided to remove this regulation by 1 January 2014 for countries that have not signed or implemented the interim EPA. I.e. these countries lose their preferences.

ACP and EU's Market Access Regulation 1528/2007

18 ACP countries were targeted to be removed from the MAReg by 1 January 2014:

❖ (9) LDCs: Comoros, Mozambique, Rwanda, Lesotho, Zambia, Haiti, Uganda, Burundi, Tanzania (these countries will trade under EBA)

❖ (8) African non-LDCs: Cote d'Ivoire, Cameroon, Ghana, Kenya, Namibia, Botswana, Swaziland, Zimbabwe (Zimbabwe has since ratified the EPA)

❖ Pacific non-LDC: Fiji

ACP and EU's Market Access

Regulation 1528/2007

EU Brussels process:

EP Conservatives: postponing the deadline would be unfair to those that have concluded the EPA.

EP Progressives: disproportionate pressure on ACPs. Danger to regional integration. Not true that EU will end up in trouble at WTO. A case is highly unlikely. We reject Commission proposal.

ECOMMISSION 'Its momentum, not pressure'. Things are moving only because of this new deadline.

What EC wants is to create the same kind of pressure as in 2007...

ACP Council of Ministers (Dec 2011)

‘Calls for immediate withdrawal of the proposed measures in view of their detrimental overall effect’

‘Asserts that EC Regulation 1528/2007 should be maintained till the full EPAs have been concluded and implemented, as the proposed amendment would run counter to the objective of the EPA to provide stable and increased market access for ACP exports’.

Scenario:

Eparliament - Dragging things out

Huge pressure on ACP / Africa – 2014 or 2015

Contentious Issues

- **Market access offer**
- **MFN Clause**
- **Export taxes**
- **Development assistance**
- Standstill clause
- Prohibition of quantitative restrictions
- Community levies
- **Rendez-vous clause**
- Review clause
- **Rules of origin**
- Safeguards – multilateral and bilateral

- General exceptions
- Definition of parties
- Modification of tariff commitments
- Free circulation of goods
- Food security clause
- Infant industry protection
- **Subsidies – domestic supports for agriculture**
- **Agricultural Export Subsidies**
- Non-execution Clause

New issues

- **Services**
- **Investment**
- **Government procurement**
- **Intellectual Property**
- **Sustainable Development – labour and environment**
- **Fair tax competition**

AUC/ RECs' Common Position Paper on EPAs

- 1) Effect on Industrial Development
- 2) Effect on Food Security
- 3) Effect on Regional Trade and Integration
- 4) Effect on Tariff Revenue
- 5) Effect on Governments' Support of Local Enterprises and Industries
- 6) Effect on Development Due to Tighter Intellectual Property Disciplines

Market Access Demands in the EPA

Level of 80% or more of trade / tariff lines in the EPAs to be liberalised.

What does this mean for Domestic Production?

Current and Future Production at Risk

No. of tariff lines at risk (current and future production):

EAC: 1,100 lines (of the 2,144 lines where there is local production) is at risk i.e. 51.3% of locally produced products.

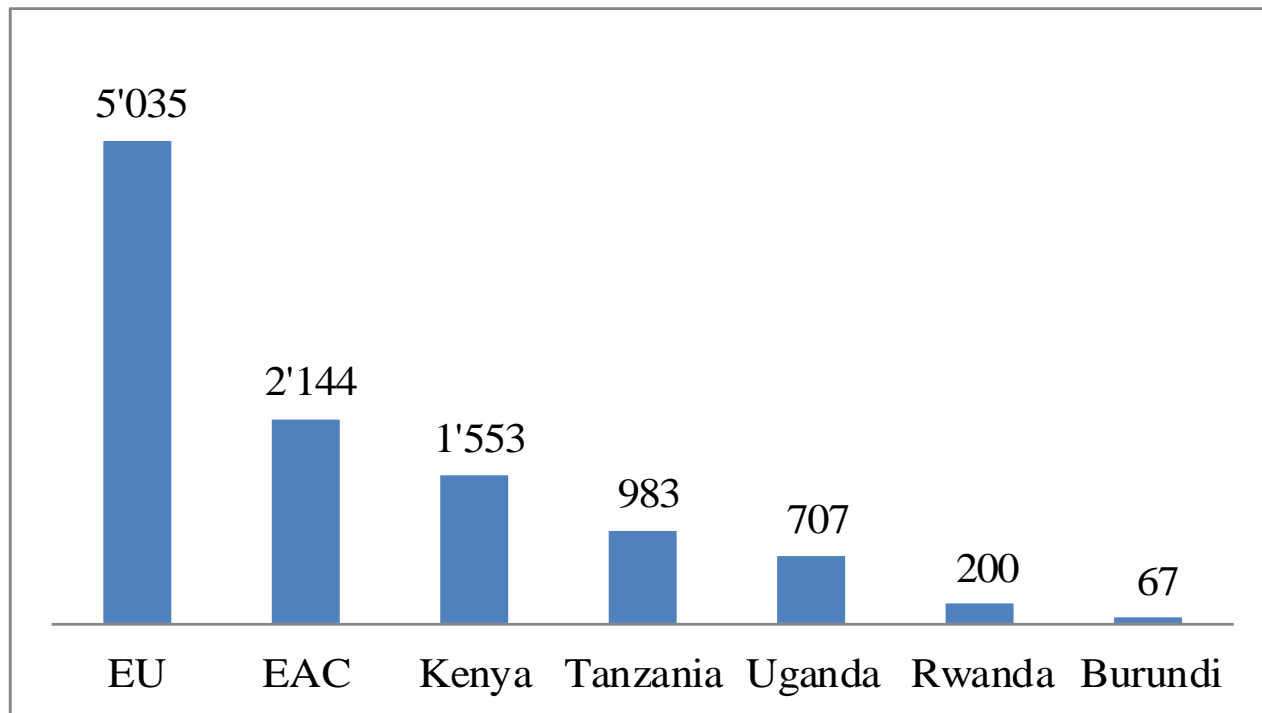
(No. of local production tariff lines – No. of tariff lines which are in the sensitive list – No. of tariff lines where the EU is less competitive than sub-region)

Another 2,366 tariff lines will be liberalised (where there is not current production).

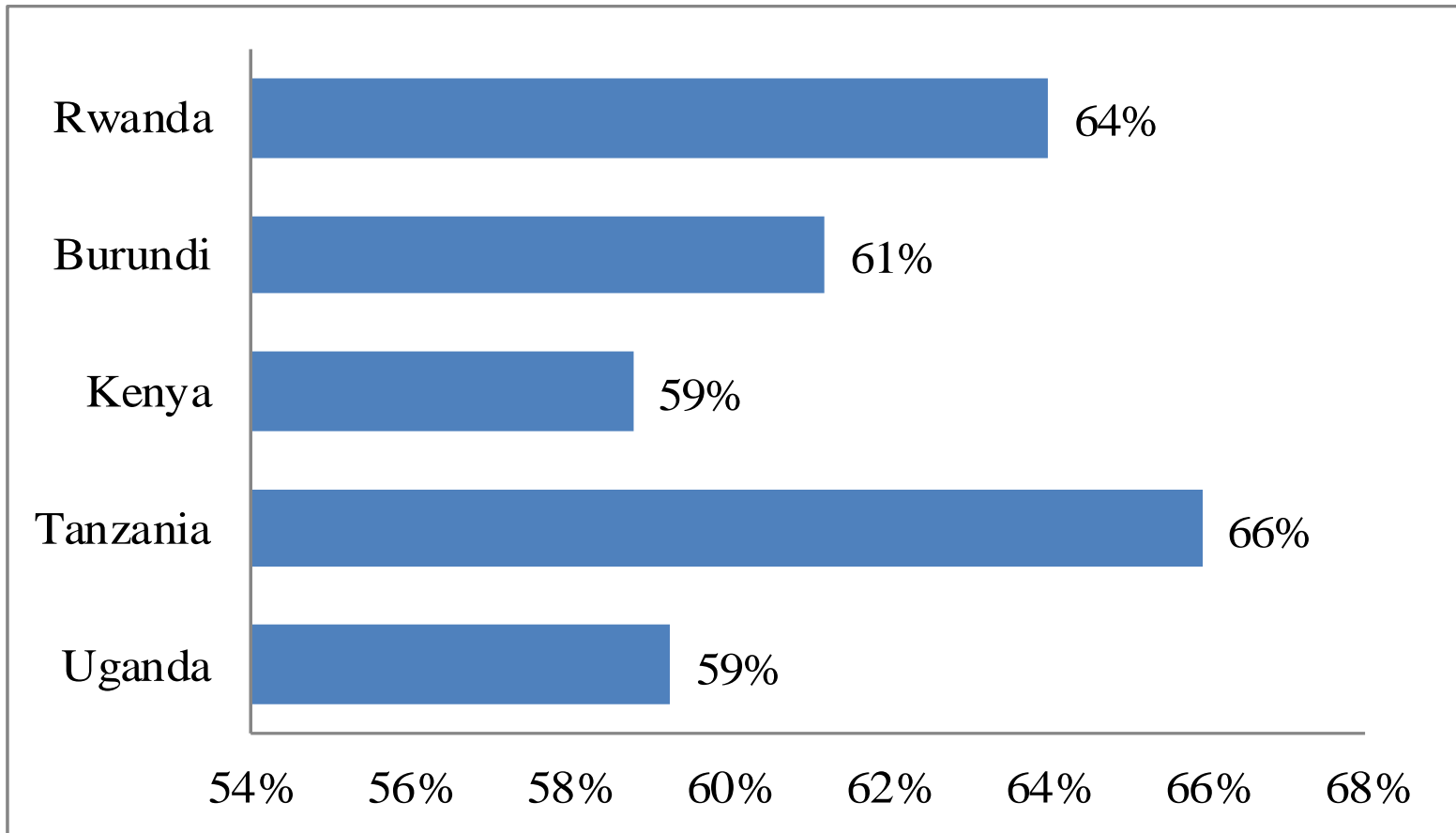
68.6% of tariff lines could be put at risk (current and future production)

Threat to Local Production and Industrial Development

No. of products (by tariff lines) in EAC countries where there is local production and exports



% of Local Production to be Liberalised (tariffs to zero) under EAC EPA



EAC Sectors at Risk (current production)

Short list of sectors where current production is put at risk as a result of EAC EPA:

- Processed oil products: light petroleum distillates, aviation spirit.
- Chemical products for agriculture: urea, fertilizer, fungicides, rodenticides.
- Commodity chemicals: diammonium phosphate, ammonium sulphate, silicates of sodium, carbon dioxide, polyethers.
- Medicines, vaccines, antibiotics
- Intermediate industrial products: bars & rods, parts of boring or sinking machinery, articles for the conveyance or packing of goods (of plastic), insulated winding wire, co-axial cable and other co-axial electric conductors, angles, shapes & sections, tubes and pipes, hot rolled iron and steel, boards and panels.
- Final industrial products: Liquid dielectric transformers have a power handling capacity ≤ 650 KVA.
- Agricultural products: maize starch, seeds for sowing, barley
- Books, brochures, leaflets and similar printed matter

Current and Future Production at Risk

No. of tariff lines at risk (current and future production):

ECOWAS: 986 lines (of the 1,822 lines where there is local production) is at risk i.e. 54.1% of locally produced products.

(No. of local production tariff lines – no. of tariff lines which are in the sensitive list – no. of tariff lines where the EU is less competitive than sub-region)

Another 2,388 tariff lines will be liberalised (where there is not current production).

66.8% of tariff lines could be put at risk (current and future production)

ECOWAS Sectors at Risk (current production)

Short list of sectors where current production is put at risk as a result of ECOWAS EPA:

- Processed oil products: light petroleum distillates, aviation spirit, petroleum bitumen, lubricating oil.
- Chemical products: fertilizers, urea, polyethylene, ammonium nitrate, polyesters, polyvinyl chloride, polyethylene, chemical preparations, propylene copolymers, polypropylene.
- Cement clinkers
- Intermediate industrial products: hot rolled bar/rod, irregular coils, plate and sheet with aluminium alloy, iron or steel cans, copper wire.
- Final industrial products: electric conductors, electro-magnets.
- Parts of machines: parts of boring or sinking machinery, parts of cranes, work-trucks, shovels, and other construction machinery.

ECOWAS Sectors at Risk (current production)

- Vehicle industry: diesel powered trucks with a weight not exceeding five tonnes.
- Agricultural products: broken rice, milled rice, tobacco, maize (corn) seed.
- Food processing: mixtures of for the food or drink industries.
- Salt
- Frozen fish (tunas)

Current and Future Production at Risk

No. of tariff lines at risk (current and future production):

SADC: 3,144 (of the 3,907 lines where there is local production) is at risk i.e. 80.5% of locally produced products.

(No. of local production tariff lines – No. of tariff lines which are in the sensitive list – No. of tariff lines where the EU is less competitive than sub-region)

Another 1,125 tariff lines will be liberalised (where there is not current production).

84.5% of total tariff lines could be put at risk (current and future production)

SADC Sectors at Risk (current production)

Short list of sectors where current production is put at risk as a result of SADC EPA:

- Processed oil products: light petroleum distillates.
- Chemical products: fertilizers, soaps.
- Intermediate industrial products: structures & parts of structures, copper wire, tubes and pipes, cartons, boxes and cases.
- Final industrial products: pumps, electric conductors.
- Parts of machines: parts of cranes, work-trucks, shovels, and other construction machinery, parts of grinding machines for sorting, screening, mixing, crushing etc, parts of pumps.

SADC Sectors at Risk (current production)

- Vehicle industry: dump trucks designed for off-highway use, automobiles (1500 cc to 3000 cc), truck tractors, diesel powered buses with a seating capacity of > nine persons, tyres, motor vehicle parts.
- Portland cement
- Processed agricultural products: cigarettes, sunflower oil, mineral water.
- Medicines
- Textile and clothing: Womens/girls trousers & shorts, of other textile materials, not knitted, Mens/boys trousers and shorts, of other textile materials, not knitted.

Top 10 losers (tariff revenue)

Country	Estimated revenue loss based on imports 2008-2010, in USD million
Nigeria	857.2
Ghana	374.4
Angola	273.2
Kenya	193.8
Congo	173.5
Cote d'Ivoire	159.2
Cameroon	154
Senegal	149.5
Sudan	117.8
Ethiopia	88.7

Tariff revenue loss for Sub Saharan Africa: USD 3.4 billion

Region	Tariff revenue loss (UNECA 2005)	Import from EU, 2003	Import from EU, 2008-2010	Correction factor (D / C)	Revenue loss, based on imports 2008-2010 (B x E)
A	B	C	D	E	F
West Africa	980.2	12,317	21,483	1.7	1,804.4
Central Africa	389.8	3,479	4,925	1.4	570.5
EAC	162.6	1,543	2,905	1.9	301.1
SADC EPA	121.0	2,488	6,010	2.4	302.7
ESA EPA	318.2	3,356	3,993	1.2	406.5
Sub Saharan Africa	1,971.8	23,183	39,316	1.7	3,385.2

Country	GAINS OF SIGNING EPA	COSTS OF SIGNING EPA	Cost of EPA higher than benefit of EPA
	Duties under MFN (USD mln)	Tariff revenue loss (USD mln)	
Cameroon	61.5	154.0	Yes
Congo	1.3	173.5	Yes
Gabon	10.6	88.1	Yes
Ghana	69.2	374.4	Yes
Kenya	121.8	193.8	Yes
Nigeria	19.3	857.2	Yes
Non LDCs	946.5	2,110.0	Yes
LDCs	0	1,275.2	Yes
All Sub Saharan Africa	946.5	3,385.2	Yes

In top 30 exports for 14 non-LDCs in EPA negotiations, only 127 products face tariffs under EU GSP

Description	Total exports by non-LDCs (excl. RSA)	Total duties under EU GSP, EUR mln
Raw Cane Sugar	223.31	109.2
Bananas	348.98	74.82
Prepared Or Preserved Tunas And Skipjack	299.91	61.48
Fresh Or Chilled Bovine Meat	54.43	34.96
White Sugar	54.53	32.95
Prepared Or Preserved Tunas And Skipjack	150.11	30.77
Fresh Cut Roses And Buds	282.92	24.05
Cocoa Paste (Excl. Defatted)	331.68	20.23
Fillets Known As "Loins" Of Tunas Or Skipjack	77.55	15.9
Cocoa Butter	356.78	14.98
Other	1,770.54	151.74
Total	3,950.74	571.08

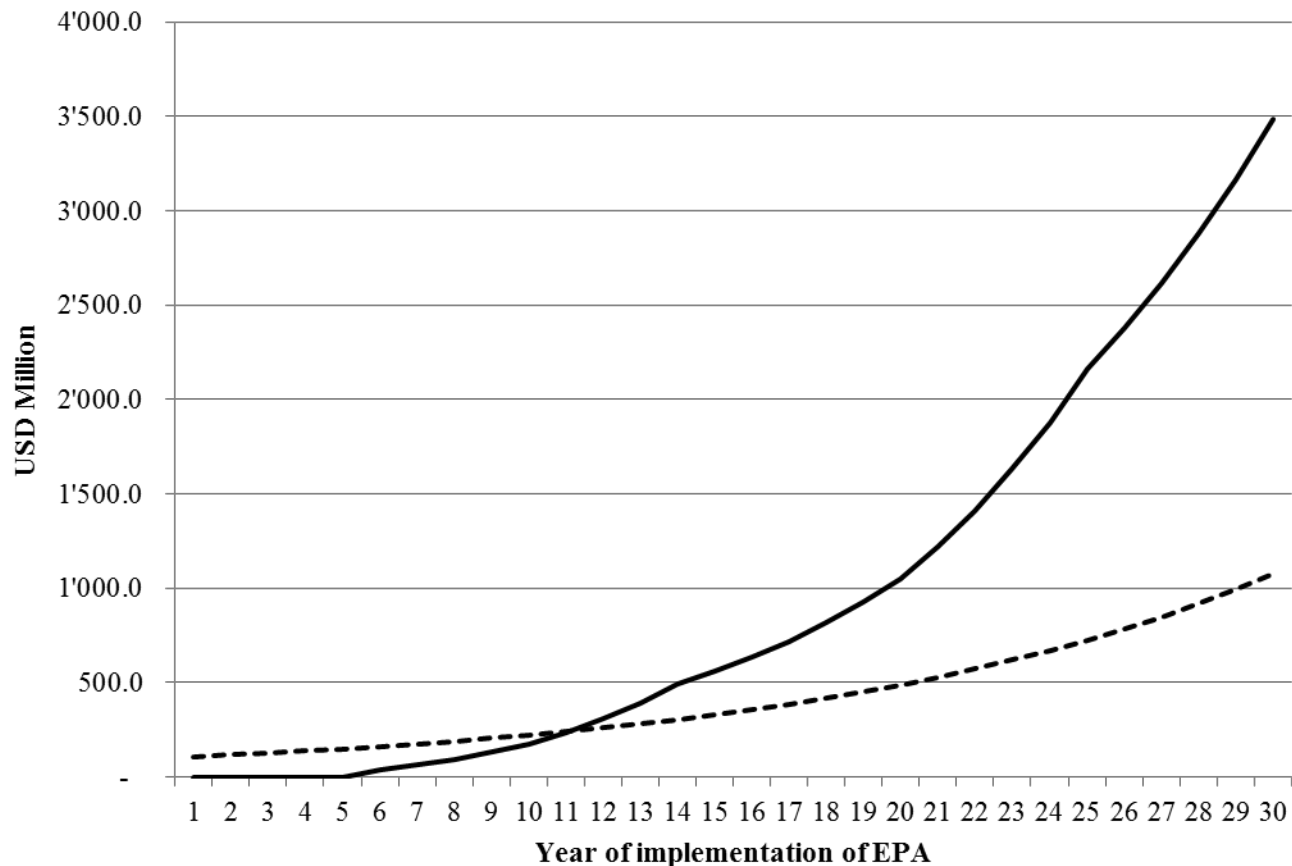
Cost and Benefit of EPA- in year 25

EAC imports have been growing 10% year-on-year (2001 – 2010)

EAC exports increases by 8.2% (2001 – 2010)

If these are taken into consideration, what is the cost-benefit in the future?

Extrapolating into the future: costs and benefits of EPA (for EAC)



— **Cost of EPA: EAC tariff revenue losses**

---- **Benefits of EPA: Duties avoided at EU border**

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Rendez-Vous Clause

EU wants date fixed.

New Issues:

Services liberalisation

Fair Tax Competition

Investment

Competition

Public procurement

Intellectual Property

Environment

Labour



EU's Services Agenda

Making it easier to get concessions to Africa's resources - Services / investment liberalisation

Services and Investment (in general) (GATS+)

- 1) GATS V: Substantially all Sectors –
EU is arguing that each country should liberalise 65 -75% of all services sectors and sub-sectors (Education, health, telecoms, financial (banking, insurance, derivatives etc), postal, distribution (retail), accounting, legal, professional, computer, environment, water, waste, tourism, transport, energy, exploration, maritime etc)
- 2) Standstill Clause (GATS +)
- 3) Regulatory chapters (GATS +)
(Postal services – administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined ...)
(Cannot cross-subsidise – Telmax example)
(Financial services- deregulate new financial services)
Competition clauses i.e. National treatment
- 4) Liberalisation of 'non-services' sectors –
 - Agriculture, hunting and forestry
 - Fish
 - Mining and quarrying (eg. Mining and computer services eg. Venezuela)
 - Manufacturing
 - Production, transmission and distribution on own account of electricity, gas, steam and hot water.

Options

No EPA:

- 1) GSP: Generalised and non-discriminatory – Norway GSP; AU Proposal (**WTO COMPATIBLE**)
- 2) Waiver at the WTO for Sub-Saharan African (like AGOA; Moldova; Western Balkans) (**WTO COMPATIBLE**)
- 3) Rely on regional and South-South markets
- 4) EBA, GSP+ and GSP

EPA:

- 1) EPA with Development Benchmarks (EU has not accepted)
- 2) EPA with lower market access offer

Options – AU/RECs Nov 2010

- 1) Continue with EPA Negotiations with Benchmarks: link countries' level of development with level of liberalisation
- 2) Sequencing EPA vis-a-vis Regional Integration
- 3) EPA Negotiations concluded after Article XXIV negotiations
- 4) Extend EU's duty-free and quota free treatment for LDCs for Sub-Saharan Africa
- 5) EU's GSP+
- 6) Discontinue EPAs

Member	Beneficiary	Decision	Expiry	WTO Document
US	Former Trust Territory of the Pacific Islands	27 Jul 2007	31 Dec 2016	WT/L/694
US	Caribbean Basin Economic Recovery Act (CBERA)	27 May 2009	31 Dec 2014	WT/L/753
US	Andean Trade Preference Act (ATPA)	27 May 2009	31 Dec 2014	WT/L/755
US	African Growth and Opportunity Act (AGOA)	27 May 2009	30 Sep 2015	WT/L/754
EU	Moldova	7 May 2008	31 Dec 2013	WT/L/722
EU	Western Balkans ^[1]	28 Jul 2006	31 Dec 2016	WT/L/654
Canada	CARIBCAN	15 Dec 2006	31 Dec 2013	WT/L/677

Norway's GSP: DFQF for LDC 'plus' Grouping

GSP text ('Agreed Conclusions of the Special Committee on Preferences, L/4903, 28 Nov 1979)

Article 2d: 'Special treatment of the least developed among the developing countries...' (no definition of LDCs)

Article 3c: Such GSP 'treatment' shall 'respond positively to the 'development, financial and trade needs of developing countries'.

-
- Norway provides DFQF-Market Access for all LDCs and 14 low-income countries (based on OECD's DAC list)

In addition to LDCs, these low-income countries include Cameroon, Congo Rep, Ghana, Cote d'Ivoire, Kenya, Zimbabwe, Pappua New Guinea.
(WT/COMTD/N/6/Add.4, 10 April 2008)

Namibia and Botswana also get special treatment.

Legal basis for providing non-reciprocal trade preferences	Example
<p>Generalised Enabling Clause 2(a) and 2(d)</p>	<ul style="list-style-type: none"> ● Developed countries' Generalised System of Preferences (GSP) to developing countries ❖ Preferences to LDCs such as the EBA and LDC-specific rules of origin by the EU; ❖ Duty-free quota-free market access by Norway to LDCs plus other low-income developing countries
<p>Non-Generalised Waivers in accordance with the Uruguay Round Understanding in Respect of Waivers of Obligations under GATT 1994; and Article IX: 3-4 of the Marrakesh Agreement establishing the WTO</p>	<ul style="list-style-type: none"> ● US: Africa Growth Opportunity Act (AGOA) (until 2015) ● US: Former Trust Territory of the Pacific Islands (until 2016) ● US: Caribbean Basin Economic Recovery Act (until 2014) ● US: Andean Trade preference Act (until 2014) ● EU: Moldova (until 2013) ● EU: Western Balkans (proposed extension to 2016) ● Canada: Caribbean Basin Economic Recovery Act (until 2013) ● Developing countries' "Preferential Tariff Treatment for Least-Developed Countries", Decision on Extension of Waiver, adopted on 27 May 2009 (WT/L/759), until 2019)

AU Proposal 2011

Trade Preferences for LDCs and LDC Customs Unions

Everything But Arms (EBA) treatment for LDCs should be extended to LDC Customs Unions

AU trade ministers' meeting in Accra (2011):
'The conference adopted the proposal and called on the African Union to transmit it to the G20 and other development partners'.

AU Proposal

For EU – it means EBA for Sub-Saharan Africa.

This means including the following countries under the EBA scheme:

East Africa: Kenya

Eastern and Southern Africa: Mauritius, Seychelles, Zimbabwe

Southern Africa: Botswana, Namibia, Swaziland

Central Africa: Gabon, Rep of Congo

West Africa: Ghana, Nigeria, Cote d'Ivoire

African countries that should/could have been LDCs

- Cote d'Ivoire: 1997
- Cameroon: 1997-2009
- (At least) since 1991
 - Nigeria (LDC with population > 75 million, Bangladesh)
 - Kenya
 - Ghana



Cote d'Ivoire: almost LDC in 1997

	1997	2000	2003	2006	2009
GDP/capita	700	757	687	683	870
Human resource index	36.4	43.6	43.0	41.0	40.3
Economic vulnerability index	26.5 (cut off point 26)	32.8	25.4	33.5	31.5

Cameroon: LDC-like since 1997, would have been graduated in 2009

	1997	2000	2003	2006	2009
GDP/capita	640	757	583	667	983
Human resource index	45.2	43.6	43.8	46.7	47.1
Economic vulnerability index	21.4	32.8	31.9	33.1	31.3

Kenya: LDC-like, at least since 1991 to now

	1991	1994	1997	2000	2003	2006	2009
GDP/capita	375	346	270	335	350	407	597
Human resource index	44	47	50.8	53.6	49.3	50.6	55.9
Economic vulnerability index	22	28	25.2	27.8	28.4	24.2	18.4

Nigeria: LDC-like, at least since 1991 to now

	1991	1994	1997	2000	2003	2006	2009
GDP/capita	230	282	394	299	267	347	780
Human resource index	35	35	46.5	54.3	52.3	50.0	50.6
Economic vulnerability index	5	7	5.7	58.4	52.8	44.8	42.4

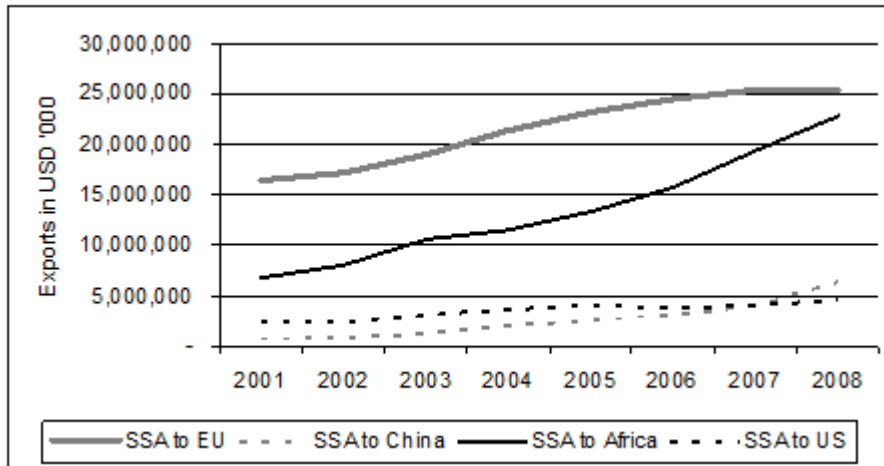
Ghana: LDC-like, at least since 1991 to now

	1991	1994	1997	2000	2003	2006	2009
GDP/capita	360	409	361	390	337	323	513
Human resource index	42	40	49.4	57.0	57.9	56.2	63.5
Economic vulnerability index	19	26	23.4	43.1	40.9	41.5	44.5

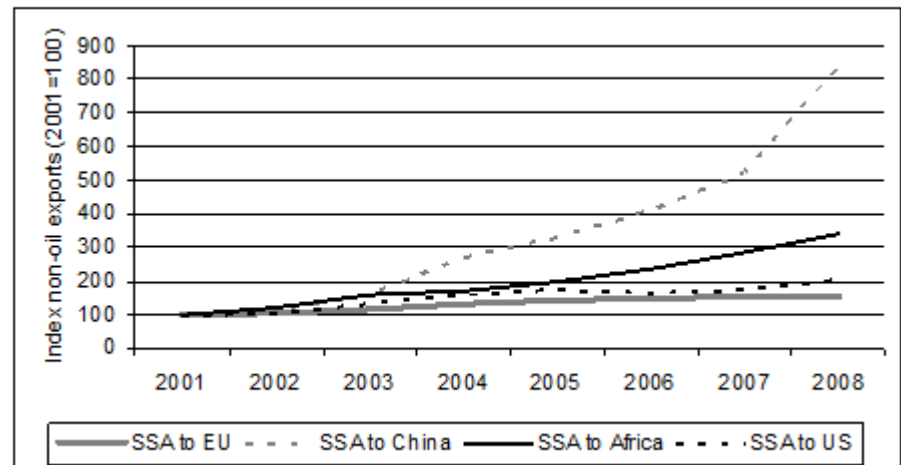
Africa's Alternatives to EPAs

1) Intra-African Trade

Africa's Non-Oil Exports to Various Destinations

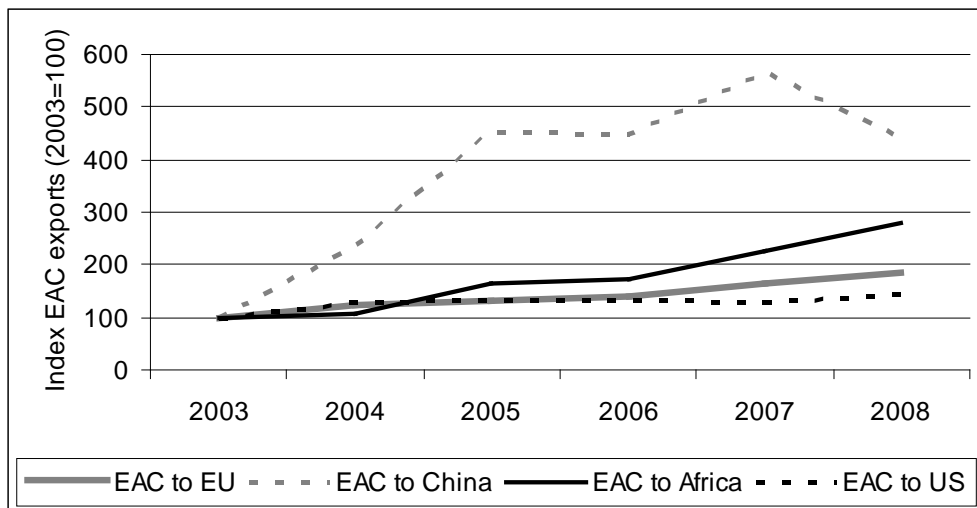
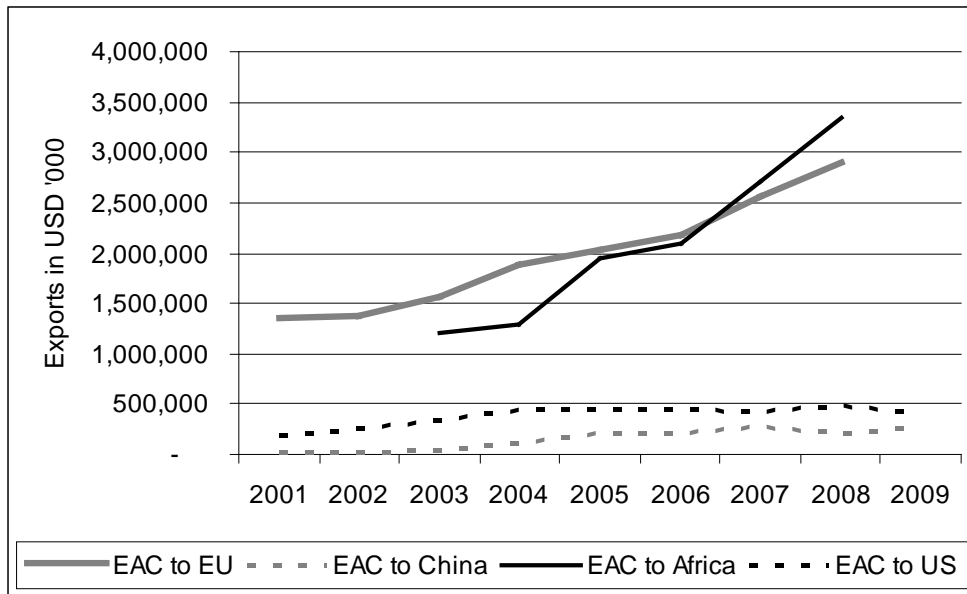


Growth of African Non-Oil Exports to Various Destinations

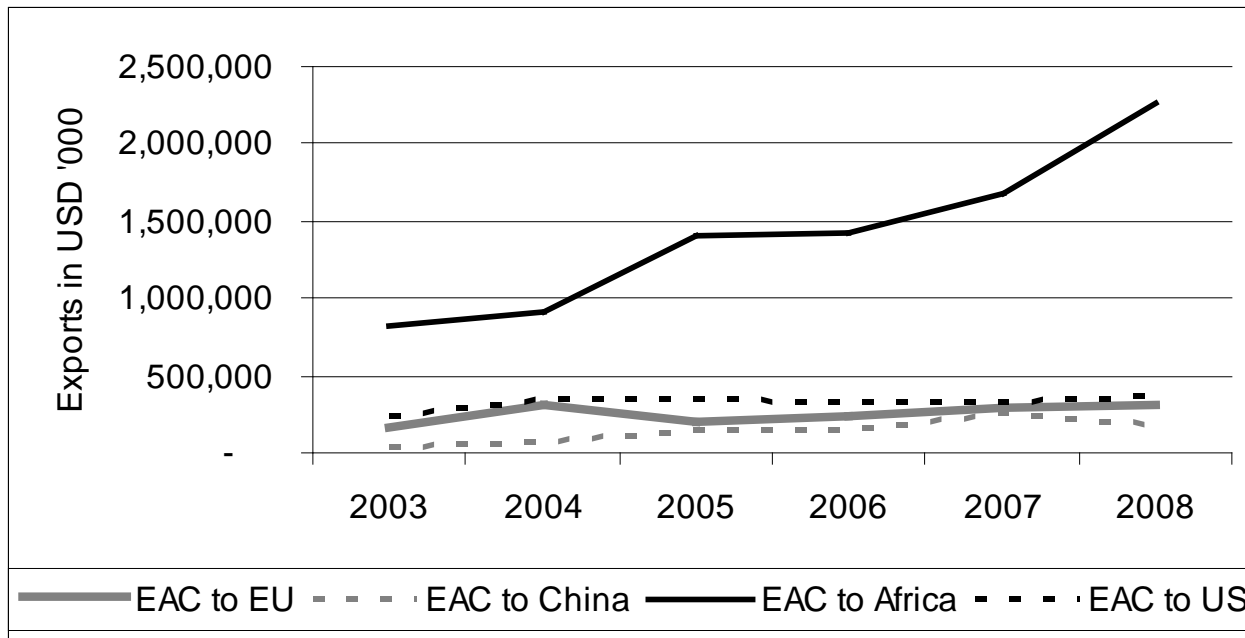


1) EAC Exports;

2) % increases in Exports from 2003



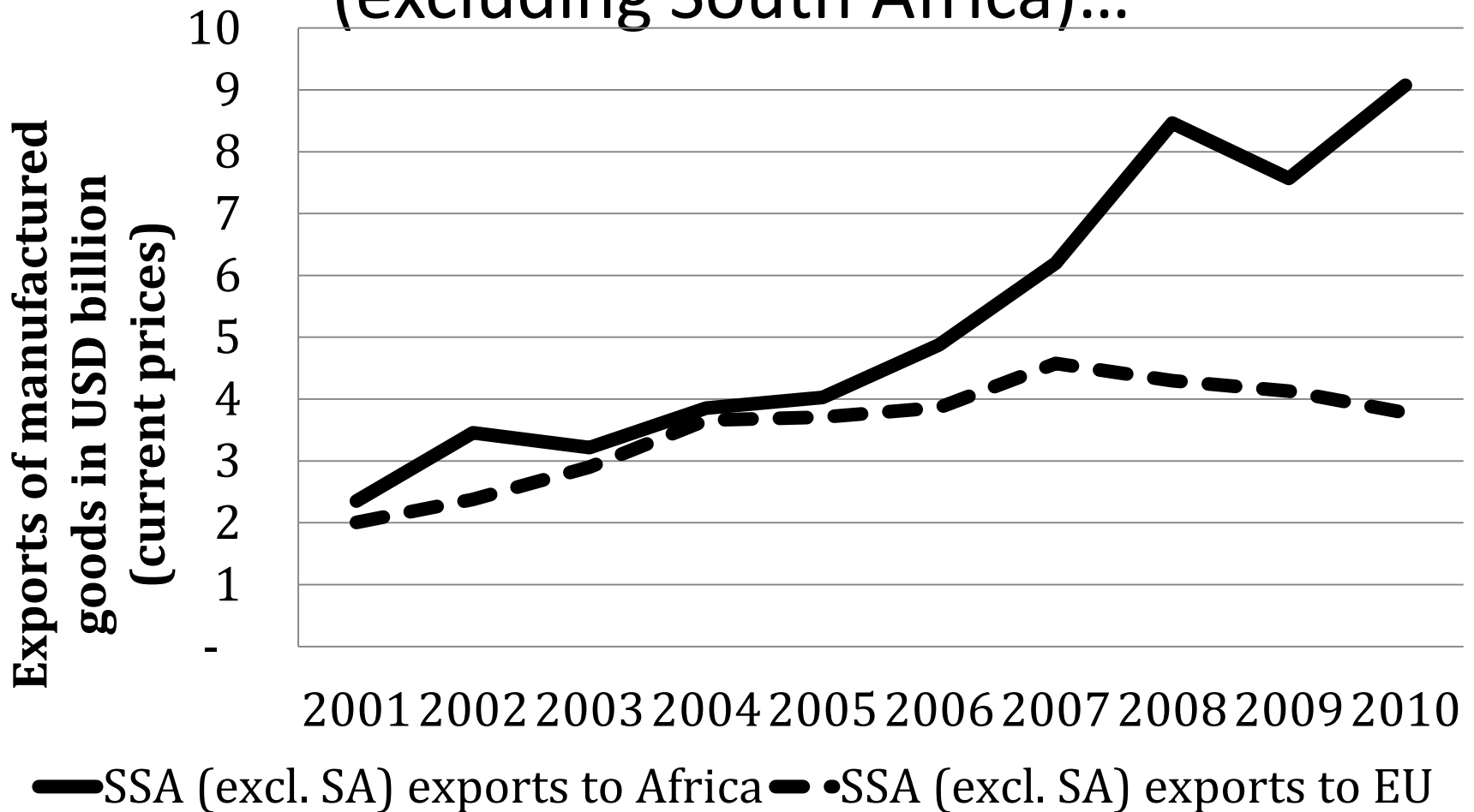
Industrial Exports of EAC to various destinations (2003- 2008)



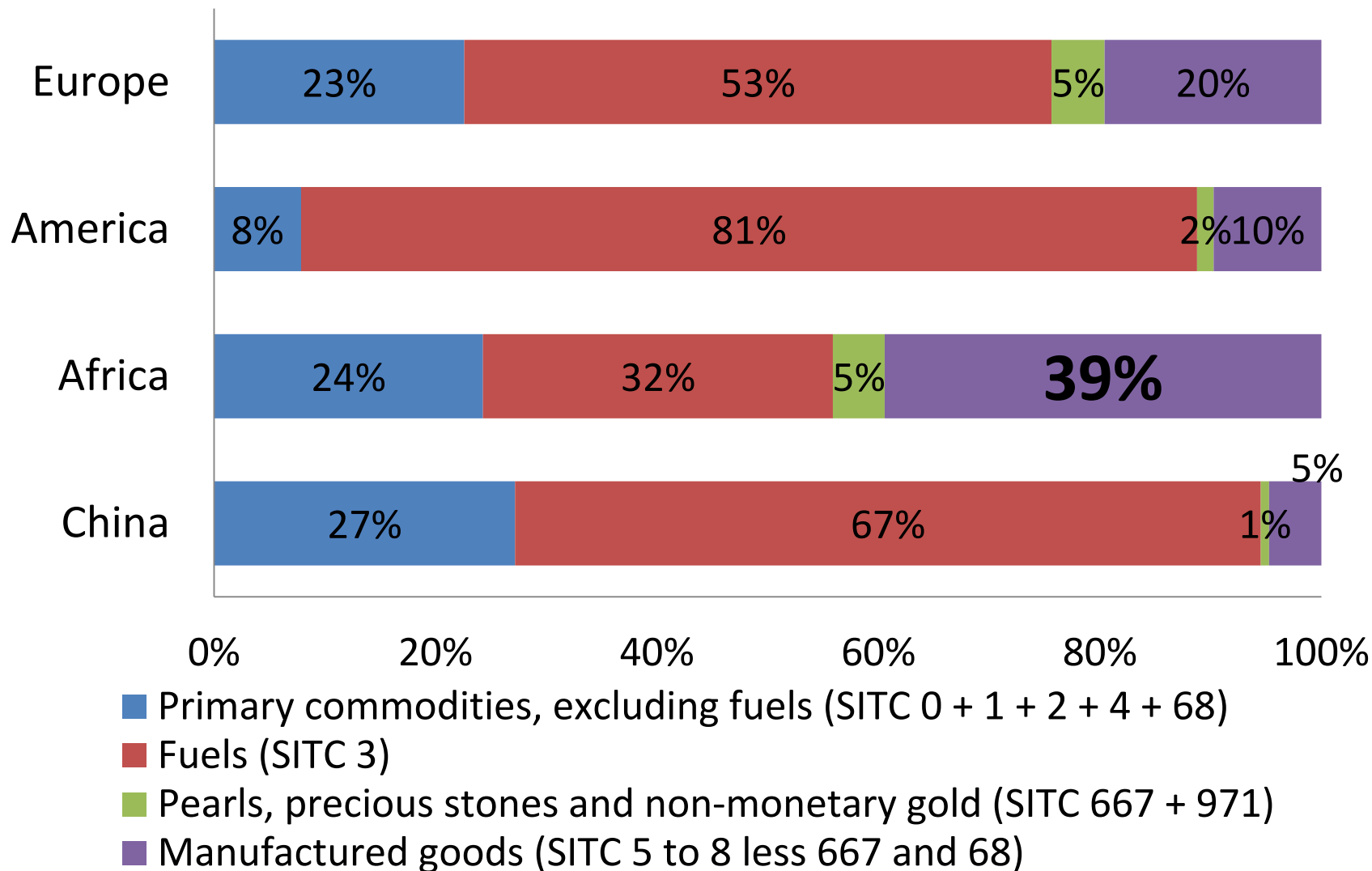
TRADE TRENDS:

For manufactured goods, Africa has become a more important market than EU for SSA

(excluding South Africa)...



Impact of EPA on Industrial Sector – A threat to intra-African trade in manufactures? (2010)



Conclusions

- Domestic and Regional production and trade negatively affected:
 - EPA: 1 trade regime but domestic and regional production?
 - Loss of opportunity to use bigger regional market to jumpstart industrialisation
- Tariff revenue losses more than the 'benefits' of duties avoided

Conclusions

Alternatives do exist:

- Intra African market
- AU proposal: EPA for SSA – ‘marginal increment to existing preference scheme’ for LDC customs unions or regions
- Waiver
- EBA for LDCs; GSP / GSP+ for non-LDCs
- EPA with liberalisation tied to development benchmarks (but this has been rejected by the EU)