

Playing Different Games: West African and European Perspectives on Negotiating Economic Partnership Agreements

Clara Weinhardt
Hertford College, University of Oxford

Thesis Submitted in Partial Fulfilment of the Requirements for
the Degree of DPhil in International Relations in the Department of Politics
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ABSTRACT

This thesis examines the reasons for persistent impasses encountered in the negotiations to achieve so-called ‘Economic Partnership Agreements’ between the EU and West Africa by drawing on the analysis of strategic interaction. I argue that in order to fully understand the failure to reach an agreement during more than eight years of negotiations we need to go beyond conventional rationalist approaches that rely on game-theoretical insights. Instead of presuming that the so-called ‘rules of the game’ are common knowledge among the actors, I conceive of bargaining processes as a space to (re)negotiate the ‘games’ played by states in the first place.

To systematise how disagreement at the level of the rules of the game affects strategic interaction and the cooperation issues faced by states, the thesis introduces the conceptual model of a ‘Battle over Games’. Such a constructivist-informed approach relates the choice of ‘sub-optimal’ bargaining strategies to the possibility of divergent interpretations of the rules rather than a lack of information. Moreover, it sees identity-based conflicts around values and beliefs rather than merely functional collective action problems as important obstacles to cooperation. I argue that divergent normative convictions about which ‘game’ ought to be played can lead to a hardening of negotiating positions that prolongs impasse situations.

The main empirical argument presented is that different understandings about the rules of the game operative in trade negotiations with a ‘development dimension’ underpinned the cooperation partners’ inability and unwillingness to reconcile their conflicting interests. Examining two different negotiating periods (2002-2007 and 2008-2010) allows us to assess how the emergence and persistence of the impasse can be understood through the lens of the actors’ subjectively different understandings of the ‘game’ they were playing. I, firstly, argue that the EU and the West African side’s ill-conceived strategy choices in the first negotiating period were related to the divergent interpretations of the development framing of the trade negotiations. Secondly, I develop the argument that the persistence of opposing positions was ultimately sustained by a value conflict over whether to pursue procedural or substantive equality in these trade negotiations, and divergent beliefs about how best to foster economic development. The thesis concludes with a summary of the research findings.

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List of Abbreviations

ACP	African, Caribbean and Pacific (countries)
CPA	Cotonou Partnership Agreement
DG Trade	Directorate General for Trade
EBA	Everything But Arms
EC	European Commission
ECOWAS	Economic Community Of West African States
EDF	European Development Fund
EPADP	The EPA Development Program (in French: Le Programme APE pour le Développement, PAPED)
EPAs	Economic Partnership Agreements
EU	European Union
FTAs	Free Trade Areas
GATT	General Agreement on Trade and Tariffs
GSP	Generalised System of Preferences
IPE	International Political Economy
IR	International Relations
LDCs	Least Developed Countries
MAN	Manufacturing Association of Nigeria
MFN	Most-Favoured Nation treatment
NGO	Non-Governmental Organisation
Non-LDCs	Non-Least Developed Countries
NTBs	Nontariff barriers
OECD	Organisation for Economic Co-operation and Development
SDT	Special and Differential Treatment
UEMOA	Union économique et Monétaire Ouest Africaine
WTO	World Trade Organisation

1 Introduction

On the 31st of December 2007, the conclusion of the negotiations of so-called Economic Partnership Agreements (EPAs) between the European Union and the countries of West Africa aimed to take a historic step on the ‘road out of dependency’¹ for the former colonies. The EU officially declared that ‘[w]hat is innovative about this North-South trade agreement is that it unites the two regions behind a common objective: promoting the development of West Africa, home to many of the world’s poorest countries’². Out of the 16 countries of the West African region, however, only Côte d’Ivoire and Ghana reached an interim agreement. The EPA agenda turned out to be highly divisive, and conflict and contention mired the negotiation process³. Independent observers claim that EPAs became the ‘most contentious issue in EU-Africa relations over the past decade’⁴. EPAs were compared to a ‘thorn’ in the relationship which ‘have become a divisive force between Europe and the ACP [African, Caribbean and Pacific countries] and also between African countries’⁵. NGOs even portrayed them as ‘nothing less than re-colonisation’⁶.

The failure to conclude a regional agreement by the 2007 deadline did not imply the end of the EPA process. The EU and West Africa decided to continue the negotiations to overcome what turned out to be a costly impasse situation to both sides. Yet, by the end of 2010, negotiations were still characterised by disagreement. While both the EU and West Africa were unwilling to break off the negotiations, neither side was prepared to adjust its basic negotiating positions. The EU continued to defend the proposed agreements as development-friendly, and was unwilling to make meaningful concessions to West Africa. Louis Michel, at that time Development Commissioner, justified the proposed agreements at a press conference

¹ Speech by Peter Mandelson, European Parliament, Brussels, 19 October 2006, (http://ec.europa.eu/commission_barroso/ashton/speeches_articles/sppm123_en.htm).

² European Commission, “Statement by EU Trade Commissioner Peter Mandelson”, October 2005, http://trade.ec.europa.eu/doclib/docs/2005/november/tradoc_125868.pdf.

³ Glenys Kinnock, Co-President of the EU-ACP Joint Parliamentary Assembly, March 2008, www.acp-eucourier.info/Governance-on-the-table-i.331.0.html.

⁴ ECDPM, Fernanda Faria and Geert Laporte, “The Joint Africa-EU Strategy: Quo vadis after Tripoli?”, “Trade Negotiations Insights, Volume 9, Number 10, December 2010.

⁵ ECDPM Editorial Team, ‘Bridging the credibility gap: Challenges for ACP-EU relations in 2011’, ECDPM Talking Points Blog, 20 December 2010, <http://www.ecdpm-talkingpoints.org/bridging-the-credibility-gap-challenges-for-ACP-EU-relations-in-2011/>.

⁶ Pazumbaka News, “Africa: Africa Trade Network: Declaration of civil society organizations”, 26 February 2008, <http://www.pambazuka.org/en/category/development/46380>.

shouting furiously that ‘if you want to remain poor, just be against the EPAs’⁷. The West African side, however, was equally unwilling to modify its negotiating stance and rejected the EU’s proposals as detrimental to the region’s ‘genuine interests of development and cooperation’⁸. In the run-up to the third EU-Africa summit in Tripoli at the end of 2010, there was no doubt that ‘EPAs are at an impasse’⁹. After eight years of negotiations the parties have not been able to overcome the highly entrenched negotiation positions, despite the ongoing commitment to the negotiation process¹⁰.

Against this background, the main research question that this thesis addresses is: *Why did EPA negotiations between the EU and West Africa repeatedly hit an impasse?* An impasse situation is a preliminary outcome of negotiations, characterised by a period of time during which the parties hold inconsistent positions¹¹. Exploring the case of EPA negotiations holds a broader relevance not only for EU-Africa relations, but also more generally for the cooperation problems characteristic of North-South trade negotiations. I advocate a new perspective on the conflicts that emerge in negotiations between ‘developed’ and ‘developing’ countries: while we would usually presume that impasse situations can simply be reduced to the conflicting interests of the ‘North’ and the ‘South’, I argue that this story is too simple. An impasse situation is not only seen as the reflection of a given set of conflicting preferences (with neither side strong enough to enforce their position), but of the particular negotiating strategies chosen to pursue them.

The analytical focus of this thesis is consequently on the negotiation process, rather than the analysis of given preference or power structures. I argue that in order to fully understand the impasse in the case of EPA negotiations we need to go beyond rationalist approaches towards international cooperation. This is because they are biased towards examining the functional collective action problems that could emerge within a given strategic situation. They tend to assume that the rules of the game are

⁷ Inter Press Service, ‘NGOs Confront EU Over Regional Deals’, 2.03.2008, http://www.bilaterals.org/article.php3?id_article=11584.

⁸ Bank of Sierra Leone, Speech by the Deputy Bank Governor Alhaji Mohamed Fofana, National Seminar on the Economic Partnership Agreement, Sierra Leone, 12-13. December 2007, <http://bankofsierraleonecentralbank.org/pdf/Seminar%20on%20Economic%20Partnership.pdf>.

⁹ ACORD et al, ‘The 3rd Africa-EU Summit in Tripoli, 29-30 November 2010: The long awaited high level meeting on EPAs?’, EU NGO briefing paper on the current state of play of the EPA negotiations, 22 November 2010.

¹⁰ Negotiations continue at a regional level (state of play as of August 2012).

¹¹ See Jacob Bercovitch and Carmela Lutmar, "Beyond Negotiation Deadlocks: The Importance of Mediation and Leadership Change," in *Deadlocks in Multilateral Negotiations: Causes and Solutions*, ed. Amrita Narlikar (Cambridge, UK ; New York: Cambridge University Press, 2010), 236.

common knowledge, while subjectively divergent perceptions thereof primarily relate to a lack of information.

Yet, as I illustrate in this thesis, strategic interaction may take place in contexts in which the ‘game’ that states play is itself subject to (re)negotiation. These ‘games’ are understood as a set of rules that define and structure the strategic interaction situation in given issue-areas. To systematise how the lack of firmly institutionalised rules of the game relate to cooperation problems in bargaining situations, the thesis introduces the conceptual model of a ‘Battle over Games’. Such a constructivist-informed approach relates the choice of ‘sub-optimal’ bargaining strategies to the possibility of divergent interpretations of the social norms and conventions that shape the rules of the game, as well as the actors’ attempts to (re)negotiate them. Divergent normative convictions about which ‘game’ ought to be played can lead to a hardening of negotiating positions that prolongs impasse situations.

In terms of the empirical application of these conceptual ideas, the thesis focuses on the single case of EPA negotiations between the EU and West Africa in an explorative way. Examining two different negotiating periods (2002-2007 and 2008-2010) allows us to assess how the emergence and persistence of the impasse situation can be understood through the lens of the actors’ subjectively different understandings of the ‘game’ they were playing. I claim that the EU and the West African side’s ill-conceived strategy choices in the first negotiating period were related to the divergent interpretations of the development framing of the trade negotiations. I further argue that the stubbornness with which they defended their opposing perspectives in the second negotiating period was underpinned by strong, yet incommensurable normative convictions about how best to foster economic development through cooperative agreements. The persistent conflict of interests was in this way underpinned by much deeper-seated conflict over values and knowledge: while the EU wanted to move the EU-Africa relationship towards a neo-liberal partnership with more equal obligations, the West African side wanted to maintain old patterns of redistribution.

This approach adds significantly to existing theoretical and empirical accounts of the case of EPA negotiations, which so far have not focussed on the analysis of strategic interaction. More generally, this thesis aims to provide a more systematic assessment of how the lack of firmly institutionalised rules of the games affects

strategic interaction. Constructivists rarely engage with the effects of unstable rules (such as norms) on strategic behaviour, while rationalist approaches tend to assume that the rules of the game are common knowledge among the actors.

1. The Impasse: Puzzle, Research Questions and Analytical Focus

The cooperation problems evident in an impasse situation are never a strict 'puzzle' in the sense of being entirely unexpected. If actors did not disagree at all, negotiations would be superfluous¹². Examining the impasse against the assumptions of mainstream accounts of international cooperation hence allows us to specify what is 'puzzling' about it. From a rationalist perspective that focuses on power and preferences structures, the impasse could have simply reflected the incompatibility of the EU's and West Africa's interests in negotiating a free trade agreement, and the inability of either side to enforce their position on their counterpart. Yet, trade negotiations are usually understood to be 'positive-sum'. This suggests that the impasse situation that the actors faced in EPA negotiations was not an inevitable outcome, especially since a number of mutually beneficial compromise agreements were identified¹³. Moreover, the EU clearly held superior bargaining power as compared to the West Africa region, which makes it implausible to suggest that the impasse reflected a symmetrical power relation¹⁴. The empirical evidence suggests, moreover, that the impasse was highly costly to both sides, which precludes the possibility that it simply reflected given preference structures. Yet, if the impasse constituted a costly (preliminary) outcome of the EPA process, one is left wondering why it was not avoided.

¹² Axelrod and Keohane argue that cooperation is not equivalent to a harmony of interest, but takes place if conflicting and complementary interests exist; Robert Axelrod and Robert O. Keohane, "Achieving Cooperation Under Anarchy: Strategies and Institutions," *World Politics* 38, no. 1 (Oct., 1985), 226.

¹³ See for instance Mareike Meyn, "Economic Partnership Agreements: A 'Historic Step' Towards a 'Partnership of Equals'?" *Development Policy Review* 26, no. 5 (2008), 517; Soamiely Andriamananjara and others, "Assessing the Economic Impacts of an Economic Partnership Agreement on Nigeria," *World Bank Policy Research Working Paper* 4920 (2009), 28; Amin Alavi, Peter Gibbon and Niels J. Mortensen, "EU-ACP Economic Partnership Agreements (EPAs): Institutional and Substantive Issues," (2007), 82.

¹⁴ On symmetrical power relations as a reason for impasse situations see Amrita Narlikar, *Deadlocks in Multilateral Negotiations: Causes and Solutions* (Cambridge, UK ; New York: Cambridge University Press, 2010), 9.

The costs of non-agreement are a point worth stressing, since they indicate that the repeated impasse situation constituted a ‘sub-optimal’ outcome of the negotiation process. From the EU’s perspective, the impasse situation proved a political disaster. Its self-image as a ‘friend’ of West Africa, and the developing world more generally, was seriously damaged¹⁵. While the EU invested considerable resources in the negotiation process as ‘an ambitious and innovative attempt to harness trade policy to development’¹⁶, its offer was publicly rejected as detrimental to the development interests of the West African region. As an EU official complained to me in one of the interviews: ‘what we wanted to do is precisely not to do as the others and to do something which is nicer’, and yet: ‘here we are trying to do something else, and it is bad’¹⁷. After the fiasco of the 2007 deadline, EPA negotiations were declared a ‘public relations disaster for the Brussels bureaucracy’¹⁸. The persistence of the impasse in the subsequent negotiating period started to threaten the broader economic and political partnership with Africa by creating an ‘EPA backlash’¹⁹.

The repeated impasse situation was also highly costly for the West African side. The failure to come to a regional agreement left the region divided between the majority of non-signatory countries on the one hand, and Ghana and Cote d’Ivoire on the other hand, which initialled an interim EPA agreement. Moreover, engaging in the EPA process has proven costly in terms of the diversion of scarce human resources within the Secretariat of the Economic Community of West African States (ECOWAS)²⁰ away from the tasks associated with regional economic integration.

It is against this background that the ‘real’ puzzle of the impasse situation becomes apparent: why did both sides end up in a situation that was detrimental to their interests? Out of the many different possible ways in which the EPA process could have unfolded, the repeated impasse situation clearly constituted a ‘worst case’ rather than ‘best case’ scenario. The academic and policy-oriented literature suggested

¹⁵ Lotte Drieghe, "The European Union's Trade Negotiations with the ACP: Entrapped by its Own Rhetorical Strategy," *Romanian Journal of European Affairs* 8, no. 4 (2008), 1.

¹⁶ EC, Statement by EU Trade Commissioner Peter Mandelson, October 2005, <http://trade.ec.europa.eu/doclib/html/125868.htm>.

¹⁷ Interview 23, Brussels, Commission official, February 2010.

¹⁸ “Deals with Africa a ‘PR Disaster’”, *Inter Press Service*, 26 February 2008, <http://ipsnews.net/news.asp?idnews=41358>.

¹⁹ San Bilal and Isabelle Ramdoo, “Losing old friends: The risk of an EPA backlash”, *Trade Negotiations Insights* Vol. 9, No. 8, October 2010, <http://ictsd.org/i/news/tni/87811/>.

²⁰ The ECOWAS Secretariat was given the mandate to lead the negotiation process on the West African side.

various ways in which an EPA agreement could have been made beneficial²¹. Given the positive-sum nature of trade negotiations in general, we would have expected both sides to be able to accommodate their conflicting interests in a mutually beneficial way. This is because in positive sum games the negotiating issues are fungible, and disagreement can presumably be ‘negotiated away’ by some kind of package deal, compromise or attempts to ‘split the difference’²². Yet, neither the EU nor West Africa seemed willing to substantially modify their negotiating positions, nor to break off the negotiations. This was ‘puzzling’ because it reiterated not only the costly impasse situation, but also implied that the cooperating partners could not reap the gains associated with cooperation. One is hence left wondering why the EU and West Africa ended up in a ‘sub-optimal’ outcome of the negotiations in the period from 2002-2010.

With the empirical puzzle in mind, the central research question of this thesis can be paraphrased as follows: what kind of cooperation problems prevented the actors from reaching a more beneficial outcome as the result of negotiations? The puzzle also raises two more specific questions about the reasons behind the impasse situation that inform the empirical analysis of the two different negotiating periods (2002-2007 and 2008-2010):

- Why were the EU and West Africa unable to anticipate that their negotiating positions would culminate in the costly impasse situation at the 2007 deadline?
- Once the impasse situation emerged, why were the EU and West Africa reluctant to make meaningful concessions to each other despite the high costs associated with the impasse?

²¹ See for instance Meyn, *Economic Partnership Agreements: A 'Historic Step' Towards a 'Partnership of Equals'?*; Andriamananjara and others, *Assessing the Economic Impacts of an Economic Partnership Agreement on Nigeria*; Alavi, Gibbon and Mortensen, *EU-ACP Economic Partnership Agreements (EPAs): Institutional and Substantive Issues*; Romain Perez and Stephen Njuguna Karingi, "How to Balance the Outcomes of the Economic Partnership Agreements for Sub-Saharan African Economies?" *World Economy* 30, no. 12 (12, 2007); Pierre Sauvé and Natasha Ward, "Services and Investment in the EU-CARIFORUM EPA – Innovation in Rule-Design and Implications for Africa," in *Beyond Market Access for Economic Development: EU-Africa Relations in Transition*, eds. Gerrit J. Faber and Jan Orbie (London ; New York: Routledge, 2009), 137-172.

²² James D. Fearon, "Bargaining, Enforcement, and International Cooperation," *International Organization* 52, no. 02 (1998), 285.

These research questions shape the type of research and analysis undertaken in this thesis. On the one hand, I attempt to illustrate the explanatory value of a new conceptual framework to understand cooperation problems as the result of ‘playing different games’. This framework was developed after inductively engaging with the empirical material. It implies that special attention is paid to reconstructing the actors’ subjective perspectives on the rules of the game as a lens to assess strategic interaction. On the other hand, I am interested in examining the particular course of action of EPA negotiations. This makes it necessary to engage in process-tracing to account for the decision-making processes that determined the negotiation process of EPAs.

Certain limitations apply in both cases regarding the attempt to engage with the European and the West African side’s perspectives and positions taken in the EPA process. Neither the European Union nor the West African region is a monolithic bloc that necessarily speaks with one voice or reasons with one mind. This thesis, therefore, necessarily relies on simplifications regarding the positions and perspectives adopted within both camps. Painting such a simplified picture can, firstly, be justified with the particular conceptual focus of this thesis: doing so is a prerequisite for being able to look at the bigger-level picture of the kind of cooperation problems that characterised the impasse situation between the parties. The fierce opposition that has evolved between both blocs over the course of the negotiations, moreover, seems to justify the high level of generalisation.

A second reason for this simplification is practical: it would require another set of theses to examine the political economy of trade policy-making across sixteen West African countries and at the regional level. It seems equally ambitious to analyse the way in which the European Commission, the European Parliament, the European Council as well as all twenty-seven EU Member States and relevant economic interests groups at the national and regional level influenced the European position and reasoning during the process of EPA negotiations.

I therefore focus the empirical analysis on the main actors within each camp. This allows me to emphasise the main decisions taken and to infer the general line of reasoning behind the positions adopted by both sides. On the European side, I concentrate the analysis on different actors within the European Commission that were given a far-reaching mandate to conduct EPA negotiations. On the West African

side, the main actors are the Secretariat of the Economic Community Of West African States (ECOWAS) as the regional negotiating body, different groups of member states (Least Developed Countries/non-Least Developed Countries) and, to some extent, representatives from the private sector and civil society that were involved in the negotiation process²³. The involvement of other actors on both sides, as well as the existence of internal dissent, is included in the empirical analysis only to the extent that it has been crucial in informing both sides' negotiating positions and reasoning in the EPA process.

2. The Existing Literature

Before I develop my own argument, I examine the ways in which the existing literature helps us to address the puzzle that underpinned the impasse situation. I review the literature on the case of Economic Partnership Agreement negotiations and the literature on international cooperation within International Relations.

2.1 THE EXISTING LITERATURE ON EPA NEGOTIATIONS

The literature that deals specifically with EPAs is still scarce, given the recent nature of the negotiations. It does not specifically focus on the puzzle of the impasse situation. This is surprising, given the rich amount of literature that engages with the impasse at the World Trade Organisation (WTO) over the Doha Development Round, which began roughly at the same time and remains equally deadlocked²⁴. The majority of authors assesses whether the EPAs (as part of EU-ACP cooperation) are likely to

²³ The stronger emphasis on the positions and reasoning of member states, private sector and civil society actors on the West African side is due to their greater influence on the regional negotiating position. Civil society and private sector actors were at times integrated into negotiating teams, the ECOWAS Secretariat being much more dependent on the Member States as compared to the European Commission.

²⁴ See for instance Manfred Elsig and Cédric Dupont, "Persistent Deadlock in Multilateral Trade Negotiations: The Case of Doha," in *The Oxford Handbook on the World Trade Organization*, ed. The Oxford handbook on the World Trade Organization (New York: Oxford University Press, USA, 2012); John S. Odell, "Breaking Deadlocks in International Institutional Negotiations: The WTO, Seattle, and Doha," *International Studies Quarterly* 53, no. 2 (2009); Andrew Gamble, "From Bretton Woods to Havana : Multilateral Deadlocks in Historical Perspective," in *Deadlocks in Multilateral Negotiations: Causes and Solutions*, ed. Amrita Narlikar (Cambridge, UK ; New York: Cambridge University Press, 2010), 25-46; Kevin P. Gallagher, "Understanding Developing Country Resistance to the Doha Round," *Review of International Political Economy* 15, no. 1 (02, 2008); Simon J. Evenett, "Reciprocity and the Doha Round Impasse: Lessons for the Near Term and After," *Aussenwirtschaft* 62, no. 4 (2007); Alasdair R. Young, "Trade Politics Ain't what it used to be: The European Union in the Doha Round," *Journal of Common Market Studies* 45, no. 4 (11, 2007).

serve the development aims of the group of ACP countries²⁵. Other strands of the literature try to explain change and continuity in the relationship between the EU and the ACP region²⁶, examine and contrast the perceptions of self and other of the negotiation partners²⁷, or focus on legal issues²⁸ or fairness considerations²⁹.

Those authors that focus more directly on the negotiation process provide us with empirical insights regarding both sides' negotiating approaches, but are mostly confined to approaches closer to foreign policy or discourse analysis. These authors are mainly interested in examining the determinants of the bargaining power of the

²⁵ M. Farrell, "A Triumph of Realism Over Idealism? Cooperation between the European Union and Africa," *Journal of European Integration* 27, no. 3 (2005); G. R. Olsen, "Coherence, Consistency and Political Will in Foreign Policy: The European Union's Policy Towards Africa," *Perspectives on European Politics and Society* 9, no. 2 (2008); S. R. Hurt, "Co-Operation and Coercion? the Cotonou Agreement between the European Union and ACP States and the End of the Lomé Convention," *Third World Quarterly* 24, no. 1 (2003); Andy Storey, "Normative Power Europe? Economic Partnership Agreements and Africa," *Journal of Contemporary African Studies* 24, no. 3 (2006); Gerrit J. Faber and Jan Orbie, *Beyond Market Access for Economic Development: EU-Africa Relations in Transition* (London ; New York: Routledge, 2009); Perez and Karingi, *How to Balance the Outcomes of the Economic Partnership Agreements for Sub-Saharan African Economies?*; Adrian Flint, *Trade, Poverty and the Environment: The EU, Cotonou and the African-Caribbean-Pacific Bloc* (Basingstoke England ; New York: Palgrave Macmillan, 2008); Paul Goodison, "EU Trade Policy & the Future of Africa's Trade Relationship with the EU," *Review of African Political Economy* 34, no. 112 (Jun., 2007); Christopher Stevens, "The EU, Africa and Economic Partnership Agreements: Unintended Consequences of Policy Leverage," *The Journal of Modern African Studies* 44, no. 03 (2006); Andrew Mold, *EU Development Policy in a Changing World: Challenges for the 21st Century* (Amsterdam: Amsterdam University Press, 2007); Aniekani I. Ukpe, "Will EPAs Foster the Integration of Africa into World Trade?" *Journal of African Law* 54, no. 02 (2010).

²⁶ Olufemi Babarinde and Gerrit Faber, "From Lomé to Cotonou: Business as Usual?" *European Foreign Affairs Review* 9 (2004); William Brown, "Restructuring North-South Relations: ACP-EU Development Co-Operation in a Liberal International Order," *Review of African Political Economy* 27, no. 85 (2000); Mark Langan, "ACP-EU Normative Concessions from Stabex to Private Sector Development: Why the European Union's Moralised Pursuit of a 'Deep' Trade Agenda is Nothing 'New' in ACP-EU Relations," *Perspectives on European Politics and Society* 10, no. 3 (2009); Alex Nunn and Sophia Price, "Managing Development: EU and African Relations through the Evolution of the Lomé and Cotonou Agreements," *Historical Materialism* 12, no. 4 (2004).

²⁷ Ole Elgström, "Images of the EU in EPA Negotiations: Angel, Demon-Or just Human?" *European Integration Online Papers* 12 (2008); Ole Elgström, "Outsiders' Perceptions of the European Union in International Trade Negotiations," *Swedish Institute for European Policy Studies Report*, no. 1 (2006); Clara Weinhardt, "The EU as a Friend of the Developing World? Self-Portrayal and Outside Perceptions in the Negotiations of Economic Partnership Agreements," in *The European Union in International Fora: Lessons for the Union's External Representation After Lisbon*, eds. Julia Lieb, Nicolai von Ondarza and Daniela Schwarzer (Baden-Baden: Nomos Verlag, 2011), 99-144.

²⁸ Cosmas Milton Obote Ochieng, "The EU-ACP Economic Partnership Agreements and the 'Development Question': Constraints and Opportunities Posed by Article XXIV and Special and Differential Treatment Provisions of the WTO," *Journal of International Economic Law* 10, no. 2 (1 June, 2007); Gerhard Thallinger, "From Apology to Utopia EU-ECP Economic Partnership Agreements Oscillating between WTO Conformity and Sustainability," *European Foreign Affairs Review* 12, no. 4 (2007); Claude S. K. Chase, "MFN in the CARIFORUM-EC Economic Partnership Agreement: Policy Blunder Or Legal Inconsistency?" *Legal Issues of Economic Integration* 38, no. 2 (2011).

²⁹ Geoff Moore, "Fairness in International Trade: The Case of Economic Partnership Agreements," in *Fairness in International Trade*, ed. Geoff Moore (New York: Springer, 2010).

actors³⁰, or in analysing the institutional characteristics of EU decision-making in EPA negotiations³¹. Elgström and Pilegaard, for instance, assess how institutional factors led to a strategy of ‘imposed coherence’ in the EPA negotiations. According to these authors, the Commission’s negotiation positions were ‘fundamentally ambiguous and characterized by significant tensions and conflicts between policy objectives,’³² which are related to the ‘highly compartmentalized character of EU policy fields and the disjointed decision-making machinery’³³. Yet, their main analytical interest remains in examining the factors that prevent or promote coherence, rather than those that prevent or promote reaching an agreement in international negotiations.

The constructivist-informed approaches tend to emphasise the role of discourse or normative frameworks as sources of structural power in negotiation settings. Drieghe and Trommer, for instance, explore the way in which NGO actors and member states influenced the outcome of the negotiations by shaping the discourses on the ‘development dimension’ in EPA negotiations³⁴. Elgström makes a similar argument, examining among other things show the normative development framework constrained the Commission’s power in these negotiations. This argument is complemented with an analysis of the way in which pressure from the member states and ACP countries forced the Commission to reconsider its rejection of additional financial aid as part of EPA negotiations³⁵. Yet, this thesis is not primarily interested in examining the way in which discourses are used as a source of structural power. This is because the main analytical focus lies on examining the nature of the

³⁰ Tony Heron, "Asymmetric Bargaining and Development Trade-Offs in the CARIFORUM-European Union Economic Partnership Agreement," *Review of International Political Economy*, no. 1 (2010), 1-30; Americo Beviglia Zampetti and Junior Lodge, *The CARIFORUM-EU Economic Partnership Agreement: A Practitioners' Analysis* (Alphen aan den Rijn; Frederick, MD: Kluwer Law International; Sold and distributed in North, Central and South America by Aspen Publishers, 2011); Jessica Byron, "'Singing from the Same Hymn Sheet': Caribbean Diplomacy and the Cotonou Agreement," *Revista Europea De Estudios Latinoamericanos y Del Caribe* 79 (2005); Drieghe, *The European Union's Trade Negotiations with the ACP: Entrapped by its Own Rhetorical Strategy*.

³¹ Silke Trommer, "Activists Beyond Brussels: Transnational NGO Strategies on EU–West African Trade Negotiations," *Globalizations* 8, no. 1 (2011); Ole Elgström, "Trade and Aid? the Negotiated Construction of EU Policy on Economic Partnership Agreements," *International Politics* 46, no. 4 (2009); Ole Elgström and Jess Pilegaard, "Imposed Coherence: Negotiating Economic Partnership Agreements," *Journal of European Integration* 30, no. 3 (2008).

³² Elgström and Pilegaard, *Imposed Coherence: Negotiating Economic Partnership Agreements*, 364.

³³ *Ibid.*, 363.

³⁴ Drieghe, *The European Union's Trade Negotiations with the ACP: Entrapped by its Own Rhetorical Strategy*; Trommer, *Activists Beyond Brussels: Transnational NGO Strategies on EU–West African Trade Negotiations*.

³⁵ Elgström, *Trade and Aid? the Negotiated Construction of EU Policy on Economic Partnership Agreements*.

cooperation problem that prevented the EU and West Africa from overcoming the impasse as a sub-optimal preliminary outcome of strategic interaction. To do so, it becomes above all necessary to reconstruct the strategic situation (or ‘game’) as perceived by the actors. From this perspective, the possibility to use discourses as a source of structural power then becomes part of the analysis of the negotiation strategies that actors chose in a given ‘game’ situation. Yet, authors such as Drieghe, Trommer and Elgström are less interested in examining the nature of the cooperation ‘game’ in EPA negotiations in the first place.

The existing literature on the EPA process hence does not attempt to provide a more comprehensive analytical account of the cooperation problems that prevented the EU and West Africa from avoiding or overcoming the impasse situation as a detrimental (and suboptimal) outcome of the EPA process after more than eight years of negotiations.

2.2 INTERNATIONAL RELATIONS: THE LITERATURE ON INTERNATIONAL COOPERATION

Within the discipline of International Relations, the literature on international cooperation provides the best starting point for examining the cooperation problems that states face. It comprises both rationalist as well as constructivist approaches. None of them, however, provides a fully convincing account of the reasons for the repeated impasse situation in EPA negotiations.

Rationalist Approaches

Within the vast rationalist literature on international cooperation, I review its two main strands: realist and liberal institutionalist approaches³⁶. Given the specific ‘puzzle’ this thesis aims to address, the latter approaches are more suitable. This is because the failure to settle on an agreement is only surprising if we assume that the impasse situation constitutes a sub-optimal outcome that could have been avoided, had the parties acted differently. Realist approaches, however, are not surprised if international negotiations do not end in agreement. The outcomes of international negotiations are seen as reflections of the distribution of power between the actors,

³⁶ Hasenclever, Mayer and Rittberger refer to these strands as ‘power-based’ and ‘interest-based’ approaches; for an overview refer to Andreas Hasenclever, Peter Mayer and Volker Rittberger, *Theories of International Regimes* (Cambridge ; New York: Cambridge University Press, 1997).

rather than the result of individual strategy choices³⁷. This is because they rely on the ontological assumption that states inevitably face zero-sum conflicts of interests³⁸. Mearsheimer prominently claims that states are ‘condemned to perpetual great-power competition’ in a world characterised by anarchy³⁹. It does not seem helpful, however, to suggest that the impasse situation that the actors faced in EPA negotiations was simply an inevitable outcome, especially since a number of mutually beneficial compromise agreements were identified. To the contrary, the puzzle of this thesis starts precisely from the assumption that despite the availability of mutual gains, the EU and West Africa were unable to reach an agreement.

Interest-based rationalist approaches seem much more suitable to examine a wider array of reasons for the failure of states to cooperate. Instead of claiming that states inevitably engage in a struggle for self-help, they assume that international cooperation can be mutually beneficial. Axelrod and Keohane, key rationalist scholars associated with the interest-based approach of liberal institutionalism, stress for instance that ‘despite the reality of anarchy, beneficial forms of international cooperation can be promoted’⁴⁰. Taking this assumption as a starting point, they explicitly deal with the failure of states to cooperate despite the availability of mutual gains. In doing so, they rely on the insights of game theory to examine the conditions under which strategic interaction between self-interested actors might lead to so-called optimal or sub-optimal outcomes.

Interest-based rationalist approaches offer a parsimonious explanation of the emergence of cooperation problems in situations in which mutual gains are available (positive-sum situations): rational, utility-maximising state actors fail to overcome collective action problems⁴¹. Cooperation would leave everybody better off, but given strategic uncertainty about the other side’s behaviour, each actor faces individual

³⁷ On the limited impact of individual states’ strategies in the face of the structural constraints imposed by anarchy see Kenneth Neal Waltz, *Theory of International Politics* (Reading, Mass.: Addison-Wesley Pub. Co., 1979), 107.

³⁸ Hasenclever, Mayer and Rittberger, *Theories of International Regimes*, 106.

³⁹ John J. Mearsheimer, *The Tragedy of Great Power Politics* (New York: Norton, 2001), 2.

⁴⁰ Robert Axelrod and Robert O. Keohane, "Achieving Cooperation Under Anarchy: Strategies and Institutions," in *Neorealism and Neoliberalism: The Contemporary Debate* [Neorealism and neoliberalism: the contemporary debate], ed. David A. Baldwin (New York: Columbia University Press, 1993), 114.

⁴¹ In so-called ‘social dilemma’ situations, rational actors face ‘a clash between what’s good for the individual and for the group’, James M. Jasper, "A Strategic Approach to Collective Action: Looking for Agency in Social-Movement Choices," *Mobilization: An International Quarterly* 9, no. 1 (2004), 3; for an overview of ‘social dilemma’ situations see Peter Kollock, "Social Dilemmas: The Anatomy of Cooperation," *Annual Review of Sociology* 24 (1998).

incentives to defect. This is because defection might increase individual gains, even while being detrimental for maximising common gains⁴². Instead of assuming that the outcomes of negotiations are primarily determined by the anarchical structure of the international system, strategic interaction hence becomes an important factor in the explanation.

These approaches draw on a multitude of different models of strategic situations to capture different types of cooperation problems that states may face in given 'games'⁴³. In the case of international negotiations, rationalist approaches point at bargaining problems (or equilibrium selection problems more generally) as an important reason behind impasse situation⁴⁴. Fearon prominently claims that 'problems of international cooperation typically involve first a bargaining problem'⁴⁵. The existence of multiple ways to realise joint gains potentially leads to distributional conflicts. Disagreement on how to split the gains of cooperation could prevent the cooperating partners from reaching an agreement (a so-called equilibrium outcome)⁴⁶. The resulting bargaining problems are conceptualised as a model of a 'War of Attrition'⁴⁷. In such a situation, both sides attempt to hold out longer than the other side to maximise individual gains. Yet, if they are uncertain about who is more powerful or what the other side's true 'bottom line' or 'resistance point'⁴⁸ is, they might prolong a costly impasse situation. This is because in such a 'game with incomplete information' both sides hold an incentive to bluff and lie about the least

⁴² James K. Sebenius, "Challenging Conventional Explanations of International Cooperation: Negotiation Analysis and the Case of Epistemic Communities," *International Organization* 46, no. 01 (1992), 336.

⁴³ For an overview of different types of cooperation problems see Lisa L. Martin, *Coercive Cooperation: Explaining Multilateral Economic Sanctions* (Princeton, N.J.: Princeton University Press, 1992), 25-30.

⁴⁴ So-called 'Suasion Games' have been previously employed to model North-South negotiations. They highlight how power asymmetries lead to particular cooperation problems. The model of a 'Suasion Game', however, does not seem to capture the impasse situation in EPA negotiations very well. This is because the weaker actor's preferred strategy was not necessarily to cooperate, as manifest in its firm resistance to the EU's proposals, and neither did the EU threaten to 'defect'. Both would be expected to be dominant strategies in a 'Suasion Game', see Alexander Betts, *Protection by Persuasion: International Cooperation in the Refugee Regime* (Ithaca: Cornell University Press, 2009), 33. To the contrary, the strategic situation seemed much close to a positive sum game with elements of distributive bargaining.

⁴⁵ Fearon, *Bargaining, Enforcement, and International Cooperation*, 270; secondly, he points at enforcement problems, which are unlikely to have played an important role in EPA negotiations.

⁴⁶ *Ibid.*, 277; Abhinay Muthoo, *Bargaining Theory with Applications* (New York: Cambridge University Press, 1999), 1; Judith Goldstein and Robert O. Keohane, *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change* (Ithaca: Cornell University Press, 1993), 19.

⁴⁷ Fearon, *Bargaining, Enforcement, and International Cooperation*, 269.

⁴⁸ See Leigh L. Thompson, *The Truth about Negotiations* (Upper Saddle River, N.J.: Pearson Education/FT Press, 2008), 58-59.

favourable deal that they would be prepared to accept (their resistance point)⁴⁹. Yet, uncertainty about the real preferences of the cooperation partner can induce actors to adopt misguided negotiation strategies that lead to sub-optimal outcomes⁵⁰.

Liberal institutionalist approaches and the game-theoretical models they draw upon provide a good first account of the impasse in the EPA negotiation process. The empirical evidence suggests that the bargaining problems associated with a 'War of Attrition' did play a role in the emergence of the impasse situation. Because the EU and West Africa were unaware of the other side's 'true' preferences, they chose sub-optimal negotiating strategies. What they offered was ultimately rejected as being less beneficial compared to existing outside options.

Yet, important shortcomings of such a perspective on the impasse situation remain. Firstly, rationalist approaches do not provide us with a convincing account of the reasons for these misperceptions. Lack of information did not seem to have been the main problem, and both sides' trade policy preferences were generally well-known. Secondly, we are left wondering why neither side was willing to substantially adjust their sub-optimal negotiating positions after finding out that they were based on misperceptions of the other side's preferences. Neither the EU nor the West African side were willing to abandon their demands after the passing of the 2007 deadline – despite the recognition that they were misguided. We would have expected an updating of their negotiating positions according to new information about the other side's 'real' preferences.

The failure to provide us with a more convincing explanation of the way in which both sides' negotiating positions changed (or rather did not change) relates to the limited focus on the intersubjectively constructed nature of the beliefs that inform the actors' perceptions of their environment. Rationalist approaches tell us very little about the way in which negotiating positions are not only reflections of strategic calculations based on given preferences and information about a strategic situation, but might also be shaped by the actors' normative convictions about how to act in the particular contexts in which they are socially embedded. Yet, it seems for instance that the EU's and the West African side's stubborn insistence on opposing negotiating

⁴⁹ Narlikar, *Deadlocks in Multilateral Negotiations: Causes and Solutions*, 8.

⁵⁰ See for instance Amrita Narlikar and Pieter van Houten, "Entering the Zone of Agreement : The United States in Climate Change Negotiations," in *Deadlocks in Multilateral Negotiations: Causes and Solutions*, ed. Amrita Narlikar (Cambridge, UK ; New York: Cambridge University Press, 2010).

positions was precisely related to their convictions about being normatively right and acting on the basis of ‘true’ evaluations about the benefits of cooperation at the trade-development nexus.

Constructivist Approaches

While constructivism does not proclaim to offer a full-fledged theory of international cooperation, it offers a set of methodological assumptions about social explanation that are distinct from rationalist approaches⁵¹. These divergent assumptions have consequences for the way in which we study international cooperation, and how we attempt to understand the cooperation problems that states face. In particular, constructivist approaches put a much greater emphasis on the socially constructed nature of international politics, and the way in which identities and ideas shape the ‘games’ they play. While liberal institutionalists assume that institutions can partially mitigate the forces of anarchy, constructivists claim that ‘anarchy is what states make of it’⁵². Constructivists assume that ‘the rules that others accept as natural –determined by rational reactions to an objectively present material landscape– are in fact socially constructed’⁵³.

Constructivist approaches hence have the potential to give us a different conceptual starting point to explore why cooperation partners might be unable to settle on an equilibrium outcome in a bargaining situation. Firstly, instead of emphasising uncertainty and a lack of information, they point at the processes of social construction that are necessary to establish shared meanings in the first place. This implies that to understand the actors’ subjective expectations about a given cooperation situation, we not only need to assess the information available to the actors, but also the substance of the actors’ ideas and identities which shape their interpretations of the strategic situation. Cooperation problems could hence relate to

⁵¹ For a debate of the differences and similarities of rationalist and constructivist approaches see James D. Fearon and Alexander Wendt, "Rationalism v. Constructivism: A Skeptical View," in *Handbook of International Relations*, eds. Walter Carlsnaes, Beth A. Simmons and Thomas Risse-Kappen (London ; Thousand Oaks, CA: Sage, 2002).

⁵² Alexander Wendt, "Anarchy is what States make of it: The Social Construction of Power Politics," *International Organization* 46, no. 2 (Spring, 1992).

⁵³ Rawi Abdelal, Mark Blyth and Craig Parsons, *Constructing the International Economy* (Ithaca, N.Y.: Cornell University Press, 2010), 18.

the need to establish a shared understanding of the interaction situation in the first place, i.e. the rules of the game⁵⁴.

Secondly, in contrast to rationalist approaches, they put a greater focus on normative driving forces of state behaviour. Constructivists emphasise that when making decisions, actors not only try to strategically 'assess the probability of each consequence occurring and then calculate the expected utility of the alternative courses of action',⁵⁵ but also consider whether or not their choice seems appropriate for a particular identity or given a set of norms and rules⁵⁶. By referring to a 'logic of appropriateness' they also provide us with suggestions about the substance of the normative convictions of states: what state actors regard as appropriate depends on the particular identities they presume to take on in a given situation⁵⁷.

In this way, they direct our attention to the way in which reaching an agreement not only depends on the actors' ability to arrive at shared definitions of the 'games' they play, but also why this might be difficult to achieve. A number of scholars, for instance, examine how divergent normative ideas about fairness prevent actors from establishing a shared focal point around which mutual expectations could converge⁵⁸. Others point at conflicting values or evaluative logics⁵⁹ or the contested meaning of norms⁶⁰ as aspects that can create fundamental conflicts over the interaction situation, in which states find themselves. They hence give us the conceptual tools to inquire

⁵⁴ Thomas Risse, "'Let's Argue!': Communicative Action in World Politics," *International Organization* 54, no. 01 (2000), 13; Wendt highlights along similar lines the constitutive effects of intersubjective understandings establishing cooperation; Alexander Wendt, *Social Theory of International Politics* (Cambridge, UK ; New York: Cambridge University Press, 1999), 160, see also 167.

⁵⁵ Cristina Bicchieri, *The Grammar of Society: The Nature and Dynamics of Social Norms* (New York: Cambridge University Press, 2006), 4.

⁵⁶ Friedrich V. Kratochwil, *Rules, Norms, and Decisions : On the Conditions of Practical and Legal Reasoning in International Relations and Domestic Affairs* (Cambridge Cambridgeshire ; New York: Cambridge University Press, 1989), 11; Wendt, *Social Theory of International Politics*, 336; Hasenclever, Mayer and Rittberger, *Theories of International Regimes*, 136.

⁵⁷ James G. March and Johan P. Olsen, "The Institutional Dynamics of International Political Orders," *International Organization* 52, no. 04 (1998).

⁵⁸ Moore, *Fairness in International Trade: The Case of Economic Partnership Agreements*; Risse, "Let's Argue!": Communicative Action in World Politics;; Cecilia Albin, *Justice and Fairness in International Negotiation* (Cambridge, U.K. ; New York: Cambridge University Press, 2001); Narlikar, *Deadlocks in Multilateral Negotiations: Causes and Solutions*, 320.

⁵⁹ Mathias Koenig-Archibugi, „Global health governance and functional differentiation in world society“, Conference paper, 19-21 October 2009, Munich.

⁶⁰ Antje Wiener, "Contested Meanings of Norms: A Research Framework," *Comparative European Politics* 5, no. 1 (2007); Antje Wiener, *The Invisible Constitution of Politics : Contested Norms and International Encounters* (Cambridge ; New York: Cambridge University Press, 2008).

why actors might lack a shared understanding of the ‘games’ they play, which complicates the bargaining problems that states face.

A constructivist perspective provides valuable insights about the impasse situation in EPA negotiations. The empirical evidence suggests that the EU and West Africa did not only lack information about each other’s preferences. Instead, they interpreted the meaning of the so-called ‘development dimension’ in very different ways. It was noted in the academic literature that ‘[t]he root cause of the controversies is different perspectives on how EPAs are to become tools for Development’⁶¹. Different identity-based conceptions about appropriate behaviour and causal ideas about the trade-development linkage might have informed these divergent perspectives. Constructivist approaches could hence help us to shed light on the way in which the EU’s and West Africa’s misguided negotiating strategies were built on divergent interpretations of the trade-development linkage in the negotiations, rather than merely the level of information available to the actors (and given their conflicting interests).

However, constructivist approaches do not suffice, in that they do not provide a fully convincing account of the cooperation problems the EU and West Africa faced in EPA negotiations. They emphasise that the cooperation problems that states face are ultimately socially constructed, which requires us to uncover the particular rules applicable in a given situation. Yet, they do not systematically assess how the socially contingent nature of the ‘games’ that states play affect strategic interaction. This is because constructivists rarely engage with strategic interaction⁶², and instead tend to focus on the way in which the lack of shared understandings and interpretations about the strategic situation they face affect problem-solving attempts (or genuine argumentation)⁶³. We are hence left wondering in what particular ways divergent interpretations of the ‘development dimension’ led to the repeated impasse situation.

⁶¹ Alavi, Gibbon and Mortensen, *EU-ACP Economic Partnership Agreements (EPAs): Institutional and Substantive Issues*, 88.

⁶² Ian Hurd, “States and Rules, Norms and Interests”, McGill University, Research Group in International Security, Working Paper 26, November 2008; for an exception see Frank Schimmelfennig, “The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the European Union,” *International Organization* 55, no. 01 (2001).

⁶³ IR scholars following a Habermasian tradition argue that shared understandings, or a shared lifeworld, are a necessary condition for engaging in communicative action/problem-solving; see for instance Risse, “*Let’s Argue!*”: *Communicative Action in World Politics*; Nicole Deitelhoff, *Überzeugung in Der Politik : Grundzüge Einer Diskurstheorie Internationalen Regierens* (Frankfurt am Main: Suhrkamp, 2006); Arne Niemann, “Beyond Problem-Solving and Bargaining: Genuine Debate in EU External Trade Negotiations,” *International Negotiation* 11, no. 3 (2006).

One might even claim that while they might have existed, they could have been epiphenomenal to the outcomes of strategic interaction.

One reason for this conceptual shortcoming might be that constructivists mostly tend to analyse the causal effects of norms and ideas on strategic interaction once they become stable⁶⁴. Pointing at the contingency of the ‘games’ that states play, however, implies that the rules of state interaction are inherently unstable. Yet, contested norms are often assumed to have less impact on state action than settled norms⁶⁵. Instead, they point at the mechanisms that allow actors to stabilise their expectations and interpretations of the ‘games’ they play⁶⁶: socialisation⁶⁷, deliberation⁶⁸ or learning⁶⁹. How divergent interpretations of the rules of the game affect strategic state behaviour in a negotiation setting is hence insufficiently addressed⁷⁰. The existing constructivist

⁶⁴ A large strand of the constructivist literature focuses on the causal effects of stable norms. These authors follow a positivist research tradition and intend to establish causal path-ways between norms, understood as collectively held ideas about behaviour, and state actions; see Jeffrey T. Checkel, "Norms, Institutions, and National Identity in Contemporary Europe," *International Studies Quarterly* 43, no. 1 (1999); Ulrich Sedelmeier, "After Conditionality: Post-Accession Compliance with EU Law in East Central Europe," *Journal of European Public Policy* 15, no. 6 (09, 2008); Deitelhoff, *Überzeugung in Der Politik : Grundzüge Einer Diskurstheorie Internationalen Regierens*.

⁶⁵ Annika Bjorkdahl, "Norms in International Relations: Some Conceptual and Methodological Reflections," *Cambridge Review of International Affairs* 15, no. 1 (2002), 20.

⁶⁶ Abdelal, Blyth and Parsons, *Constructing the International Economy*, 18.

⁶⁷ Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* 52, no. 04 (1998); Andrea Liese, *Staaten Am Pranger: Zur Wirkung Internationaler Regime Auf Innerstaatliche Menschenrechtspolitik* (Wiesbaden: VS Verlag, 2006); Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca, N.Y.: Cornell University Press, 1998).

⁶⁸ Risse, "Let's Argue!": *Communicative Action in World Politics*; Deitelhoff, *Überzeugung in Der Politik : Grundzüge Einer Diskurstheorie Internationalen Regierens*; Neta Crawford, *Argument and Change in World Politics: Ethics, Decolonization, and Humanitarian Intervention* (Cambridge, U.K. ; New York: Cambridge University Press, 2002).

⁶⁹ Jeffrey T. Checkel, "Why Comply? Social Learning and European Identity Change," *International Organization* 55, no. 03 (2001); Claudia Hofmann, *Learning in Modern International Society* (Wiesbaden: VS, Verlag für Sozialwissenschaften, 2008).

⁷⁰ Note that constructivists are not totally unresponsive to the effects of divergent rules of the game understandings of cooperation. Wendt emphasises for instance in a side note in *Social Theory of International Politics* (1999) that a lack of shared understandings about the ‘system’, makes cooperation more difficult. He argues that ‘[i]n the system where the dominant state is legitimate, it will be empowered by the community of states to perform the functions of, and thus literally be, a “hegemon.” In the other system, where the dominant state's intentions have a strictly internal basis, other states will attribute to it the identity of “bully” or “imperialist,” and cooperate with its policies only when bludgeoned or bribed’. The actors’ divergent or convergent beliefs about whether ‘hegemonic’ behaviour counts as an acceptable cooperative move hence change the game that actors play. However, under which conditions, and what kind of strategic action dilemmas emerge remains vague. Wendt, *Social Theory of International Politics*, 177; see also Mlada Bukovansky, *Legitimacy and Power Politics: The American and French Revolutions in International Political Culture* (Princeton, N.J.: Princeton University Press, 2002); English School approaches address the way in which the contestation and change of norms has historically affected the nature and ordering principles of the international society of states. Given the school’s focus on macro-level questions of order, it seems less adequate to address the level of interdependent decision-making at the negotiation table. So far, the causal mechanisms behind movement between different types of societies of states,

literature is hence of limited value to conceptualising the kinds of cooperation problems the EU and West Africa faced. Nor do they provide us with the analytical tools to examine how and under which conditions the convergence of interpretations might lead to changes in the actors' negotiating strategies.

This leads to a second major shortcoming that is more empirical in nature: the literature is helpful in pointing out that it is important to analyse decision-making against the context of socially constructed rules of the game. It rarely engages, however, with the socially constructed rules at stake in the case of trade negotiations between developed and developing countries. Issue-area specific constructivist research has so far mainly focussed on inquiring into rules and norms, and the identities and ideas that underpin them, in the policy areas of security⁷¹, human rights⁷², humanitarian intervention,⁷³ Europeanisation⁷⁴ or, recently, economic and

characterised by different normative structures, remains under-theorised; see Martha Finnemore, "Exporting the English School?" *Review of International Studies* 27, no. 03 (2001), 513.

⁷¹ Richard Price, "Reversing the Gun Sights: Transnational Civil Society Targets Land Mines," *International Organization* 52, no. 03 (1998); Nina Tannenwald, "The Nuclear Taboo: The United States and the Normative Basis of Nuclear Non-use," *International Organization* 53, no. 3 (1999); Emanuel Adler and Michael N. Barnett, *Security Communities* (Cambridge, UK ; New York: Cambridge University Press, 1998); Sarah V. Percy, *Mercenaries: The History of a Norm in International Relations* (Oxford ; New York: Oxford University Press, 2007); Alexandra Gheciu, "Security Institutions as Agents of Socialization? NATO and the 'New Europe'," *International Organization* 59, no. 04 (2005).

⁷² Thomas Risse-Kappen, Steve C. Ropp and Kathryn Sikkink, *The Power of Human Rights: International Norms and Domestic Change* (Cambridge ; New York: Cambridge University Press, 1999); Rosemary Foot, *Rights Beyond Borders: The Global Community and the Struggle Over Human Rights in China* (Oxford ; New York: Oxford University Press, 2000); Christian Reus-Smit, "Human Rights and the Social Construction of Sovereignty," *Review of International Studies* 27, no. 04 (2001); Andrew Moravcsik, "The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe," *International Organization* 54, no. 02 (2000); J. Samuel Barkin, "The Evolution of the Constitution of Sovereignty and the Emergence of Human Rights Norms," *Millennium-Journal of International Studies* 27, no. 2 (1998).

⁷³ Martha Finnemore, *The Purpose of Intervention: Changing Beliefs about the use of Force* (Ithaca: Cornell University Press, 2003); Jennifer M. Welsh, *Humanitarian Intervention and International Relations* (Oxford ; New York: Oxford University Press, 2004).

⁷⁴ Jeffrey T. Checkel, *International Institutions and Socialization in Europe* (New York: Cambridge University Press, 2007); Checkel, *Norms, Institutions, and National Identity in Contemporary Europe*; Kevin Featherstone and Claudio M. Radaelli, *The Politics of Europeanization* (Oxford: Oxford University Press, 2003).

financial cooperation⁷⁵. Some constructivist-oriented literature exists on the issue-area of development aid⁷⁶, but none explicitly on the trade-development nexus⁷⁷.

To summarise, the existing literature on international cooperation provides valuable starting points for examining the emergence of impasse situations in the case of EPA negotiations. Interest-based rationalist approaches emphasise how bargaining problems could lead to sub-optimal cooperation outcomes in positive sum situations. Yet, they fall short of providing a fully convincing account of why the actors relied on subjectively divergent expectations, and why they were unwilling to adjust their negotiating positions during the EPA process. Constructivist approaches might therefore provide us with an alternative account of why actors hold misguided expectations about the cooperation situation they face. They point to the way in which identities and ideas shape how actors interpret information, and what actors regard as a 'rational' course of action. They tend to neglect, however, the effects thereof on strategic interaction. We are left wondering precisely how the actors' subjectively divergent interpretations of the 'development dimension' affected the negotiating strategies they adopted during the course of the negotiations, and how they might have contributed to the impasse situation.

⁷⁵ Rodney Bruce Hall, *Central Banking as Global Governance: Constructing Financial Credibility* (Cambridge, UK ; New York: Cambridge University Press, 2008); Abdelal, Blyth and Parsons, *Constructing the International Economy*; Jacqueline Best, *The Limits of Transparency: Ambiguity and the History of International Finance* (Ithaca: Cornell University Press, 2005); Leonard Seabrooke, "Review: Varieties of Economic Constructivism in Political Economy: Uncertain Times Call for Disparate Measures," *Review of International Political Economy* 14, no. 2 (May, 2007).

⁷⁶ Ole Elgström, "Norms, Culture, and Cognitive Patterns in Foreign Aid Negotiations," *Negotiation Journal* 6, no. 2 (1990); Ole Elgström, *Foreign Aid Negotiations: The Swedish-Tanzanian Aid Dialogue* (Aldershot ; Brookfield, Vt., USA: Avebury, 1992); the following book touches upon the norms of good governance in Canada's aid programme, but follows a more policy-oriented research agenda Ngairé Woods, Jennifer M. Welsh and Centre for International Governance Innovation, *Exporting Good Governance: Temptations and Challenges in Canada's Aid Program* (Waterloo, Ont.: Wilfrid Laurier University Press, 2007).

⁷⁷ Brown and Ravenhill touch upon the norms and ideas at the trade-development nexus, but without an explicit constructivist frame of analysis Brown, *Restructuring North-South Relations: ACP-EU Development Co-Operation in a Liberal International Order*; John Ravenhill, *Collective Clientelism: The Lomé Conventions and North-South Relations* (New York: Columbia University Press, 1985); note that within the literature on International Political Economy, there are some notable exceptions that deal with the trade-development nexus from a post-structural perspective; see for instance Donna Lee and Nicola J. Smith, "Small State Discourses in the International Political Economy," *Third World Quarterly* 31, no. 7 (2010); Donna Lee, "Global Trade Governance and the Challenges of African Activism in the Doha Development Agenda Negotiations," *Global Society* 26, no. 1 (2012); Matthew Eagleton-Pierce, *Symbolic Power in the World Trade Organization* (Oxford: Oxford University Press, 2012).

3. The Argument: Playing Different Games in International Politics

This thesis develops the conceptual framework of a ‘Battle over Games’ to help us better understand the impasse situation in EPA negotiations. It highlights how the lack of firmly institutionalised rules of the game in trade negotiations with a ‘development dimension’ gives rise to cooperation problems. This approach relies on a conceptual distinction between the interests that the actors want to pursue in a given interaction situation, and the set of rules (informed by social norms and conventions) that structure strategic interaction. This conceptual distinction allows us to examine how the actors’ interpretations of the games they play (or want to play) shape the negotiating strategies they choose with which to pursue their interests. While partly co-constituted by each other, the rules of the game allow actors to interact in a meaningful way when trying to pursue their self-interests at the negotiating table. They establish shared meanings about what is at stake and how to talk and negotiate about it, all of which stabilise the actors’ expectations about each other’s behaviour and reduce strategic uncertainty.

This approach builds on constructivist ontological assumptions, and emphasises the endogenous nature of the cooperation games states play. It is complementary to rationalist approaches in the sense that it only applies to situations in which the rules of the game are either ambiguous or contested. It does, however, provide a more fundamental challenge to rationalist approaches by questioning the ontological assumptions that they are based upon. It argues that in order to understand the cooperation problems that states face, it might be of greater importance to examine where the rules of the game come from and how they are (re)negotiated, rather than to focus on the strategic dilemmas that emerge in situations in which we assume that they are stable.

The analytical approach of the ‘Battle over Games’ framework departs from conventional rationalist accounts of bargaining processes in two major ways: firstly, subjectively divergent perspectives on the games states play are related to different interpretations of the rules that structure interaction. Instead of emphasising the level of information available to the actors, these interpretations are understood to be dependent upon the actors’ identity conceptions and causal beliefs. It suggests that these interpretations need to be seen against the context of already existing webs of

social norms and conventions, which cannot be reduced to the self-interests of individual states. Secondly, I emphasise that cooperation problems are not necessarily confined to conflicts that could emerge within a given strategic situation, but could derive from implicit or explicit disagreement over what game to play in the first place.

The 'Battle over Games' framework goes beyond the existing constructivist literature by systematising how disagreement over the rules of the game affects strategic interaction. If actors disagree over the fundamental nature of the cooperation game (and are unaware thereof), such divergent interpretations of the rules lead to misguided offers and behaviour, and ill-conceived expectations about the other side's reactions. This could be manifest regarding the three dimensions: actors might hold misguided expectations about 1) possible equilibrium outcomes; 2) rules of interaction; 3) acceptable behaviour. Secondly, normative convictions about which 'game' to play can lead to a hardening of negotiating positions that prolongs bargaining problems.

Applied to the empirical case of EPA negotiations, I argue that the repeated impasse situation can be best captured as a situation in which the EU and West Africa not only pursued conflicting interests, but played different games. I relate the mismatch of expectations about each other's preferences and beliefs in the pre-2007 negotiating period to the actors' divergent interpretations of the rules of the game in trade negotiations with a 'development dimension', rather than to a lack of information. The EU expected EPA negotiations to be above all about negotiating a neo-liberal reform package that would provide economic benefits to both sides. The West African side, to the contrary, assumed that the 'development dimension' would follow from additional financial aid, with the EU holding an obligation to provide help to the poor. As a consequence thereof, the parties made misguided offers to each other and held ill-conceived expectations about the other side's reaction. The impasse situation was hence partly the outcome of sub-optimal strategy choices, rather than merely the actors' conflicting interests as such.

Becoming aware of these different games they were playing did not, however, facilitate overcoming the impasse situation. The persistence of the impasse partly reflected the conflicting interests over how to (re)negotiate the rules of the game: the EU primarily wanted to move away from old historical obligations towards reciprocal trade liberalisation, while the African was above all interested in maintaining the

status quo of preferential market access and patterns of redistribution. To fully understand the stubbornness with which they clung to their positions, however, I argue that we need to take into account the role of normative convictions in a ‘battle over games’. Both sides were strongly convinced that their perspective on the rules of the game was not only based on a more accurate model of development, but moreover reflected a more appropriate vision of the rights and responsibilities in the EU-Africa relationship. The conflict of interests in this way persisted partly because neither party was willing to make a compromise that was regarded as normatively unacceptable, and allegedly based on incorrect assumptions about the effects of trade liberalisation. This led to a hardening of bargaining positions, despite the apparent reluctance of the other side to consider their demands, and helps us to better understand why the EU and West Africa ended up in an impasse situation – an outcome detrimental to both, and desired by none.

4. Methodology

Following the idea of ‘analytical eclecticism’⁷⁸ this thesis attempts to partly integrate an interpretivist analysis with the reliance on the deductively inferred model of a ‘Battle over Games’. The following section elaborates on the sources used, as well as the methodological approach to analyse them.

4.1 SOURCES

This thesis relies on four main sets of sources. Firstly, the existing, mainly rationalist (game-theoretically informed) literature on cooperation problems and strategic interaction has been consulted. Its strengths and weaknesses were assessed. To fill existing gaps in the literature, the conceptual framework has been developed. This thesis, secondly, draws on the analysis of official documents and statements by the EU and West African representatives, such as communications, speeches and quotations in the press. I was able to consult a small number of internal EU documents that were not available to the general public, but were given to me

⁷⁸ Rudra Sil and Peter J. Katzenstein, "Analytic Eclecticism in the Study of World Politics: Reconfiguring Problems and Mechanisms Across Research Traditions," *Perspectives on Politics* 8, no. 02 (2010).

privately. Thirdly, academic and policy-oriented literature and expert opinions on the EPA negotiations were consulted. Fourthly, this thesis is based on 68 semi-structured interviews conducted with EU and West African trade representatives as well as other political representatives, policy experts or civil society representatives involved in the negotiation process of the Economic Partnership Agreements⁷⁹. The interviews were conducted in between 2008 and 2011 in Brussels and Abuja and over the phone⁸⁰. Most interviews were conducted in English, while a small number were carried out in German or French. Interview quotations that are translations will be marked accordingly. The triangulation of qualitative sources, including cross-validation of information and cross-references between interview data and official statements or expert assessments, was used to improve the reliability of the evidence⁸¹.

With regard to the representativeness of the sample, the choice of interviewees was primarily directed at EU and West African government officials involved in the negotiation process of Economic Partnership Agreements. ‘Snowballing’⁸² proved useful to get access to trade representatives in Brussels as well as those based in West African capitals (via phone interviews), as I was able to rely on previous contacts. While ‘snowballing’ runs the risk of selection bias, the final sample seemed sufficiently saturated or complete in the sense that I was able to speak with representatives of different levels⁸³. Problems of limited access were also evident with regard to the people I interviewed. Not all representatives I spoke to were actual negotiators, but served an advisory function. Conducting various rounds of

⁷⁹ See ‘List of Interviews’ in the annex of this thesis for details on the interviewees; note that some interviewees were interviewed twice.

⁸⁰ Interviews conducted in Brussels in July 2008, February 2010 and November 2010. Additional phone interviews were conducted in autumn 2008, January 2009 and October 2011 with capital-based representatives in West Africa. I carried out parts of these interviews within the scope of an Oxford Global Economic Governance (GEG) programme research project for which I worked as a research assistant in 2008/2009. A final round of interviews was carried out in Abuja, Nigeria, in December 2011.

⁸¹ Davies, ‘Spies As Informants: Triangulation and the Interpretation of Elite Interview Data in the Study of the Intelligence and Security Services’, *Politics* 21:1 (2001), 77.

⁸² Fiona Devine, ‘Qualitative Methods,’ in *Theory and Methods in Political Science* (New York: Palgrave Macmillan, 2002), 205.

⁸³ On the requirement of saturation of qualitative research data see Martin W. Bauer and George Gaskell, *Qualitative Researching with Text, Image and Sound: A Practical Handbook* (London: Sage, 2000); On the EU side I spoke with technical desk officers in both DG Development and DG Trade, staff from DG AidCO, one chief negotiator from the European side and civil society representatives; on the West African side I spoke with ambassadors or trade officers based at the countries’ Brussels embassies, trade officials at the ECOWAS Secretariat and Nigerian trade representatives in Abuja, and conducted phone interviews with trade officials at the ministerial level from different West African countries as well as a small number of civil society and private sector representatives.

interviews, however, enabled me to get access to a wide range of trade policy representatives in the EPA negotiation process, including high-level officials.

4.2 METHODOLOGICAL APPROACH

This thesis relies on a combination of three approaches to gather and analyse the data: qualitative interviews, interpretative analysis (narrative analysis and process-tracing), and an explorative case study approach.

4.2.1 *Qualitative Interviews*

Qualitative interviews constitute not only a source for this thesis, but also a key method to acquire knowledge. As Mason highlights, qualitative interviews are an adequate method to explore people's reasoning processes⁸⁴. The technique of interviewing was therefore chosen to be able to reconstruct the actors' interpretations and understandings of the rules of the game. The way in which interviews were conducted and analysed was important for ensuring a methodologically rigorous approach. Interviews were semi-structured, and individual preparation for the interviews helped to contextualise the questions and answers, avoiding a 'one-size-fits-all' approach. As an interviewer, I aimed at giving my respondents space to develop their story of the EPA negotiations, rather than to restrict the interview to pre-defined questions.

Different questioning techniques were used to draw out the actors' interpretation of the EPA cooperation game and the decision-making rationale they based their negotiating strategies upon⁸⁵. For instance, provocative questions tend to entice the actor to justify their approach. I at times confronted West African representatives with the accusation made by some European officials that government officials in West Africa are corrupt and therefore do not care about a beneficial development agreement⁸⁶. Circular questions were used to encourage the interviewees to talk about their subjective understandings of their own side's role in the negotiations. I asked European representatives, for instance, what they think the other side thinks about their behaviour in the negotiations, or the proposals they put on the table. These

⁸⁴ Jennifer Mason, *Qualitative Researching* (London ; Thousand Oaks, Calif.: Sage Publications, 2002), 56.

⁸⁵ Kruse, Jan, Reader „Einführung in die Qualitative Interviewforschung“, Freiburg, October 2009, 69-70.

⁸⁶ I made clear, however, that rather than being my personal view, this was a view that was voiced by interviewees on the other side. I similarly confronted EU officials with the West African side's assertion that they use EPA negotiations primarily to pursue own commercial gains.

techniques were helpful in reconstructing the decision-making rationale both sides relied upon in the EPA process.

4.2.2 *Interpretative Analysis*

Assessing the actors' subjective understandings of the rules of the game, and their embeddedness in the existing web of (conflicting) social norms and conventions, is not amenable to a positivist methodology. King, Keohane and Verba emphasise that research in the tradition of positivism needs to be based on falsifiable empirical propositions and hypotheses⁸⁷. Analysing the actors' game conceptions and their decision-making rationale relies heavily on the researcher's own interpretation, which renders it difficult to falsify propositions objectively. There are no 'wrong' or 'right' perspectives on EPA negotiations that the actors could hold. This thesis consequently endorses a social epistemology that analyses language and interaction processes in an interpretive way⁸⁸. While interpretative methods run the danger of being criticised as relativist, a careful post-positivist methodological approach does not imply that it is impossible to uncover the game conceptions that decision-makers based their claims upon, nor that they do not have observable effects. As argued by Smith, 'the move away from positivism does not mean accepting a less rigorous epistemological warrant for theory'⁸⁹.

To reconstruct the actors' subjective perspective on the EPA process and their decision-making rationale, as well as the corresponding cooperation problem, two methods were chosen: narrative analysis and process-tracing. According to Klotz/Lynch, the analysis of narrative falls under approaches that 'broadly denote[...] methodologies that capture the creation of meanings and accompanying processes of communication'⁹⁰. Actors might not openly expose their understandings of the social norms and conventions at stake or the reasons for their actions. Relying on qualitative, semi-structured interviews as one of the primary sources potentially addresses this challenge. According to Wiener, qualitative interviews 'allow for an insight into the

⁸⁷ Gary King, Robert O. Keohane and Sidney Verba, *Designing Social Inquiry: Scientific Inference in Qualitative Research* (Princeton, N.J.: Princeton University Press, 1994), 37.

⁸⁸ Karin Fierke. 'Constructivism', in Dunne, Tim, Milja Kurki and Steve Smith eds., *International Relations Theories* (Oxford: Oxford University Press, 2007), 182.

⁸⁹ Steve Smith, Ken Booth and Marysia Zalewski, *International Theory: Positivism and Beyond* (New York: Cambridge University Press, 1996), 38.

⁹⁰ Audie Klotz and Cecilia Lynch, *Strategies for Research in Constructivist International Relations* (Armonk, N.Y.: ME Sharpe Inc, 2007), 19.

respective individual's contextualised ... validation of a norm'⁹¹. The 'expressive' use of language, as opposed to the 'informative' and 'directive' use of language is likely to be higher in (anonymous) qualitative interviews than in public statements⁹². The interview data as well as other text-based sources such as official declarations or quotations coded with the support of qualitative research software to allow for a more rigorous analysis of the data (MAXqda). The codes followed partly from the conceptual framework, and were partly developed inductively from aspects that were repeatedly referenced across the texts⁹³. In addition to the empirical material collected for the purpose of this thesis, the existing secondary literature on EPA negotiations is taken into account, insofar as it provides a further assessment of the EU's and West Africa's perspective on the cooperation situation.

This focus on language is complemented by the analysis of the strategies and actions taken by both sides. It does not only matter how the actors describe the game they are in, but also how they act. Process-tracing⁹⁴ hence becomes important to contextualise the analysis of language. Reconstructing the way in which the negotiations unfolded allows us to draw inferences about the nature of the cooperation problem actors faced. Process-tracing moreover allows the research to detect the 'operation of the causal mechanisms at work in a given situation'⁹⁵. It is therefore used to uncover the link between the actors' reasoning-processes and the cooperation problems they faced. The aim is to carefully examine how the actors' interpretations of the rules of the game at the trade-development nexus underpinned negotiation positions, and, in this way, facilitated the impasse reached.

4.2.3 Explorative Case Study

This thesis explores a single-case: the negotiations of Economic Partnership Agreements between the EU and West Africa. The case was selected before the conceptual framework was developed, which does at first sight seem problematic. Yet, as this thesis was not based on a strictly deductive approach, but relied on abduction, going back and forth between deduction and induction was part of the

⁹¹ Wiener, *The Invisible Constitution of Politics : Contested Norms and International Encounters*, 75.

⁹² Ibid., 76.

⁹³ For example, while I started coding according to broad categories such as 'beliefs about other relationship' or 'beliefs about trade liberalisation', the particular codes were developed inductively, such as 'EU as advisor' or 'liberalisation as smart/reasonable concept'.

⁹⁴ Jeffrey Checkel, "Process Tracing," in *Qualitative Methods in International Relations: A Pluralist Guide* (London: Sage, 2008), 116.

⁹⁵ Checkel, *Process Tracing*, 114.

research process⁹⁶. The analytical focus on subjectively different perspectives on EPA negotiations emerged out of the assessment of first empirical findings. The conceptual framework of a ‘Battle over Games’ was hence developed only after I carried out the first rounds of interviews.

An explorative case study approach in this way follows the two-fold rationale of better understanding a particular empirical puzzle, while at the same time allowing us to draw out theoretical arguments that could be of greater general relevance. In the case of EPA negotiations, I explore the so-far understudied linkage between disagreement over the rules of the game and the cooperation problems that emerge during strategic interaction. This methodological approach at the same time limits the potential generalisability of the findings, but increases the explanatory value in the case of EPA negotiations. It seems, however, plausible to assume that the conceptual framework could be relevant for assessing the emergence of cooperation problems in other cases in which the rules of the game are not firmly institutionalised yet.

Regarding the empirical case of EPA negotiations, further narrowing down of the empirical material became necessary. EPA negotiations were conducted between the EU and seven sub-regional groupings on the ACP side. Among the African negotiating regions⁹⁷, West Africa was chosen. This region presented the most coherent African negotiating configuration and the impasse was most pronounced. West Africa as a region was highly critical and so far resisted the ratification of an EPA almost in its entirety – with the exception of Ivory Coast⁹⁸. The analysis of the

⁹⁶ Kornprobst argues that abduction is used by most researchers, even if they claim to have pursued a positivist approach; Corneliu Bjola and Markus Kornprobst, *Arguing Global Governance: Agency, Lifeworld, and Shared Reasons* (Milton Park, Abingdon, Oxon ; New York: Routledge, 2010), 96; Friedrichs and Kratochwil (2009) similarly depict the ‘organized hypocrisy’ of positivist approaches, claiming that ‘[e]verybody knows, but nobody recognizes openly, that no one actually follows the stylized steps of hypothesis formulation, testing, and so on.’; Jörg Friedrichs and Friedrich Kratochwil, "On Acting and Knowing: How Pragmatism can Advance International Relations Research and Methodology," *International Organization* 63, no. 04 (2009), 710.

⁹⁷ The Caribbean and the Pacific negotiating group were excluded from the start. The Caribbean countries were the only region to conclude a regional comprehensive EPA agreement. The Pacific countries were excluded from the analysis because EPAs featured comparatively low on the political agenda, given the much more important trade and development relationship with Australia and New Zealand.

⁹⁸ Ivory Coast signed an interim EPA because – as a non-LDC country- it faced the immediate threat of losing duty free quote free market access to the EU. LDC countries could rely on the ‘Everything But Arms’ trading scheme as a temporary alternative to EPAs. In line with the ECOWAS region, Ivory Coast so far refused to sign a comprehensive EPA agreement. The other two non-LDC countries of the region are Ghana and Nigeria. Ghana initialled an EPA agreement, but has refused to sign it since. Nigeria, which relies mainly on oil, has neither initialled nor signed an EPA agreement. Negotiations continue on a regional level (state of play as of December 2012).

negotiations process was restricted to the negotiation period up to November 2010. At that point in time, the African Union issued the Kigali Declaration on EPAs, which marked an important low-point in the negotiations after the originally stipulated 2007 deadline. The Kigali Declaration, concluded shortly before the Africa-EU Summit, was highly critical of the EPA process and constituted a setback for the European negotiators.

4.3 METHODOLOGICAL OBSTACLES

This thesis faces several methodological challenges. Firstly, it aims to uncover pre-given issue-area specific rules of the game understandings that actors can draw upon when establishing their conceptions of the trade/development game. At the same time, the rules of the game, i.e. the social norms and conventions that shape the games that states play, are understood to be socially constructed by the actors. The dual nature of the rules of the game— both constitutive and socially constructed – therefore poses a challenge to the researcher that cannot easily be resolved. Without attempting to delve into the discussions of the mutually constitutive nature of structure and agency, this thesis adopts a pragmatic approach. It conceptualises issue-area game conceptions as semiautonomous realities –without claiming that they exist independent of agency– while granting the actors some leeway in interpreting them⁹⁹. If assessing longer periods of time, it might be more feasible to conceptualise issue-area specific game conceptions as historically contingent dependent variables, tracing the way in which conceptions of the rules of the game changed.

A second methodological challenge results from the fact that it is difficult to disentangle whether actors strategically appeal to different social norms or conventions or genuinely believe that their view is more ‘appropriate’ or ‘right’. As Fierke claims, ‘we cannot go into people’s minds’, and hence are unable to assess true motives¹⁰⁰. What actors say may not correspond to what they think. Assessing the congruence between rhetoric and behaviour, as well as the consistency of decision-making, however, enables researches to make at least tentative inferences about the motives actors relied upon. Counterfactual analysis, moreover, provides a helpful

⁹⁹ For a similar approach on ‘international political culture’ see Bukovansky, *Legitimacy and Power Politics: The American and French Revolutions in International Political Culture*, 55; on the dual quality of norms see Antje Wiener, "Constructivism: The Limits of Bridging Gaps," *Journal of International Relations & Development* 6, no. 3 (09, 2003), 267.

¹⁰⁰ Fierke, *Constructivism*, 176.

analytical tool to examine the plausibility of assumptions about the actors' decision-making rationale and interpretation of the cooperation situation.

Thirdly, an interpretative approach is necessarily subjective to some extent. Yet, the same seems to hold true for any research undertaken in the social sciences. As argued by Smith, Booth and Zalewski: 'to describe what we experience we have to use concepts, and these are not dictated by what we observe. There is no way of describing experience independently of its interpretation'¹⁰¹. A certain bias thus seems to be inherent to conducting research in the social sciences. To counteract this bias, it is important to spell out clearly the methodological and analytical approach adopted to make the findings intersubjectively understandable. Moreover, it seems important to make the researcher's approach transparent, rather than to hide inevitable biases behind the presumption of scientific objectivity. I became interested in the case of EPA negotiations because of a longstanding concern for questions of North-South cooperation. In the EPA case, I was puzzled by the apparent failure of both sides to reach an agreement. The aim behind this research is to make both sides' misguided assumptions behind their strategy choices more transparent, rather than to finger-point at who is responsible for the impasse. Doing so hopefully highlights some of the structural challenges associated with North-South trade cooperation. Aiming to uncover part of the 'bigger picture' is a requirement for a critical engagement with cooperation between so-called 'developed' and 'developing' countries that goes beyond the single case of EPA negotiations.

A final methodological challenge I encountered resulted from being European myself, which at times seemed to have affected the relationship with the interviewees. Some of the European representatives were more likely than their West African counterparts to share confidential information with me, possibly due to a higher degree of identification or trust. In some interviews with representatives from the West African side, on the contrary, I had the feeling that I was addressed as somebody who was part of 'the other side', or could somehow influence the EU's negotiation position. Demands for aid were voiced as if there was a need to justify them before me. While indicative of the power asymmetries that exist between the negotiation parties, I always emphasised that the purpose of the interview was academic in

¹⁰¹ Smith, Booth and Zalewski, *International Theory: Positivism and Beyond*, 20.

nature¹⁰², while the interviews would be treated with confidentiality. In most cases, I therefore did not feel that I was primarily addressed as being European, but as a PhD student trying to collect data on the negotiations.

5. Outline of the Thesis Structure

Following this introduction, chapter two develops the conceptual framework of the thesis. It clarifies what is meant by ‘games’ in International Relations and develops the model of a ‘Battle over Games’ to conceptualise the linkage between playing different games and the cooperation problems that emerge at the level of strategic interaction.

Chapter three examines the particular characteristics of the impasse situation as the preliminary outcome of the negotiations process, including the major points of disagreement, and its persistence over time. It moreover explores the puzzle of this thesis in more detail. I argue that the impasse was a sub-optimal and evitable outcome that cannot be reduced to a given set of conflicting interests. Instead, the repeated impasse situation was partly the result of the (misguided) negotiating strategies, which both sides chose in order to pursue their conflicting interests. To fully understand the impasse, it, therefore, becomes necessary to turn to the analysis of the negotiation process and strategic interaction.

Chapter four lays the groundwork for the empirical argument developed in this thesis. It examines the context of the pre-existing sets of rules that were likely to shape the actors’ interpretations of the rules of the game in the case of EPA negotiations. In doing so I, firstly, assess the legal context of EPA negotiations, and argue that the rules were not firmly institutionalised. Against this background, I examine the existing sets of social norms and conventions that could have informed the actors’ interpretations of the rules of the game in EPA negotiations. In particular, I disentangle the tensions and ambiguities at the level of the rules of the game that

¹⁰² Note that my intention behind pointing out my academic interest in the negotiation process does not preclude a political dimension. To the contrary, every research project is political in the sense that the researcher has to choose a subject and the purposes to which analysis is put. While individual research projects rarely affect the realm of politics, the aggregate production of knowledge potentially shapes social relations as a social and discursive activity, repositioning and potentially challenging existing discourses that structure social relations.

followed from the issue-area linkage of trade and development cooperation. Finally, I briefly highlight and contrast the EU's and the West African side's interpretations of the rules of the game, which, as I will show, were indeed divergent. This provides the background for examining in the two consecutive chapters how 'playing different games' underpinned the impasse situation.

Chapter five examines the negotiation phase 2002-2007, and aims to better understand why the impasse situation emerged by the end of 2007. I argue that it can be best understood if we examine the actors' negotiating strategies against the context of their subjectively held understandings of the rules of the game. Not only did they play different games, they were also largely unaware of that fact. The mismatch between both sides' perspectives is related to the actors' divergent interpretations of the trade-development linkage and the roles they take on, rather than a lack of information. In this way, the chapter illustrates how implicit disagreement over the 'EPA game' aggravated the bargaining between the cooperation partners.

Chapter six examines the persistence of the impasse that characterised the negotiation period 2008-2010. The EU and West Africa became aware of the subjective and divergent meanings they attributed to the rules of the game in the EPA process. The persistence of the impasse is related to the actors' inability to agree on which sets of rules ought to apply in the EPA negotiations. Both sides were unwilling to change their negotiating positions because they were driven by the strong normative convictions that their understanding of the 'game' was more accurate and normatively right. In this way, the chapter highlights how explicit disagreement over which game to play can increase opposition to cooperation.

A summary of the overall findings and argument is presented in the conclusion. After addressing limitations and preconditions of the research presented, theoretical and policy implications are discussed.

2 Playing Different Games in International Politics

This chapter develops a framework to conceptualise the idea that playing different games leads to cooperation problems during inter-state negotiations. It engages with the existing game theory-informed literature on strategic interaction, and points at ways in which it needs to be supplemented to account for situations in which the rules of the game are ambiguous or contested. The application of game theory to international cooperation was highly innovative because it located cooperation failure at the level of strategic interaction, and offered a compelling account of sub-optimal outcomes of international negotiations. Strategic uncertainty undermines the emergence of stable expectations about the other side's behaviour, and incentivises sub-optimal strategy choices. Given that the other side might not live up to its promise to cooperate, states face the incentive to defect, thereby forfeiting the potential gains from cooperation.

This chapter, on the contrary, draws attention to a different source of cooperation problems: what happens if actors interpret the rules that are applicable in a given situation in different ways? In cases of weakly institutionalised interaction situations, cooperation problems are not necessarily confined to conflicts that could emerge within a given strategic situation, but they are in essence conflicts that derive from disagreement over what game to play in the first place. If actors disagree on what game to play, cooperation problems do not follow from the strategic dilemma inherent to a given game, but strategic dilemmas relate to the different games the actors expect to be playing or want to play. Moreover, conflict might arise over what game to play in the first place. In situations in which the rules of the game are ambiguous or contested, we need to supplement conventional rationalist approaches with an approach that pays greater attention to the actors' normative convictions about 'true' and 'right' behaviour. Divergent identity conceptions and belief systems might lead to conflicts over values and knowledge that could prevent the actors from reaching an agreement. It draws our attention to the actors' understandings of which rules should apply, rather than merely to what the actors' preferences are within a pre-structured cooperation situation.

It is structured around four main sections. The first section defines the main terms used in this conceptual framework chapter. The second section reviews the game-theoretical approach and points at shortcomings of its understanding of cooperation problems in situations characterised by ambiguous or contested rules of the game. The third section develops a general conceptual framework, while the fourth provides an operationalisation of the approach.

1. Definitions: the ‘Games’ States Play

1.1 ‘GAMES’ IN INTERNATIONAL POLITICS

The Oxford Dictionary defines a game as ‘specifying a certain activity associated with play (as opposed to a general activity performed playfully) which is contextualized and structured according to certain rules and social conventions (and typically, goals and winners)’¹. Within the context of the scientific study of International Relations (IR), *games* are not associated with ‘playful activity’, but with strategic interaction in specific issue-areas such as security, trade or humanitarian cooperation. These ‘games’ not only depend on the interests the states pursue, but also on a set of formal and informal rules that structure their interaction in a given issue-area. When using the term ‘game’ this thesis therefore refers to the empirical reality of the rules that structure strategic interaction between states, in particular issue-areas. International cooperation is hence not only influenced by the interests of states, but also by the particular institutionalisation of the interaction context, which might change over time. The rules for playing a ‘security game’ in Europe, for instance, have changed considerably over the course of the past centuries. To understand international cooperation between states it is hence important to take into account the sets of rules that provide the context for and define the ‘games’ they play in particular issue-areas.

¹ Oxford Dictionary of Media and Communications, Online access, <http://www.oxfordreference.com/views/ENTRY.html?entry=t326.e1073&srn=11&ssid=1047893032#FIRSTHIT>.

1.2 THE 'RULES OF THE GAME'

When arguing that states play different 'games', this thesis does not merely imply that they hold different interests, but that they act according to a different set of rules they deem to be applicable in a given situation. At a given moment in time the rules of the game allow actors to interact in a meaningful way when trying to pursue their self-interests at the negotiating table. Common knowledge and mutual acceptance of the rules of the game allow actors to create stable expectations about each other's behaviour – a precondition for cooperation to emerge under the condition of 'anarchy' that characterises international politics². The interests that the actors want to pursue in a given interaction situation are hence differentiated from the set of rules that structure strategic interaction³.

What precisely are the elements of the 'rules of the game' this thesis refers to? Game-theoretical scholars often define the substance of the empirically existing 'rules of the game' according to the elements of the conceptual models they use⁴, which emphasises the static elements of the game. In game theory 'a game is defined as a triplet composed of a set of players, a set of strategies for each player, and a set of payoffs for each player'⁵. Game theory scholars do, however, also refer to procedural elements of the 'rules of the game'. They are understood to define the sequence of play, i.e. the rules of interaction⁶.

This thesis understands the rules of the game both in terms of the basic definition of the issue-area at stake (policy-level) and the rules of interaction (procedural level) (see table 1). It builds on the understanding of Binmore who argues that, at a given point in time, the rules of the game tell us '*who* can do *what* and *when* they can do it. They must also indicate who gets *how much* when the game is over'⁷. It does, however, rely on a more comprehensive account of the rules at the procedural level, which are not only understood to relate to the sequence of play ('when they can do

² See for instance Robert Axelrod and Robert O. Keohane, "Achieving Cooperation Under Anarchy: Strategies and Institutions," in *Neorealism and Neoliberalism: The Contemporary Debate*, ed. David A. Baldwin (New York: Columbia University Press, 1993).

³ For more about the relationship between rules and interests see section 3.1 on ontological assumptions of the conceptual framework developed in this chapter.

⁴ See for instance John C. Harsanyi, "Games with Incomplete Information Played by "Bayesian" Players, I-III," *Management Science* 50 (12/02, 2004), 1806; on the 'normal form' representation see also section 2.1.

⁵ George Tsebelis, *Nested Games: Rational Choice in Comparative Politics* (Berkeley: University of California Press, 1990), 93.

⁶ *Ibid.*, 93.

⁷ K. G. Binmore, *Fun and Games: A Text on Game Theory* (Lexington, Mass.: D.C. Heath, 1992), 25.

it'), but also *how* they can do it. Two aspects are singled out in this regard: the coordination principles such as reciprocity or asymmetry that define the terms of bargaining, and the 'mode of interaction'. The latter refers to kinds of bargaining approaches that the actors adopt in a given 'game', most commonly differentiated according to integrative problem-solving and distributive bargaining⁸. Distributive bargaining is driven by the aim to make others comply with one's demands to increase one's own benefits⁹. Integrative problem-solving 'subordinates strategies and tactics to the process of identifying possible solutions'¹⁰ and is associated with a 'joint search for better overall solution'¹¹.

<p>Basic elements of issue-area (policy level)</p> <p>How to play the game (procedural level)</p>	<p>How the rules of the game define the conditions for strategic interaction</p> <p>'Players': who counts as a player? 'Set of moves': what can they do? 'Payoffs': what can they expect to gain? Mode of interaction: how do they interact? Coordination principles: what are the terms of exchange?</p>
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Table 1 – The Elements and Dimensions of the 'Rules of the Game'

Important, but not all, aspects of the definition of the rules of the game are understood to be shaped by social norms and conventions. Social norms define and prescribe what appropriate and hence acceptable behaviour looks like in a given situation, which, according to Bicchieri, might 'go against narrow self-interest, as when we are required to cooperate, reciprocate, act fairly'¹². Gintis claims for instance that in situations with multiple equilibrium outcomes 'appropriate correlating devices

⁸ Andreas Warntjen, *Between Bargaining and Deliberation: Decision-Making in the Council of the European Union*, Vol. 17 (London: Routledge, 2010), 667; Arne Niemann, "Beyond Problem-Solving and Bargaining: Genuine Debate in EU External Trade Negotiations," *International Negotiation* 11, no. 3 (2006); Thomas Risse, "'Let's Argue!': Communicative Action in World Politics," *International Organization* 54, no. 01 (2000); note that authors such as Risse use slightly different terms, such as 'arguing' instead of 'problem-solving'.

⁹ Christine Reh, "Consensus, Compromise and 'inclusive Agreement'," in *Arguing Global Governance: Agency, Lifeworld and Shared Reasoning*, eds. Corneliu Bjola and Markus Kornprobst (Milton Park, Abingdon, Oxon ; New York: Routledge, 2010), 186.

¹⁰ Carrie Menkel-Meadow, "Toward another View of Legal Negotiation: The Structure of Problem Solving," *UCLA Law Review* 31 (1983), 794.

¹¹ Risse, *'Let's Argue!': Communicative Action in World Politics*, 21.

¹² Cristina Bicchieri, *The Grammar of Society: The Nature and Dynamics of Social Norms* (New York: Cambridge University Press, 2006), 2.

may be broadly identified with social norms¹³. Conventions are customary patterns of behaviour that help states to coordinate their interaction, but do not have a normative component. According to Peter and Spiekermann they solve ‘coordination problems by fixing expectations about people’s behaviour’¹⁴. They are hence mainly important in clarifying the procedural aspects of the rules of the game, rather than the definition of the basic issue-area.

2. Rationalist Perspectives on the Games States Play

Game theory offers the most common use of ‘games’ as conceptual tools in International Relations. It is a theory in the sense that it relies on deductively arrived at expectations about the logical structure of different ‘games’ that states engage in. I argue in this section that while they offer powerful tools to help us better understand the cooperation problems, which states face within highly institutionalised interaction situations, they are less adequate to conceptualise interaction situations in which actors disagree over which game they play. In the following, I firstly review the analytical approach of game-theoretical explanations in order, secondly, to make the argument that they inadequately capture interaction situations in which disagreement over which game to play follows from indeterminate rules, and the social norms and conventions that underpin them.

2.1 GAME-THEORETICAL EXPLANATIONS: COOPERATION PROBLEMS WITHIN GAMES

At the core of game-theoretical explanations are models of the games states play, which are usually represented in the so-called normal or extensive form¹⁵. Normal form representations constitute one of the very basic tools of game theory, which are referred to in the following description of the explanatory logic of game-theoretical tools. These game-theoretical models are used to expose the social dilemmas inherent

¹³ Herbert Gintis, *The Bounds of Reason: Game Theory and the Unification of the Behavioral Sciences* (Princeton, N.J.: Princeton University Press, 2009), 248.

¹⁴ Fabienne Peter and Kai Spiekermann, "Rules, Norms and Commitments," in *The SAGE Handbook of the Philosophy of Social Sciences*, eds. Ian C. Jarvie and Jesus Zamora-Bonilla (London: SAGE Publications Limited, 2011), 218.

¹⁵ While the normal form refers to models most commonly depicted as matrixes, the extensive form is depicted as a ‘tree’, with the nodes representing decision points for one of the players. The extensive form captures decision-making over time, while the normal form focuses on analysing the logic of a given situation of strategic interaction.

to particular types of interaction situations, rather than to describe empirical cases¹⁶. They therefore provide a conceptual tool to analyse the kinds of cooperation problems that could emerge in different types of given strategic situations.

Game-theoretical models are often depicted in 2x2 matrixes, comprising two possible moves and a set of payoffs for each player for each possible combination of choices. Different models are needed to explain empirical cases across issue-areas, which usually engender particular types of collective action problems. Game theoretical scholars have developed a number of specific models of strategic interaction situations, such as the ‘Prisoners’ Dilemma’ or the ‘Ultimatum Game’. These 2x2 models are called the strategic form of the game (see figure 1 for the example of a game-theoretical model of the ‘Prisoners’ Dilemma’). Game-theoretical scholars often equate the ‘rules of the game’ with the ‘normal form’ representation of a game¹⁷. These models capture the number of players, the available strategies and payoffs associated with the different possible outcomes in a given strategic situation. Strategies are thereby understood to refer to ‘a plan of action’ or ‘a recipe specifying a particular course of action to be taken throughout, covering every contingency that may arise as the game unfolds’, thereby comprising the various ‘moves’ actors could make at different points of interaction¹⁸.

		PLAYER II	
		defect	cooperate
PLAYER I	defect	2;2	4;0
	cooperate	0;4	3;3

Figure 1 – Model of the Prisoners’ Dilemma (adopted from Gibbons 1992)¹⁹

The explanatory power of game-theoretical models relies on a two-step approach: the analyst needs, in the first step, to examine inductively the context of decision-making that state actors find themselves in (often referred to as the ‘game structure’ or the ‘rules of the game’²⁰). Once the initial fit between the empirical reality and the

¹⁶ Binmore, *Fun and Games: A Text on Game Theory*, 4.

¹⁷ See for instance Harsanyi, *Games with Incomplete Information Played by "Bayesian" Players, I-III*, 1806.

¹⁸ Peter G. Bennett, "Modelling Decisions in International Relations: Game Theory and Beyond," *Mershon International Studies Review* 39, no. 1 (1995), 490.

¹⁹ Robert Gibbons, *A Primer in Game Theory* (Harlow; London: Pearson Education, 1992), 90.

²⁰ Hasanyi, for instance, uses the terms ‘rules of the game’ and the ‘normal form’ of the game structure interchangeably; see Harsanyi, *Games with Incomplete Information Played by "Bayesian" Players, I-III*, 1806.

model is established, game models allow the researcher, in a second step, to make predictions based on the logical relationship between the properties of the model. The prescriptive force of these models follows from its 'formal logic that is both deductive and internal'²¹. To analyse the strategic form captured in these different models, game theory relies on a particular set of theoretical assumptions, most notably the assumptions of rationality and common knowledge²². The rationality assumption implies 'that states pursue goals, but those goals are not specified'²³. To pursue these goals, actors are assumed to rely on instrumental rationality. The latter refers to the assumption that the rules of the game, or game structure, is given to the actors:

'there exists a predetermined set of strategies and associated payoffs, which are common knowledge among all the players. ... Each player knows exactly what finite number of strategies are available to him or her and to the other players, and vice versa, and they all know what payoffs are associated with the interaction of different strategies'²⁴.

Schoppa notes, for instance, that rationalist approaches to international cooperation 'prefer to view the material and social context in which actors operate as an exogenous given, an assumption that facilitates model building and empirical 'testing''²⁵. As argued by Snidal, 'the international system, with its *established patterns* of practice and rules, is significant for defining the individual game model' (emphasis added)²⁶.

The theoretical ideas that underpin game theory are important for their explanations because they allow the analyst to make assumptions about what each actor expects to be a rational strategy in a given strategic situation. This leads to an important conceptual move that underpins game-theoretical explanations: they differentiate between so-called 'first-order' and 'second-order' beliefs of the actors (see table 2). First-order beliefs refer to the actors' own beliefs about the strategic situation, while second-order beliefs are the actors' beliefs about the other actors'

²¹ Duncan Snidal, "The Game Theory of International Politics," *World Politics* 38, no. 1 (Oct., 1985), 33.

²² See for instance Andrew M. Colman, "Cooperation, Psychological Game Theory, and Limitations of Rationality in Social Interaction," *Behavioral and Brain Sciences* 26, no. 02 (2003); Gintis, *The Bounds of Reason: Game Theory and the Unification of the Behavioral Sciences*, 145.

²³ Snidal, *The Game Theory of International Politics*, 40.

²⁴ Howard Raiffa, John Richardson and David Metcalfe, *Negotiation Analysis: The Science and Art of Collaborative Decision Making* (Cambridge, Mass.: Belknap Press of Harvard University Press, 2002), 83.

²⁵ L. J. Schoppa, "The Social Context in Coercive International Bargaining," *International Organization* 53, no. 02 (2003), 317.

²⁶ Snidal, *The Game Theory of International Politics*, 45.

beliefs about the cooperation situation – including its intentions and expectations about prospective actions of others²⁷. The analyst is able to model the actors’ expectations about the strategic situation with reference to the assumptions of actor rationality and common knowledge about the rules of the game.

Game-theoretical scholars hence deductively infer the combination of strategies that the actors are most likely to choose when taking into account the actors’ expectations about the other side’s behaviour (based on second-order beliefs). In this way, they explain why we can expect actors to settle on a so-called ‘Nash equilibrium’ if it exists in a given interaction situation. What game-theoretical scholars refer to as ‘Nash equilibrium’ is a cooperation outcome ‘in which no individual player can achieve a better outcome by changing strategy as long as all other players’ choices are held constant’²⁸.

As summarised by Bicchieri and Dalla Chiara:

‘a traditional argument for the predictive significance of Nash equilibria asserts that a virtual process of reflection about what other rational players should expect, and accordingly should do, will converge to an equilibrium, so that rational agents who understand the game and think it through thoroughly before choosing their action should play in this way, even if the game is played only once’²⁹.

First-order beliefs	the actors’ own beliefs about the strategic situation
Second-order beliefs	the actors’ beliefs about the other actors’ beliefs about the strategic situation

Table 2 – First- and Second-Order Beliefs in Game Theory

This is an important conceptual move because it introduces paying attention to the strategic dimension of state interaction: rational egoists are only willing to cooperate if they anticipate that the other side will not exploit their cooperative, rather than conflictive, behaviour. A basic game-theoretical argument is that states need to hold stable expectations about the other side’s behaviour to be able to maximise their payoffs in a given interaction situation (i.e. to settle on an optimal equilibrium

²⁷ See for instance Gintis, *The Bounds of Reason: Game Theory and the Unification of the Behavioral Sciences*, 140.

²⁸ Bennett, *Modelling Decisions in International Relations: Game Theory and Beyond*, 23.

²⁹ Cristina Bicchieri and Maria Luisa Dalla Chiara, *Knowledge, Belief, and Strategic Interaction* (Cambridge ; New York, NY, USA: Cambridge University Press, 1992), 413, vii.

outcome). Such explanations hence regard strategic uncertainty as the main obstacle to international cooperation³⁰.

Relying on ‘games’ as analytical tools in this way helps us to understand under which conditions and how self-interested actors are able to achieve cooperation. It relies on the simple idea that we need to model states’ expected expectations about the other side’s behaviour in a given interaction situation in order to understand how cooperation problems and their solutions arise. The rationality and common knowledge assumptions, however, introduce a bias towards examining the cooperation problems that might arise in situation in which the rules of the game are unambiguously given to the actors. This thesis, however, is interested in examining the cooperation problems that do not arise within given games, but when actors need to reach an agreement over which game to play in the first place. As argued by Kratochwil: ‘many social situations are not so clearly structured as games, but they have to be enacted; that is, which set of rules applies in a concrete case is part of the transaction of mutual sense-making among actors’³¹. Before developing the conceptual framework of a ‘Battle over Games’ that this thesis relies upon, I briefly discuss why game theory offers inadequate conceptual tools to capture cooperation situations in which actors disagree over which rules of the game ought to apply.

2.2 CONCEPTUAL BIASES

Game-theoretical approaches provide the most sophisticated set of conceptual tools to analyse strategic interaction between states. The ability of game theory to explain the outcomes of state interaction with reference to abstract theoretically informed models is, however, its greatest strength and at the same time its weakness. It allows us to use ‘games’ as conceptual tools in a way that facilitates the generation of hypotheses about the kind of cooperation problems we expect to be pertinent in different types of interaction situations. However, it also reduces any explanation of interaction situations that can be adequately captured within a single game-theoretical

³⁰ Note that sociologists have long pointed at the importance of stable expectations about others’ behaviour as a prerequisite for cooperation, or social order more generally, to arise among presumably self-interested actors; see for instance Michael Hechter and Christine Horne, *Theories of Social Order: A Reader* (Stanford, Calif.: Stanford Social Sciences, 2003), 29.

³¹ Friedrich Kratochwil, "How do Norms Matter?" in *The Role of Law in International Politics: Essays in International Relations and International Law*, ed. Michael Byers (Oxford: Oxford University Press, 2000), 101.

model³². As I argue in the following, this explanatory approach leads to two major biases when it comes to examining interactions in which actors disagree at a fundamental level about the rules of the game that ought to apply: they tend to treat the actors' beliefs about the games they play as a function of the information available to them, rather than as the result of the 'messy' social processes needed to arrive at shared and stable definitions in the first place. Moreover, the emphasis on collective action problems rather than the value and belief conflicts that might prevent actors from reaching agreement on the 'games' they want to play in the first place.

Firstly, even if game-theoretical scholars tend to assume that the rules of the game are common knowledge, they are able to incorporate subjectively divergent perspectives of the cooperation situation into their models. Yet, they make use of limited conceptual tools in doing so. Game theory predominately relies on so-called models of 'games with incomplete information' to capture situations in which state actors might hold subjectively divergent expectations about the game they play³³. The emphasis on information follows from the reliance on formal models of cooperation. In order to be able to draw a single model of the interaction situation, the analyst must be able to plausibly assume that the cooperation situation itself (including the rules of the game) is exogenous to the actors' beliefs thereof. To make this plausible, game-theoretical scholars tend to rely on the assumption that actors hold so-called 'common prior beliefs'. This conceptual move allows the analyst to reduce different perceptions of the cooperation situation to a lack of information. As Harsanyi argues, rational agents should arrive at the same assessment if they have the same information³⁴.

³² Note that even 'softer' rationalist approaches that rely less heavily on the formal models developed by game theory oftentimes build their arguments on the 'hard' formalisation that stands behind it, see Duncan Snidal, "Rational Choice and International Relations," in *Handbook of International Relations*, eds. Walter Carlsnaes, Beth A. Simmons and Thomas Risse-Kappen (London ; Thousand Oaks, CA: Sage, 2002), 76.

³³ Note that it is also possible to relate subjectively divergent assumptions about the games states play to the existence of heuristic biases rather than incomplete information, see for instance Amos Tversky and Daniel Kahneman, "The Framing of Decisions and the Psychology of Choice," *Science* 211, no. 4481 (January 30, 1981), 453-458. These approaches do, however, rely on the similar assumption that subjectively divergent understandings of the game relate to divergent perceptions of an actor-independent reality rather than different interpretations of the socially contingent norms and conventions that shape the game they play in the first place. They are therefore not explicitly considered within the limited scope of this thesis.

³⁴ Quoted in Brian C. Rathbun, "Uncertain about Uncertainty: Understanding the Multiple Meanings of a Crucial Concept in International Relations Theory," *International Studies Quarterly* 51, no. 3 (2007), 537.

Modelling strategic interaction as a single and unambiguous 'game' with incomplete information, however, does not leave room for the way in which divergent interpretations of the games states play may lead to different expectations about an interaction situation³⁵. On the contrary, game-theoretical analysts assume that actors hold probabilistic knowledge of the games they play even if they lack full information³⁶. Because actors are assumed to hold so-called 'common prior beliefs', they can calculate the likelihood of playing a particular type of game even if they lack full information thereof. Harsanyi prominently states that 'if two rational agents have the same information about an uncertain event, then they should have the same beliefs about its likely outcome'³⁷.

Yet, in situations in which the games played by states are not clearly structured, with the rules of the game subject to ambiguity or explicit (re)negotiation, actors might interpret the situation they face in a different way even if they receive the same information. The lack of common knowledge about the rules of the game might be influenced by the lack of shared attributions of meaning rather than the availability of information about the rules of the game. The problem is whether or not something counts as a cooperative move, and not how much information the actors hold about an uncertain event. Game-theoretical models, therefore, do not provide us with the adequate conceptual tools to capture an interaction situation in which it is unclear or ambiguous how states define the rules of the game in the first place.

Secondly, if we want to analyse interaction situations in which the rules of the game (and the social norms and conventions that underpin them) are subject to (re)negotiation, the cooperation problems faced by states are likely to be related to normative considerations. This is because the kind of game to play holds distributional consequences that touch upon normative values such as fairness or justice, and causal beliefs about the effects of playing different possible games. Yet, as previously argued, game-theoretical models encourage a bias towards examining

³⁵ See for instance James D. Morrow, "Modeling the Forms of International Cooperation: Distribution Versus Information," *International Organization* 48, no. 3 (Summer, 1994), 409.

³⁶ These games are called 'Bayesian games'; see for instance D. Marc Kilgour and Yael Wolinsky-Nahmias, "Game Theory and International Environmental Policy," in *Models, Numbers, and Cases: Methods for Studying International Relations*, eds. Detlef F. Sprinz and Yael Wolinsky-Nahmias (Ann Arbor: University of Michigan Press, 2004), 319.

³⁷ Quoted in Brian C. Rathbun, "Uncertain about Uncertainty: Understanding the Multiple Meanings of a Crucial Concept in International Relations Theory," *International Studies Quarterly* 51, no. 3 (2007), 537.

cooperation problems that arise within a given game situation rather than at the level of establishing the rules of the game. As Fierke and Nicholson concede, ‘game theory deals with how games can or should be played rather than the genesis of games’³⁸. If they engage with attempts to change the game structure, they refer to changes in the material incentive structure in a given interaction situation – for instance by adding issues to the bargain³⁹. This shortcoming leads to a bias to analyse the cooperation problems faced by states in terms of the functional collective action problems that may arise in situations with pre-defined parameters⁴⁰.

This is not to say that game-theoretical accounts neglect the role of normative considerations for strategic interaction in their entirety. Values are, for instance, seen as informing the objectives states want to pursue, or as creating ‘focal points’⁴¹. Because of the reliance of its models on methodological individualism, however, game theory does not offer a convincing account of the origins (or contestation) and substance of these normative considerations. It is telling that rationalists tend to assume that the social norms and conventions underpinning the rules of the game primarily reflect the self-interests of its actors. Bicchieri claims, for instance, that ‘social norms are the outcome of learning in a strategic interaction context; hence, they are a function of individual choices and, ultimately, of individual preferences and beliefs’⁴². Voss similarly claims that ‘norms emerge when they promise to bring about efficiency gains to the beneficiaries’⁴³. Yet, as argued by Moggach, the content of

³⁸ Karin M. Fierke and Michael Nicholson, "Divided by a Common Language: Formal and Constructivist Approaches to Games," *Global Society* 15, no. 1 (2001), 21.

³⁹ Axelrod and Keohane, *Achieving Cooperation Under Anarchy: Strategies and Institutions*, 251.

⁴⁰ See for instance Duncan Snidal, "Coordination Versus Prisoners' Dilemma: Implications for International Cooperation and Regimes," *The American Political Science Review* 79, no. 4 (Dec., 1985), 923.

⁴¹ *Ibid.*, 86.

⁴² Cristina Bicchieri, *Rationality and Coordination* (Cambridge England; New York, NY, USA: Cambridge University Press, 1993), 229; Bicchieri builds her assumption on the seminal work by David Lewis on ‘Convention: A Philosophical Study’ (1969).

⁴³ Thomas Voss, "Game-Theoretical Perspectives on the Emergence of Social Norms," in *Social Norms*, eds. Michael Hechter and Karl-Dieter Opp (New York: Russell Sage Foundation Publications, 2001), 110; Note that evolutionary game-theoretical approaches emphasise that these rules do not necessarily follow from rational choices, but a process of ‘trial and error’ between strategically interacting agents, see for instance Axelrod, *The Evolution of Cooperation* or K. G. Binmore, *Game Theory and the Social Contract* (Cambridge, Mass.: MIT Press, 1994; 1998); Gintis, *The Bounds of Reason: Game Theory and the Unification of the Behavioral Sciences*; Peter and Spiekermann argue, however, that ‘research in this area is still at an early stage and it is unlikely that evolutionary game theory can fully capture the rich processes involved in the emergence of norms’, Peter and Spiekermann, *Rules, Norms and Commitments*, 232.

norms ‘cannot be derived from rational calculations and is intrinsically social’⁴⁴. The emphasis on functional collective action problems is of little help in examining the normative dimension that shapes the attempts of states to (re)negotiate the rules of the game.

The ‘Battle over Games’ framework developed in the subsequent section aims to address these conceptual biases by providing a heuristic conceptual framework about the cooperation problems that might arise if actors disagree over the rules of the game.

3. Conceptual Framework

This section develops the conceptual framework of a ‘Battle over Games’ to systematise the cooperation problems that could emerge in interaction situations in which states disagree over which game to play. I argue that they relate to the lack of firmly institutionalised rules of the game. Such a situation could, firstly, destabilise the actors’ expectations about each other’s behaviour by giving rise to divergent interpretations of the rules applicable in a given situation. Secondly, divergent normative convictions about which game to play could increase resistance to cooperation by reducing the willingness to make compromises to reach an agreement.

3.1 ONTOLOGICAL ASSUMPTIONS

This framework relies on a social ontology⁴⁵. The resulting ontological assumptions (as specified in the following) underpin the argument of this conceptual framework that relates cooperation problems to disagreement over the rules of the game.

Rule-guided Conception of Actor Behaviour

⁴⁴ Douglas Moggach, "Monadic Marxism: A Critique of Elster's Methodological Individualism," *Philosophy of the Social Sciences* 21, no. 1 (March 01, 1991), 55; On the need to ground the content normative ideas in a structural context of meaning see Warren Handel, "Normative Expectations and the Emergence of Meaning as Solutions to Problems: Convergence of Structural and Interactionist Views," *American Journal of Sociology* 84, no. 4 (1979), 859.

⁴⁵ Alexander Wendt, *Social Theory of International Politics* (Cambridge, UK ; New York: Cambridge University Press, 1999).

This conceptual framework builds on the assumption that self-interested actors are rule-governed, rather than strictly utility-maximising or genuine followers of internalised norms. This actor conception resides in between purely rationalist and constructivist ideas. It builds upon ideas developed by Kratochwil, who criticises the rational choice paradigm for providing little substantive guidance with regard to how actors evaluate the reasonableness, fairness, or appropriateness of choices, –factors which potentially affect the utility associated with a particular choice⁴⁶. In line with the assumptions of a social ontology, socially constructed rules and norms are understood to constrain what actors perceive as possible behaviour⁴⁷, and their identities inform what they regard as their interests in the first place.

Yet, the choice among a given set of possible moves is not necessarily seen to follow automatically from processes of ‘norm internalisation’, as March and Olsen claim, but might stem from the rational assessment of the costs and benefits of each option. Actors might still behave according to a strategic rationale when making decisions about which course of action would best be suited to achieving the goals they want to pursue. This implies that while actors want to be able to justify the interests they pursue as ‘right’ or ‘appropriate’ according to a given set of norms and rules, the act of rule-following is not void of utility-considerations: being able to credibly justify one’s own behaviour might increase a country’s power (because it creates authority),⁴⁸ or to help to avoid the costs associated with public shaming and a loss of reputation⁴⁹. Moreover, actors might attempt to strategically change the rules that constrain them. This idea follows an understanding elaborated by Hurd, who claims that

‘states are strategic actors embedded in a socially constructed environment, ... [which] suggests that constructivism and rational choice are essential complements to each other in IR rather than antagonists’⁵⁰.

⁴⁶ Friedrich V. Kratochwil, *Rules, Norms, and Decisions : On the Conditions of Practical and Legal Reasoning in International Relations and Domestic Affairs* (Cambridge Cambridgeshire ; New York: Cambridge University Press, 1989).

⁴⁷ Michael Hechter and Karl-Dieter Opp, *Social Norms* (New York: Russell Sage Foundation, 2001), 105.

⁴⁸ Andrew Hurrell, *On Global Order : Power, Values, and the Constitution of International Society* (Oxford: Oxford University Press, 2007), 39; Goh, *Hierarchy and the Role of the United States in the East Asian Security Order*, Vol. 8 (Oxford: Oxford University Press, 2008), 360.

⁴⁹ Jack Donnelly, *Realism and International Relations* (Cambridge England ; New York: Cambridge University Press, 2000), 82; Robert O. Keohane, *Power and Governance in a Partially Globalized World* (London ; New York: Routledge, 2002), 127.

⁵⁰ Ian Hurd, "The Strategic use of Liberal Internationalism: Libya and the UN Sanctions, 1992–2003," *International Organization* 59, no. 03 (2005), 497.

On the Relationship between Structure and Agency

Endorsing a social ontology implies, secondly, that while the rules of the games are not seen to be reducible to the preferences and beliefs of individual actors, they are partly constitutive thereof and partly constituted thereby. As for instance argued by Percy, '[b]ecause norms shape state identity, they can affect the sorts of issues states see as falling into their national interest'⁵¹. The social structures such as norms that shape the rules of the game are, at the same time, irreducible to individual actors' preferences because they go beyond the 'sum-total of 'subjective meanings',...being comprised of '*intersubjective* meanings'⁵². Rather than being part of an objectively given reality 'out there', the rules of the game are understood to depend on the (re)construction of social norms and conventions applicable in particular settings. This thesis hence relies on the central constructivist claim that agency and structure are mutually constitutive⁵³.

This does not imply that actors can easily change the rules of the game merely by altering their interpretations of what counts as a 'cooperative' or 'uncooperative' move. Over time, ascribed meanings become part of an institutionalised web of understandings and 'circulate in social discourses as "objective facts"'⁵⁴. They remain, however, in essence dependent on collective recognition. If actors genuinely believe that they are playing different games, this changes the actual game they are playing. This is because the existence of the rules of the game as part of a structurally given 'objective reality' depends on the actors' intersubjectively held recognition that they are playing this particular game. Neufeld claims for instance that the norms that give meaning to state interaction are the 'product of the collective self-interpretations and self-definitions of human communities'⁵⁵.

On the Origins of the Rules of the Game

While the empirically existing 'rules of the game' that structure their interaction in particular issue-areas are partly a reflection of the states' self-interests, this thesis

⁵¹ Sarah V. Percy, *Mercenaries: The History of a Norm in International Relations* (Oxford ; New York: Oxford University Press, 2007), 22.

⁵² Mark Neufeld, "Interpretation and the 'science' of International Relations," *Review of International Studies* 19, no. 01 (1993), 44; see also Wendt, *Social Theory of International Politics*, 162.

⁵³ Alexander Wendt, "The Agent-Structure Problem in International Relations Theory," *International Organization* 41, no. 3 (1987), 335-370.

⁵⁴ Rodney Bruce Hall, *Central Banking as Global Governance: Constructing Financial Credibility* (Cambridge, UK ; New York: Cambridge University Press, 2008), 49.

⁵⁵ Neufeld, *Interpretation and the 'science' of International Relations*, 44.

assumes that they cannot be reduced to them. In contrast to the assumptions of rationalist approaches⁵⁶, the rules of the games are understood to depend mainly on a set of social norms and conventions, the content of which cannot be reduced to the interests or beliefs of individual states. Instead, they need to be seen against the context of historically (re-)created patterns of interaction, the identity conceptions of self and other that have come to characterise relationships between states over time, and the larger belief systems they are embedded in.

This implies that the substance of the rules of the game is partly related to the actors' potentially divergent identity conceptions or causal beliefs, which reflect the social environment within which they are embedded. The actors' collective identities, their conceptions of self as it relates to others, are understood to inform what they regard as appropriate social norms in a given situation⁵⁷. Abdelal, Blyth and Parsons argue, for instance, that 'norms of appropriate behavior are implied by state identities of various types'⁵⁸. This is because identity conceptions shape the actors' worldviews and the roles they expect to play in given situations, including the interests they want to pursue and the social norms they are expected to adhere to. As argued by Risse, 'collective identities define and shape how actors view their perceived instrumental and material interests and which preferences are regarded as legitimate and appropriate for enacting given identities'⁵⁹. Causal beliefs, embedded in larger knowledge structures, might shape what kind of conventions actors accept as instrumental to coordinate their actions in a mutually beneficial way⁶⁰.

Relationship of the Conceptual Framework to Rationalist Approaches

The approach developed in this section is complementary to rationalist approaches in the sense that it only applies to situations in which the rules of the game are either ambiguous or contested. It is under these limited conditions that we need to

⁵⁶ See for instance Voss, *Game-Theoretical Perspectives on the Emergence of Social Norms*; Bicchieri, *The Grammar of Society: The Nature and Dynamics of Social Norms*; see also section 2.2 of this chapter.

⁵⁷ James G. March and Johan P. Olsen, "The Institutional Dynamics of International Political Orders," *International Organization* 52, no. 04 (1998).

⁵⁸ Rawi Abdelal, Mark Blyth and Craig Parsons, *Constructing the International Economy* (Ithaca, N.Y.: Cornell University Press, 2010), 9.

⁵⁹ Thomas Risse and others, "To Euro Or Not to Euro? the EMU and Identity Politics in the European Union," *European Journal of International Relations* 5, no. 2 (1999), 157, quoted in: Rawi Abdelal and others, "Identity as a Variable," *Perspectives on Politics* 4, no. 04 (2006), 700.

⁶⁰ On the constitutive power of causal ideas see Mark Blyth, *Great Transformations: Economic Ideas and Institutional Change in the Twentieth Century* (New York: Cambridge University Press, 2002).

supplement conventional rationalist approaches with an approach that pays greater attention to how the actors' normative convictions about 'true' and 'right' behaviour influence the way in which strategic interaction unfolds. It could well be that there are interaction situations in which it is plausible to work with the assumption of common knowledge of the 'game' between the actors.

It does, however, provide a more fundamental challenge to rationalist approaches by questioning the ontological assumptions that they are based upon. Rules are always (re)produced and thereby partially (re)negotiated in games. Sometimes we can assume that they are given because they are stable and not divergent, but that is the exception. They inherently depend on collective recognition, which can be withdrawn over time. The substance and content of the rules does not automatically arise from the actors' self-interests, but needs to be seen as embedded in larger normative and knowledge structures that are historically (re)created. We might, therefore, be able to capture the cooperation problems states face in situations in which the rules of the game are relatively stable within the deductive explanatory logic of rationalist models of strategic interaction. To really understand how cooperation evolves, however, it could be of greater importance to understand where the rules of the game come from, and what value and belief systems they are built upon and why they might be contested.

3.2 MODELLING THE 'BATTLE OVER GAMES'

The 'Battle over Games' is defined as a cooperation situation in which the rules of the game –understood as a set of social norms and conventions– are not exogenously given and subject to (re)negotiation between the actors. This does not mean that actors find themselves in a situation of anarchy, but that the actors do not agree on which set of possible rules should be applicable in a given interaction situation. An important cooperation problem that the actors face in such a situation is establishing a shared understanding of the set of rules to define the cooperation game they are in.

The strategic form of the 'Battle over Games' differs substantially from a classical game-theoretical depiction of a game model (see figure 2)⁶¹. The choices available to the actor are not different moves within a pre-defined game, but different conceptions of the rules of the game that define the available 'moves' in the first place. While not necessarily limited to two options, this model relies on the simplified assumption that

⁶¹ Note that the terms of a 'model' or 'strategic form' are, therefore, merely used in a metaphorical way.

actors could either opt for the game conception A1 or the game conception A2. The model is based on the assumption that actors need to arrive at a shared understanding of the rules of the game, i.e. a shared game conception, if they want to play a mutually beneficial cooperation game. As argued by Berton, Kimura and Zartman, '[n]egotiation is bound to fail when the parties' definition of the problem diverge'⁶². In contrast to classical game-theoretical models, what counts as a payoff and what the rules of the game are is not exogenously given. The 'Battle over Games' hence introduces a process-element, as the rules could change during interaction.

		PLAYER II	
		game A1	game A2
PLAYER I	game A1	$u_{11}; v_{11}$	$u_{12}; v_{12}$
	game A2	$u_{21}; v_{21}$	$u_{22}; v_{22}$

Figure 2 – Strategic Form of the 'Battle over Games'

The 'Battle over Games' could be played in different ways. Actors could disagree on whether both game conceptions are mutually beneficial⁶³. In this basic version of the 'Battle over Games', actors lack a shared vision of a mutually beneficial cooperation game (see figure 3). It denotes a situation in which the actors' game conceptions are in competition and relate to each other in a zero-sum manner. What seems to be a beneficial game from the perspective of player I (both accept the rules of game A1) is not beneficial for player II. On the other hand, the game which player II regards as beneficial (both accept the rules of game A2) is costly from the perspective of player I. If none of the actors accepts the game conception of the other side (player I, for instance, opts for game A1, while player II chooses game A2), none of the player makes any gains (nor costs).

		PLAYER II	
		game A1	game A2

⁶² Peter Berton, Hiroshi Kimura and I. William Zartman, *International Negotiation: Actors, Structureprocess, Values* (New York: St. Martin's Press, 1999); Tom J. Farer, "Review: Positive-Sum: Improving North-South Negotiations, Edited by I. William Zartman," *The American Journal of International Law* 82, no. 3 (Jul., 1988), 665.

⁶³ The payoffs of the game hence depend on whether or not they regard a particular conceptualisation of the rules of the game as leading to cooperation that is beneficial $\{1\}$ or not $\{-1\}$. If disagreement over the rules of the game prevents cooperation from taking place, neither side receives any gains $\{0\}$. The payoffs of player I are hence $u_{ij} \in \{-1, 0, 1\}$, for $i, j \in \{1, 2\}$, while player II receives payoffs $v_{ij} \in \{-1, 0, 1\}$ for $i, j \in \{1, 2\}$.

PLAYER I	game A1	1;-1	0;0
	game A2	0;0	-1;1

Figure 3 – Competing Game Conceptions

In such a zero-sum ‘battle’ over which game to play, disagreement could be either held implicitly or explicitly, which changes the cooperation problems that could emerge. As long as disagreement is implicit, actors are unlikely to be able to overcome the zero-sum situation. Not being aware of the competing and incompatible assumptions they follow, they can hardly attempt to engage in integrative problem-solving to establish a shared game conception because they do not recognise the ‘problem’ at stake. Over time, actors are likely to become aware of their divergent perspectives on the rules of the game. If the other side persistently plays in an unexpected way, it becomes more and more apparent that there is a divergence between its own and other side’s first-order beliefs about the strategic situation.

Once the actors’ disagreement over the rules of the game becomes explicit, actors could attempt to come up with a compromise understanding of the rules of the game. This would change the structure and payoffs of the game (see ‘convergence game’, figure 4). Actors may engage in integrative problem-solving through communication to create a shared game conception B which both players prefer over a situation of competing game conceptions A1 vs. A2. As developing a compromise solution requires the efforts of both sides, the players either both play ‘game B’ or face the choice of ‘playing game A1 or A2’. In the situation of competing games actors face the risk of a negative payoff, if they have to accept the other side’s game conception.

		PLAYER II	
		game B	game A1 or A2
PLAYER I	game B	1;1	0;0
	game A1 or A2	0;0	1;-1 or -1;1

Figure 4 – Convergence Game

Note that explicit disagreement does not necessarily lead to an integrative problem-solving approach when the actors attempt to establish a convergence between their understandings of the rules of the game. Instead, actors could attempt to enforce their game conception on the other side by means of coercion. The result is a continuation of the zero-sum conflict over which game to play, as represented above (figure 3). It

is also possible for the actors to face a situation in which they both value one game conception more than the other, but assume that they hold divergent preferences (e.g. both prefer A1 over A2, see figure 5). In this case, there exists no ‘Battle over Games’ in the original sense anymore, which is defined by the actors’ disagreement over which game to play. Lack of information could be the reason behind such a ‘false’ battle over games.

		PLAYER II	
		game A1	game A2
PLAYER I	game A1	1;1	0;0
	game A2	0;0	-1;-1

Figure 5 – False ‘Battle over Games’: Agreement over Game Conceptions

Hence, if actors initially disagree over the rules of the game, there are different possible ways in which their interaction could unfold. Implicit disagreement could become explicit over the course of negotiations. Actors could change their negotiation strategies from problem-solving to coercion or the other way round. Therefore, neither cooperation outcomes nor possible payoffs are predetermined. Instead, they depend on the way in which actors decide to play the ‘Battle over Games’, whether or not disagreement is explicit or implicit and how effective the respective mechanisms to reach agreement (coercion; integrative problem-solving) are. Whether it is possible to reconcile the tensions between different possible game conceptions ultimately depends on the actors’ behaviour during the negotiation process.

Note that the kind of rules that the cooperation partners ultimately accept has consequences for the structural power relationship between them. According to Barnett and Duvall, structural power is understood to ‘shape[...] the fates and conditions of existence of actions.... allocat[ing] differential capacities, and typically differential advantages, to different positions’⁶⁴. Dependent on the game they play, states hence hold different self-understandings and interests, which correlates with different capacities and possible gains in a given situation. For instance, the cooperation ‘game’ of setting up protectorates is constituted by the unequal relationship between the protected territory and the protecting power. Both sides pursue differential interests, and hold different rights and obligations at the

⁶⁴ Michael Barnett and Raymond Duvall, "Power in International Politics," *International Organization* 59, no. 1 (2005), 53; on structural power and its differences from other types of power in international politics see *Ibid.*, 52-55.

negotiating table⁶⁵. Agreement over the rules of the game in this way constitutes the structural power relationship between the cooperation partners⁶⁶.

Paying attention to the linkage between the rules of the game and structural power in this way helps us to better understand why it is not only a highly political undertaking to (re-)negotiate the rules of the game, but also what kind of cooperation problems we can expect to see in a so-called ‘battle over games’. As argued by Hurrell, every order (and the structural power relationship it constitutes) is inevitably linked to questions of legitimacy, with states trying to provide ‘persuasive reasons as to why a course of action, a rule, or a political order is right and appropriate’⁶⁷.

3.3 COOPERATION PROBLEMS IN A ‘BATTLE OVER GAMES’

Following from the description of the ‘Battle over Games’, we can develop a set of assumptions about possible cooperation problems that could emerge in a situation in which the rules of the game are not given. The particular cooperation problems the actors face are not predetermined, but depend on the way in which actors play the ‘Battle over Games’. Cooperation problems generally relate to the lack of firmly institutionalised rules of the game. They differ in interaction situations characterised by either an implicit or explicit disagreement over the rules of the game. Conventional game-theoretical approaches fail to capture these kinds of cooperation problems because they tend to assume that the rules of the game are common knowledge among the actors.

Implicit Disagreement

If the actors hold incompatible expectations about the game they play, but are unaware thereof, they find themselves in a situation of implicit disagreement. As a consequence, the actors misconceive the rules that re-create and constitute the conditions for strategic interaction. They hold different interpretations of the rules that apply in a given situation. Hence, the problem is not primarily that they misperceive the other side’s ‘real’ utility function, but that the actors hold divergent expectations about the socially contingent interaction context in which strategic action unfolds. The

⁶⁵ Mouffe for instance argues that every order is the reflection of a particular power structure, see Chantal Mouffe, *On the Political* (London: Routledge, 2005), 18.

⁶⁶ Note that these structures are not reducible to the bargaining power of individual states. Instead, they depend on the constitutive social structures in which pre-existing power relationships in a particular negotiation setting are embedded in.

⁶⁷ Andrew Hurrell, *On Global Order*, 90.

underlying problem is that actors lack a shared reference frame that defines the game they play and against which to evaluate their expectations about each other's behaviour.

Such a situation of implicit disagreement over the games states play is likely to complicate bargaining problems during strategic interaction by destabilising the actors' expectations about each other's behaviour. In this way, it severely complicates the bargaining problems states might face and makes it hardly possible to settle on an outcome that both sides would accept, as I illustrate in the following.

First of all, actors might hold different expectations about possible equilibrium outcomes. In such a situation, it becomes for instance difficult to engage in the 'tit-for-tat' exchange of mutual concessions to solve distributional conflicts as long as the actors have not even recognised that they have different expectations about what would count as a concession in the game they are playing. What might seem to be a beneficial offer within one game could count as detrimental within another game. This is because the actors hold incommensurable conceptions of how to play the game, and what its 'payoffs' and 'moves' look like.

Secondly, divergent expectations about how to play the game, i.e. what the 'rules of interaction' are, make it hardly possible to settle on an equilibrium outcome. In a situation of implicit disagreement the actors may rely on divergent assumptions about the 'stability properties' of the game, as argued by Hipel, Wang and Fraser in a different context:

'each player is facing only its own game and analyzing it by using a certain solution concept. Then each player makes a decision (takes a strategy) based upon the perceptual equilibria perceived from its individual stability analysis, even if it possesses misunderstandings. Consequently, the individual games may have quite different stability properties'⁶⁸.

⁶⁸ Keith W. Hipel, Muhong Wang and Niall M. Fraser, "Hypergame Analysis of the Falkland/Malvinas Conflict," *International Studies Quarterly* 32, no. 3 (Sep., 1988), 340; this research reflects the attempts of a handful of game-theoretical scholars to develop models of a 'hypergame' in which uncertainty about the interaction situation is related to a lack of information as well as misperceptions of the other side's perceptions. There have also been attempts to incorporate divergent interpretations as sources of engaging in such a 'hypergame'. Yet, these rationalist models neither offer conceptual tools to inquire where divergent interpretations come from, nor are they interested in the bargaining processes that states engage in to establish a shared understanding of the game structure (situation of explicit disagreement). While they provide an interesting alternative to the much more prominent models of 'games with incomplete information', they therefore cannot tell us much about the cooperation problems that follow from the need to (re)create shared conceptions of the rules that structure strategic interaction. For more on the hypergame approach, see Peter G. Bennett and CS Huxham, "Hypergames and what they do: A 'Soft OR' Approach," *Journal of the Operational Research Society* 33, no. 1 (1982); Peter Bennett and Steve Cropper, "Uncertainty and Conflict: Combining

A third way in which a situation of implicit disagreement is likely to affect strategic interaction stems from the possibility that actors might hold divergent expectations about acceptable behaviour and outcomes. The effect of such a mismatch of perspectives on strategic interaction relates to the constitutive function of the rules of the game. Not only do they provide focal points around which the actors can coordinate their actions, they also define what kind of behaviour and outcomes count as normatively acceptable in a given situation. Research both from a constructivist and rationalist perspective has shown that what actors deem to be normatively acceptable, commonly associated with notions of fairness, influences their willingness to accept a particular cooperative agreement⁶⁹. If the actors hold subjectively divergent expectations about acceptable behaviour, this complicates bargaining processes because it could lead to unanticipated resistance to cooperation. What might seem as an acceptable negotiation strategy from one perspective could be perceived as unacceptable by the other side. Goldsmith and Posner, for instance, claim that ‘cooperation might be hindered by an unforeseen ambiguity about what counts as cooperative action’, further claiming that ‘disagreements in the interpretation of the cooperative move might lead to retaliation and thus to a breakdown in cooperation’⁷⁰.

Box 1 – How Implicit Disagreement Affects Strategic Interaction

Complicates bargaining problems by destabilising expectations

- Actors hold different expectations about possible equilibrium outcomes
- Actors hold different expectations about how to solve the game
- Actors hold different expectations about what would be normatively acceptable

Conflict Analysis and Strategic Choice," *Journal of Behavioral Decision Making* 3, no. 1 (1990); Hipel, Wang and Fraser, *Hypergame Analysis of the Falkland/Malvinas Conflict*; B. Ghahesifard and J. Cortes, "Learning of Equilibria and Misperceptions in Hypergames with Perfect Observations" (2011).

⁶⁹ See Amrita Narlikar, "Fairness in International Trade Negotiations: Developing Countries in the GATT and WTO," *World Economy* 29, no. 8 (08, 2006), 1007; Ethan B. Kapstein, "Fairness Considerations in World Politics: Lessons from International Trade Negotiations," *Political Science Quarterly* 123, no. 2 (2008), 235; Jack L. Goldsmith and Eric A. Posner, "Moral and Legal Rhetoric in International Relations: A Rational Choice Perspective," *Journal of Legal Studies* 31 (2002), 126; Americo Beviglia Zampetti, *Fairness in the World Economy: US Perspectives on International Trade Relations* (Cheltenham, UK ; Northampton, Mass.: Edward Elgar, 2006); Cecilia Albin, *Justice and Fairness in International Negotiation* (Cambridge, U.K. ; New York: Cambridge University Press, 2001).

⁷⁰ Goldsmith and Posner, *Moral and Legal Rhetoric in International Relations: A Rational Choice Perspective*, 126.

Explicit Disagreement

Once actors become aware that they hold divergent views on the game they play, the cooperation problems they face change. Establishing a shared conception (i.e. common knowledge) of the rules of the game around which the actors' expectations can converge facilitates settling on a mutually beneficial equilibrium outcome in positive-sum games. Yet, becoming aware of the different games the actors play (convergence of second-order beliefs) does not necessarily lead to a shared understanding of the rules of the game (level of first-order beliefs). This is because the rules that structure the interaction context are inherently social, and need to be constructed rather than observed. They depend on the actors' collective recognition of the social norms and conventions that underpin them, and are not part of an external reality 'out there' that the actors merely need to discover. Yet, given that the rules of the game are potentially malleable, the actors might hold conflicting interests in promoting different kinds of rules. Communication or learning through interaction might therefore be insufficient to arrive at a shared understanding of the 'game'.

It is against this background that an explicit 'battle over games' emerges. Bargaining processes are therefore understood as a space in which the rules of the game that structure interaction are (re)negotiated in the first place. Such 'battles' have a constitutive as opposed to merely a coordinative dimension, and partly involve a (re)definition of the structural power relationship between the actors. While states might attempt to impose their understanding of the rules of the game by force, such an approach is unlikely to lead to a sustainable solution of a 'battle over games'. This is because at least some kind of consensus is required regarding the normative basis of cooperation⁷¹.

The particular cooperation problems that might emerge relate to the way in which normative convictions may shape the negotiating behaviour of state actors in such an explicit 'battle over games'. Normative conflicts over values and beliefs are

⁷¹ Horne argues for instance that 'a rule advocated only by an individual is not a norm at all but merely a personal idiosyncrasy'; Christine Horne, "Sociological Perspectives on the Emergence of Norms," in *Social Norms*, eds. Michael Hechter and Karl-Dieter Opp (New York: Russell Sage Foundation, 2001), 5.

oftentimes much more difficult to settle than conflicts over other interests⁷². Conflicting commercial interests are for instance not necessarily incommensurable, and compromises and trade-offs can oftentimes be negotiated. Reaching an agreement over conflicting values and beliefs, however, is a very difficult undertaking. This is because they follow from deep-seated convictions such as normative/identity-based or causal beliefs that have a subjective, potentially emotional basis and are not easily changed by providing more information or the exchange of arguments. For instance, as argued by Levy, normative beliefs about right or wrong are ‘beliefs ...that cannot be falsified because they are based on normative judgements for which no logical or empirical standard of comparison exists’⁷³. They are oftentimes based on the identities the actors hold⁷⁴, which prescribe what an appropriate course of action would look like, and which are not easily renegotiated.

If the cooperation partners conceptions of the ‘games’ they want to play are based on divergent value and belief systems, therefore, strong normative convictions might lead to a hardening of opposing bargaining positions. They can lead to stubbornness and resistance among the parties, make the interest conflict a conflict over values and beliefs, at least partly, and can lead the parties to place their convictions above the need to make compromises to reach an agreement. As argued by Hampson with reference to what he calls ‘ideologies’, which resembles the normative convictions this conceptual framework refers to:

‘although ideology can promote the development of convergent expectations and value structures that are conducive to agreement, to the extent that value and belief systems diverge they can have the opposite effect and harden bargaining positions via the formation of ideologically motivated blocs or what could be called coalitions of the like-minded’⁷⁵.

⁷² Note that it therefore makes hardly sense to differentiate between normative and interest-based drivers of state behaviour. As constructivists have pointed out, the normative convictions (or norms) that state actors adhere to partly shape the interests they want to pursue, see for instance Sarah V. Percy, *Mercenaries: The History of a Norm in International Relations*, 22. Yet, it is possible to differentiate between normative convictions and other driving forces behind the interests that states want to pursue (such as prestige or security concerns).

⁷³ Levy (1983: 79-80), quoted in Yaacov Vertzberger, *The World in their Minds: Information Processing, Cognition, and Perception in Foreign Policy Decisionmaking* (Stanford, Calif.: Stanford University Press, 1990), 14. For a similar argument see Friedrich Kratochwil, "Regimes, Interpretation and the 'Science' of Politics: A Reappraisal," *Millennium - Journal of International Studies* 17, no. 2 (June 01, 1988), 274-276.

⁷⁴ Compare Neta Crawford, "Homo Politicus and Argument (nearly) all the Way Down: Persuasion in Politics," *Perspectives on Politics* 7, no. 1 (2009), 106.

⁷⁵ Fen Osler Hampson and Michael Hart, *Multilateral Negotiations: Lessons from Arms Control, Trade, and the Environment* (Baltimore: Johns Hopkins University Press, 1995), 31.

These assumptions about the cooperation problems in a ‘battle over games’ reflect a particular conceptualisation of the relationship between normative convictions and the actors’ self-interests. It is not as if states are either driven by normative concerns (as constructivists point out⁷⁶) or by the desire to maximise utilities (as rationalists point out⁷⁷). Normative convictions do not only serve as an idiosyncratic basis of interests (or a constraint thereof), but they partly inform the set of rules of the game states want to adhere to. Battlesover games are hence not merely about normative differences of interpretation, but also about the underlying differences in interests.

This is because states usually hold interests related to concrete actions as well as interests related to the kind of social order they would want to see established (i.e. the rules of the game). Kliemts refers to these different types of interests as ‘action interests’ and ‘constitutional interests’⁷⁸. While normative convictions might inform the kind of actions states want to take in a particular situation, they moreover influence at a more fundamental level the kind of rules they would like to establish to govern state interaction. Bearing this distinction in mind, we can conceptualise the roles of normative convictions in cooperation situations in which part of the bargaining processes is related to (re)negotiating the rules of the game. If normative convictions about playing a particular ‘game’ are sufficiently strong (their ‘constitutional interests’), they will undermine the states’ willingness to make the compromises that are necessary to facilitate reaching an agreement (their ‘action interests’).

The Israel-Palestine conflict provides us with a prominent example of such obstacles to cooperation in what can arguably be understood as an explicit ‘battle over games’ situation: both sides regard it as more important to defend their convictions about the ‘right’ and ‘appropriate’ way in which the border between both should be drawn, as compared to their interest in reaching an agreement and ending the costly conflict situation⁷⁹. The opposing positions in this way reflect the underlying

⁷⁶ See for instance Jeffrey T. Checkel, "International Norms and Domestic Politics:: Bridging the Rationalist—Constructivist Divide," *European Journal of International Relations* 3, no. 4 (December 01, 1997), 475.

⁷⁷ Norms are, however, conceptualised as external constraints on the utilities that states want to maximise; see for instance Bicchieri, *Rationality and Coordination*; Eric A. Posner, *Law and Social Norms* (Cambridge, Mass.: Harvard University Press, 2000).

⁷⁸ Quoted in Lahno, *Hypothetical Justifications*, 77.

⁷⁹ Horne argues along similar lines that at times ‘desires for agreement and for other ends are incompatible’, which can undermine cooperation; Horne, *Sociological Perspectives on the Emergence of Norms*, 13.

differences in strategic interests. While both sides want to maximise the territory belonging to their own side, paying attention to the strong normative convictions that their positions are built upon help us to understand why it is so difficult to reconcile them in a mutually acceptable way. Is it for instance a game as defined by long-time historic attachment of Israel to the land or a story of Palestinian victimhood?⁸⁰ Neither side accepts the legitimacy of the other side's conception of how to play the game.

Conflicts that emerge at the level of establishing the rules of the game are therefore potentially more fundamental than the functional collective action problems depicted by rationalist scholars. Obstacles to cooperation do not only relate to strategic uncertainty, and the danger of 'free-riding', but might follow from the deeper-seated conflicts over values and knowledge, and the resistance and stubbornness they might give rise to. Actors do not merely fail to cooperate because they are uncertain about the other side's 'true' preferences and behaviour, but because they question the appropriateness of the interests the other side wants to pursue, and/or doubt that they know how to best achieve them.

Box 2 – How Explicit Disagreement Affects Strategic Interaction

Conflicts over which sets of rules to adopt reduce willingness to compromise

- If actors value being 'right' and acting 'appropriately' more than 'reaching an agreement', the extent to which value and belief systems diverge increases resistance to cooperation by reducing the willingness to make compromises in a situation of conflicting interests

3.4 WHEN CAN WE EXPECT A 'BATTLE OVER GAMES' TO TAKE PLACE?

This section highlights various conditions under which we can expect actors to engage in a 'Battle over Games'. It points at four interrelated conditions under which actors are likely to engage in a 'Battle over Games': the emergence of new issue areas; the linkage of issue-areas; regime complexity or historical ruptures. It thereby develops a set of assumptions about why conceptions of the socially contingent elements of the rules of the game could be contested in the first place.

Note that this thesis assumes that state interaction takes does not take place on a tabula rasa without pre-existing rules. Instead, the games states play are embedded in the given institutionalisation of world politics. The 'Battle over Games' hence takes

⁸⁰ On competing definitions of the Israel-Palestine conflict see for instance Neil Caplan, *The Israel-Palestine Conflict: Contested Histories* (Chichester, U.K. ; Malden, MA: Wiley-Blackwell, 2010).

place against the context of other established rules, which are, however, potentially changing as well⁸¹. As argued by Hurrell, state interaction takes place against the context of a ‘historically created, and evolving, structure of common understandings, rules, norms, and mutual expectations’⁸². It is hence hardly possible to have a ‘game’ without any rules. States, however, may disregard the rules of the game or attempt to change them.

In general, the contestation over the rules of the game is more likely if the cooperation situation is insufficiently institutionalised and hence indeterminate. As argued by Kahler:

‘[i]f one can assume relatively fixed preferences on the part of key individuals (or representatives of interests) and fixed institutional rules of the game, treating national preferences and behavior within a rationalist framework is far more convincing than under circumstances in which institutional rules change frequently and unpredictably’⁸³.

Indeterminacy –and hence the firmly institutionalised rules of the games– could, firstly, stem from the emergence of cooperation on new issue-areas. In such situations, the rules of the games are unlikely to be pre-determined. It seems, for instance, questionable whether state actors hold common knowledge of the rules of the game –in particular the social norms and conventions that underpin them– in climate change negotiations. Instead, the negotiations seem to be precisely about establishing a consensus on what cooperative and conceivable moves for different groups of countries (developing countries; developed countries) ought to look like – and hence what norms to adopt.

Another reason for indeterminate rules of the game, secondly, is the explicit linkage between different issue-areas. Linking different cooperation games in one set of negotiation might lead to a situation in which actors are uncertain about the social norms and conventions that characterise the nexus-game. Along these lines, Axelrod

⁸¹ Note that while pre-existing rules structure possible choices, they do neither determine them, nor necessarily provide stability (thereby avoiding a ‘Battle over Games’). What kind of rules will be selected holds ‘strategic potential’, affects the distribution of costs might hence give rise to political contestation in a ‘Battle over Games’. Status-quo rules might, however, provide some stickiness because they are less uncertain (and hence less costly) compared to new rules. On the ‘strategic potential’ and endogeneity of rules see the so-called ‘Riker Objection’ in the Riker-Shepsle debate, Kenneth A. Shepsle, "Old Questions and New Answers about Institutions: The Riker Objection Revisited," in *The Oxford Handbook of Political Economy*, eds. Barry R. Weingast and Donald A. Wittman (Oxford: Oxford University Press, 2006), 1041.

⁸² Hurrell, *On Global Order*, 16.

⁸³ Miles Kahler, "Rationality in International Relations," *International Organization* 52, no. 04 (1998), 932.

and Keohane claim that some cooperation 'games' are more compatible or incompatible with each other:

'Many different games take place in world politics, involving different but overlapping sets of actors. Sometimes the existence of more than one game makes it easier to attain cooperation, but related games may also create difficulties for another. That is, games in world politics can be compatible or incompatible with each other'⁸⁴.

The more distinguishable the games are, the less likely it is that the norms and conventions that underpin the rule of the nexus-game are unambiguously given to the actors. If the social norms prevalent in different issue-areas are in conflict with each other, actors face a conflict over which values to prioritise. Issue-area linkages might, moreover, lead to indeterminacy regarding the actors' expectations of how to interact in a rational way. Conventions are crucial in shaping what actors regard as rational behaviour in issue-area specific contexts. In the case of linkages, these behavioural expectations could give rise to ambiguity and tensions about how to interact in the nexus-game. For instance, the conventions in one issue-area might stipulate that strategic interaction follows the rules of reciprocal bargaining. In other issue-areas, however, the given conventions might indicate that actors are expected to openly share information to engage in joint-problem solving.

The increasing complexity of regimes can, thirdly, lead to a situation of indeterminacy over which rules apply in a given cooperation game. Instead of having a single regime, different regimes, administered by different organisations, might overlap. This creates a situation in which the rules of the game are unclear to the actors. Raustiala and Victor, for instance, argue that 'regime complexes are laden with legal inconsistencies because the rules in one regime are rarely coordinated closely with overlapping rules in related regimes'⁸⁵. Actors might lack a given hierarchy that determines which rules have precedence over others and how to solve resulting conflicts⁸⁶.

Finally, historical ruptures, such as the end of the Second World War, or the end of the Cold War, potentially augment the fluidity of the existing rules of cooperation

⁸⁴ Robert Axelrod and Robert O. Keohane, "Achieving Cooperation Under Anarchy: Strategies and Institutions," *World Politics* 38, no. 1 (Oct., 1985), 242.

⁸⁵ Kal Raustiala and David G. Victor, "The Regime Complex for Plant Genetic Resources," *International Organization* 58, no. 02 (2004), 277.

⁸⁶ *Ibid.*, 278-279.

games,⁸⁷ and make ‘battles over games’ more likely. This is because they lead to external shifts, for instance regarding the distribution of power, which might lead to the adoption of new norms and conventions. What these scope conditions have in common is that they facilitate a contestation of the norms and conventions that underpin institutional change,⁸⁸ and therefore allow actors to push for different conceptions of the cooperation games they play. The ‘Battle over Games’ is obsolete once actors have firmly institutionalised the rules of the game in a given interaction situation (at least as long as these rules remain stable).

4. Operationalisation

This last section develops an operationalisation of the conceptual framework to examine the cooperation problems that might emerge if actors play different games. In the following I, firstly, describe the epistemological approach that underpins the ‘Battle over Games’ framework as a tool to explore strategic interaction. Secondly, I explore tentative indicators of situations of implicit and explicit disagreement over the rules of the game, and how they differ from rationalist explanatory frameworks. Thirdly, I address the falsifiability of this approach.

4.1 EXAMINING STRATEGIC INTERACTION AGAINST THE CONTEXT OF THE RULES OF THE GAME: EPISTEMOLOGICAL APPROACH

This conceptual framework argues that the negotiating strategies states choose depend partly on their interpretations of the rules of the game (situation of implicit disagreement) or their normative convictions about what set of rules to adhere to (situation of explicit disagreement). To understand the choices state actors make we need to go beyond the examination of their presumed interests to take into account their particular perspective on the rules of the game in a given interaction situation. Note that understanding strategic interaction hence means to make it intelligible. It implies placing the actions of states into the particular context of the given sets of rules, to examine why they might have been contested in the first place, and to then

⁸⁷ Odd Arne Westad, *Reviewing the Cold War: Approaches, Interpretations, and Theory* (London ; Portland, OR: F. Cass, 2000), 1.

⁸⁸ M. Patrick Cottrell, "Legitimacy and Institutional Replacement: The Convention on Certain Conventional Weapons and the Emergence of the Mine Ban Treaty," *International Organization* 63, no. 02 (2009).

inquire why actors might have interpreted them in different ways. According to Kratochwil, such an interpretive approach does not imply that we have to look into the actors' minds, but understanding the reasons for a particular action means 'having put it in a context, and shown that the attributions make sense according to intersubjectively shared standards'⁸⁹.

In terms of the operationalisation of such an approach, it hence becomes of utmost importance to reconstruct both of the actors' reasoning processes in an interpretive manner against a given context of interaction. In particular, I suggest three different, but interrelated analytical steps to apply the 'Battle over Games' framework:

1) To uncover the sets of social norms and conventions that characterise the rules of the game in the case of EPA negotiations (cooperation at the trade-development nexus); this thesis therefore, in a first step, examines the given context of the social norms and conventions that are likely to provide the context in the case of EPA negotiations. They serve as the background for empirically assessing how the EU and the West African side conceptualised the rules of the game, i.e. the definitions of the 'players', the available and acceptable 'moves', 'payoffs' (which comprise the basic elements of a cooperation game), and 'rules of interaction' and 'coordination principles' in EPA negotiations (which comprise the procedural elements of a cooperation game);

2) To examine the negotiating strategies chosen against the context of the actors' perspectives on the existing sets of rules; doing so allows us to carefully reconstruct the actors' decision-making rationale through interpretative analysis while also taking into consideration the concrete actions taken. In this way, we can gain an empirically grounded understanding of the way in which the cooperation partners arrived at their choices to pursue particular negotiating strategies;

3) To process-trace how strategic interaction unfolded; this third step allows us to be able to better understand how the actors' choices of negotiating strategies might have led to the emergence and reiteration of the impasse situation. Process-tracing is crucial in this regard to be able to uncover the reasons behind the failure to reach an agreement on a particular set of negotiating issues (see chapter 1, section 4.2). To

⁸⁹ Friedrich Kratochwil, "Sociological Approaches to International Relations," in *The Oxford Handbook of International Relations*, eds. Christian Reus-Smit and Duncan Snidal (Oxford ; New York: Oxford University Press, 2008), 456.

have explained an action thus means to have made understandable the reasons for which it was undertaken⁹⁰.

Note that such an epistemological approach does not aim to arrive at a single narrative of the impasse situation in EPA negotiation, disproving alternative accounts thereof as wrong. It merely aims to shed new light on how to understand a particular phenomenon, and aims to provide us with a plausible narrative about how disagreement at the level of the rules of the game informed the impasse situation. In particular, it emphasises how conflicting identity conceptions and belief systems might lead to conflicts over values and knowledge that could prevent the actors from reaching an agreement. Moreover, it allows us to shed light on the actors' value and beliefs systems as being embedded in historically created intersubjective normative and knowledge structures. It does not, however, suggest that it is impossible to provide an alternative account of the emergence and persistence of the impasse situation. Such a claim, in any case, would be inconsistent with the interpretivist assertion that there is can be no 'objective' observation independent of its interpretation⁹¹.

4.2 TENTATIVE INDICATORS OF A 'BATTLE OVER GAMES'

While this thesis has relied on a research approach that relied heavily on induction, it is nonetheless possible to specify (in hindsight) some deductively arrived at indicators of a 'Battle over Games'⁹². While this thesis does not attempt to engage in a 'theory test', we can nonetheless specify a number of differences compared to rationalist approaches of strategic interaction. These indicators refer to both the actors' reasoning processes and perceptions they hold, as well as to the actions they take.

Situation of Implicit Disagreement

If states play different games and are unaware that they are doing so, we expect to see a mismatch between the actors' interpretations of the game they expect to be playing. This perspective differs from rationalist models of strategic interaction that

⁹⁰ On the epistemological traditions of 'understanding' vs. 'explaining' see for instance Martin Hollis and Steve Smith, *Explaining and Understanding International Relations* (Oxford; New York: Clarendon Press; Oxford University Press, 1990).

⁹¹ Steve Smith, Ken Booth and Marysia Zalewski, *International Theory: Positivism and Beyond* (New York: Cambridge University Press, 1996), 20.

⁹² See the introduction of this thesis, section 4.2.3.

point primarily at a lack of information. While it is epistemologically challenging to identify empirically these divergent sources of the actors' beliefs about the cooperation situation, we can infer possible indicators for both situations.

In a 'Battle over Games' we would expect to see disagreement over the game they play to be grounded in a mismatch of beliefs. We would, moreover, expect that the cooperation problem is partly related to the actors' different expectations about the kind of game they are playing. This could be manifest regarding the three dimensions along which playing different games could destabilise the actors' behaviour, thereby complicating the bargaining problems they may face:

1) Actors might hold misguided expectations about possible equilibrium outcomes; an indicator would be that actors hold different assumptions about the kind of 'payoffs' they are negotiating about. Even if the actors are given similar levels of information, we would expect them to evaluate the costs and benefits in different ways, depending on the game they assume to be playing. This could underpin the choice of misguided negotiating strategies;

2) Actors might hold misguided expectations about the rules of interaction; this would be manifest if we can find indicators that both sides expect different kinds of negotiating behaviour (such as problem-solving or distributive bargaining) at the negotiating table;

3) Actors might hold misguided expectations about acceptable behaviour; this could be apparent in the way in which the actors justify the negotiation positions they adopt. For instance, we would expect actors to defend their unwillingness to cooperate both with reference to the cost and benefits of the other side's offer as well as its general acceptability in normative terms.

Note that subjectively divergent expectations about the rules of the game, and in particular their normative content, are more likely if the actors hold divergent understandings of their identities. This is because what actors regard as appropriate behaviour is usually seen to depend on the identity conceptions the actors hold⁹³. Divergent understandings of the actors' identities, their conceptions of the self as it relates to other actors, are hence a possible source of incompatible expectations about which social norms counts as normatively acceptable in an implicit 'battle over

⁹³ See for instance March and Olsen, *The Institutional Dynamics of International Political Orders*.

games'. Divergent causal ideas, to the contrary, are a likely source of divergent expectations about what counts as a 'payoff', and hence an equilibrium outcome.

If implicit disagreement does not play a role, however, we would expect to see different patterns of behaviour and perceptions. Subjectively divergent understandings could still be present. In rationalist games with incomplete information, states usually lack some kind of information about the other side's perspective on the strategic situation (level of second-order beliefs). For instance, actors might lack full information about the physical facilities that feed into the other side's utility function⁹⁴. Actors disagree on each other's preferences and beliefs, but share an assessment of the rules of the game that are applicable. In such a situation, we would expect the actors to arrive at a similar cost/benefit analysis of the possible outcomes of cooperation if they rely on identical levels of information (common priors assumption). This could be manifest in impact assessments carried out about the EPAs which arrive at similar conclusions, or in identical ways in which the actors judge the impact assessments available to them. While they agree what kind of behaviour they regard as acceptable, they lack information about the other side's intended behaviour and preference orderings. If these indicators seem more plausible in the context of EPA negotiations, it is unlikely that subjectively divergent perspectives on the cooperation 'game' were related to implicit disagreement over the rules of the game.

Situation of Explicit Disagreement

We would expect to see different kinds of behaviour and perceptions if the actors disagree over the game they play and are aware that they hold subjectively divergent perspectives. In an explicit 'battle over game', we expect the cooperation partners to be driven by self-interest in pushing for a particular conception of the rules of the game, while normative convictions are also likely to play a role. Such a perspective differs from rationalist models of strategic interaction because it shifts the focus from strict utility maximisation towards examining the processes by which actors (re)negotiate the rules of the game.

To examine the cooperation problems in such an explicit 'battle over games', we hence need to, on the one hand, uncover the particular normative convictions that the

⁹⁴ See for instance Harsanyi, *Games with Incomplete Information Played by "Bayesian" Players, I-III*, 1806.

cooperation partners' negotiating strategies relied upon. We expect that actors with different identity conceptions might disagree normatively over which outcomes they should pursue (level of social norms). Actors that rely on different belief systems might disagree over how to best solve the game (level of conventions).

On the other hand, we need to examine whether or not (re)negotiating the rules of the game was an important part of the negotiation process. This could be manifest in concrete actions take to change the other side's understanding of the game, including the preferences they pursue and the identity conceptions they hold. Moreover, if normative convictions played an important role, we would expect to see discursive references to what the actors regard as 'true' and 'normatively right' assumptions about cooperation at the trade-development nexus when justifying their positions. While it is important to keep in mind that justifications cannot be taken at face value, we would not expect them to be part of the rhetoric if normative concerns have no function at all. Zampetti moreover reminds us that

'while it is true that states often make only theoretical reference to principles to conceal their interests and use coercion and bargaining, it is also true that most of the time they engage in serious discourse in order to justify their actions and do so out of the 'sense of obligation' they perceive'⁹⁵.

We might, moreover, find that actors choose a costly course of action to defend what they regard as right. Hence, new information about the other side's 'real' preferences and beliefs would not necessarily lead to a strategic adaptation of own negotiating positions.

From a rationalist perspective we would expect normative convictions to play a subsidiary role compared to the actors' (presumably) given self-interests. This would be manifest in a different kind of decision-making rationale behind the negotiating strategies adopted by the partners: whether or not the actors engage in international cooperation depends above all on the costs and benefits associated with an agreement. These utility-maximising concerns are likely to trump considerations of whether or not one side's perspective is more 'right' or 'appropriate' compared to the other side's positions. We would hence expect that the actors update their strategies in order to accommodate other side's real preferences⁹⁶. For instance, actors could attempt to add

⁹⁵ Zampetti, *Fairness in the World Economy: US Perspectives on International Trade Relations*, 17.

⁹⁶ Ken Hendricks, Andrew Weiss and Charles Wilson, "The War of Attrition in Continuous Time with Complete Information," *International Economic Review* 29, no. 4 (Nov., 1988), 667; Barry J.

issues to the negotiating deal to accommodate the other side's true preferences and to increase the material incentives for cooperation. To the contrary, whether or not the actors regard each other's behaviour as normatively acceptable is unlikely to inform their strategic calculations. This means that sub-optimal strategy choices would relate to concerns such as the fear of cheating.

4.3 THE FALSIFIABILITY OF THE 'BATTLE OVER GAMES' FRAMEWORK

The argument advanced in this thesis is only falsifiable in three different ways. Firstly, this conceptual framework builds on the premise that the outcomes of international negotiations are not predetermined by given structural factors, but are at least partly dependent on the way in which strategic interaction unfolds during the negotiation process. If we can show that strategic interaction did not impact upon the outcome of the negotiation process, the argument developed in this thesis is unlikely to provide an added value. Secondly, this thesis does not develop hypotheses regarding the substance of the actors' game understandings of the rules of the game. It does, however, assume that actors interpret the rules of the games differently if they indeed engage in a 'Battle over Games'. To the contrary, if the actors' understandings of the rules of the game are identical, it is unlikely that this model fits the case of EPA negotiations. Thirdly, even if actors hold subjectively divergent understandings of the rules of the game, we still need to examine whether it is plausible to assume that they causally affected the outcomes of the negotiations process. Rationalist approaches would expect that strategic uncertainty and the collective action problems it gives rise to are a much greater obstacle to achieving cooperation as compared to the conflicts over values and belief highlighted by the 'Battle over Games' framework. If the empirical material suggests that there is no added value in the conceptual approach, it is not 'falsifiable' in a positivist sense, but likely to provide us with a better understanding of an ultimately epiphenomenal aspect of negotiation processes. While it is difficult to weigh the importance of the findings of a qualitative research approach, counterfactual analysis and the discussion of alternative rationalist approaches helps us to put the results into perspective.

Eichengreen, "Can the Moral Hazard Caused by IMF Bailouts be Reduced?" *Geneva Reports on the World Economy Special* 1 (2000), 45.

5. Conclusion

In this chapter I have developed the conceptual framework of the thesis, as well as its operationalisation. The model of a ‘Battle over Games’ aims to account for the cooperation problems that emerge if states lack a shared conception of the rules of the game that structure strategic interaction. I argue that mainstream rationalist models of ‘games’ are biased towards examining the cooperation problems within given strategic situations because they tend to assume that the rules of the game are common knowledge. Subjectively divergent perspectives on the cooperation situation are primarily related to a lack of information. On the contrary, this chapter conceptualises the rules of the ‘games’ as shaped by a pre-existing context of social norms and conventions that are not reducible to the individual actors’ preferences or beliefs. Instead, they reflect inherently unstable structures of meaning that are subject to change dependent on the actors’ historically shaped identity conception and the belief systems they adhere to.

Playing different games affects strategic interaction in two major ways: if disagreement over the rules of the game is implicit, it complicates bargaining problems by destabilising the actors’ expectations about each other’s behaviour. Actors do not primarily lack information about each other’s preferences, as rationalists might suggest, but interpret information about the rules of the game differently. If disagreement over the rules of the game is explicit, persistent conflicts over values and/or beliefs might prevent the emergence of stable expectations. In particular, divergent normative convictions might lead to resistance to cooperation. If actors value being ‘right’ and acting ‘appropriately’ more than ‘reaching an agreement’, they become less willing to engage in the trade-offs necessary to settle on a mutually beneficial equilibrium outcome. They are not only uncertain about the other side’s strategy, but question the appropriateness of the underlying preferences. Such obstacles to cooperation are more fundamental as compared to the conflicts of interest that emerge if actors face collective action problems within a given game. They touch upon the actors’ identity conceptions, and the normative convictions they hold.

The next chapter examines in more detail what this thesis seeks to understand better: the impasse situation. Particular attention is paid to both the substance and

nature of the impasse, and why it constituted a ‘sub-optimal’ and puzzling (preliminary) outcome of the EPA process.

3 The Impasse in EPA Negotiations

When negotiations over the Economic Partnership Agreements ran into trouble, this did not necessarily come as a surprise to the international community⁹⁷. The history of North-South trade negotiations at the WTO and GATT had been mired by conflict and contention⁹⁸. Yet, in the particular history of trade cooperation between the EU and African, Caribbean as well as Pacific (ACP) countries, negotiations always ended with a new trade regime⁹⁹. Moreover, as I argue in this chapter, disagreement in the case of EPA negotiations was different from the well-known North-South divide that still contributes to the blockage of the Doha Development Round at the WTO. While the ‘North’ and the ‘South’ seem to hold irreconcilable interests when it comes to modifying the rules of global trade regulation, it should nonetheless be possible to negotiate mutually beneficial terms for a free trade agreement. In the case of EPA agreements, the clash of interests did not seem insurmountable, while the impasse was highly costly and disappointing for both sides. With this in mind, the ongoing impasse becomes puzzling.

This chapter examines first of all the particular characteristics of the persistent disagreement between the EU and West Africa regarding EPA negotiations. The second section explores this puzzle in more detail: the compatibility of both sides’ interests in negotiating a free trade agreement as well as the negotiating space the actors held are examined to substantiate the claim that the impasse was a ‘sub-optimal’ and avoidable outcome of the EPA process from 2002-2010.

⁹⁷ The editors of the ‘Trade Negotiation Insights’ noted for instance in 2008 that ‘[d]iverse positions in the EPA negotiations are not new’ (p. 2), see Trade Negotiations Insight, Vol. 7 No. 4 (May 2008), http://ictsd.org/downloads/tni/tni_en_7-4.pdf.

⁹⁸ On the North-South conflict during the Uruguay Round negotiations (1986-1994) see for instance Michael J. Finger, "The Uruguay Round North-South Bargain: Will the WTO Get Over it?" in *The Political Economy of International Trade Law : Essays in Honor of Robert E. Hudec*, eds. Robert E. Hudec, Daniel L. M. Kennedy and James D. Southwick Cambridge University Press, 2002).

⁹⁹ On a historical overview of EU-ACP trade cooperation, see for instance William Brown, "Restructuring North-South Relations: ACP-EU Development Co-Operation in a Liberal International Order," *Review of African Political Economy* 27, no. 85 (2000).

1. The Preliminary Outcome of EPA Negotiations: the Impasse Situation

This section seeks to explore in more detail the impasse situation as a preliminary outcome of EPA negotiations. This thesis follows Odell who defines an impasse as ‘a period during a negotiation when parties stand firm on opposing positions’¹⁰⁰. An impasse is a preliminary negotiation outcome characterised by a period of non-cooperation or non-agreement. This definition implies three characteristics that distinguish impasse situations from other possible preliminary outcomes of international negotiations. First of all, the fact that cooperation partners hold opposing positions implies non-agreement over the substance of important issues of the negotiation. It therefore differs from a delay, which arises if the cooperation partners need more time to prepare their positions, positions which may or may not be incompatible. Secondly, an impasse is not only characterised by the substance of the conflict of interests, but also holds a process-dimension i.e. the *period* of time during which parties hold opposing positions¹⁰¹. The interests of states are never in complete harmony. However, this does not imply that these same states are unable to accommodate conflicting interests in a mutually beneficial way. Only if the cooperation partners either do not want to make integrative moves aimed at accommodating conflicting interests, or are unable to do so over a longer period of time, can we speak of an impasse situation. Such a situation is hence characterised by both sides’ persistence on a distributive negotiating stance over time, with neither side willing to make substantial concessions to the other. It often results in political

¹⁰⁰ John S. Odell, "Breaking Deadlocks in International Institutional Negotiations: The WTO, Seattle, and Doha," *International Studies Quarterly* 53, no. 2 (2009), 274; note that Odell uses the terminology ‘deadlock’ rather than ‘impasse’. Both terms tend to be used interchangeably in negotiation theory (see for instance Amrita Narlikar, *Deadlocks in Multilateral Negotiations: Causes and Solutions* (Cambridge, UK ; New York: Cambridge University Press, 2010), 4, referring to ‘deadlocks’ when presenting typology, but to ‘impasse’ in the respective footnote [9]). This thesis prefers to use the term ‘impasse’, given that it facilitates reference to the already existing concept of the ‘North-South impasse’. This term is used in the context of the Doha round negotiations and other instances of cooperation between developed and developing countries. Consequently, it fits well with the case of EU-West Africa negotiations. On the North-South impasse, see for instance Simon J. Evenett, "Reciprocity and the Doha Round Impasse: Lessons for the Near Term and After," *Aussenwirtschaft* 62, no. 4 (2007); Alexander Betts, *Protection by Persuasion: International Cooperation in the Refugee Regime* (Ithaca: Cornell University Press, 2009); J. Timmons Roberts and Bradley C. Parks, *A Climate of Injustice: Global Inequality, North-South Politics, and Climate Policy* (Cambridge, Mass.: MIT Press, 2007).

¹⁰¹ See Jacob Bercovitch and Carmela Lutmar, "Beyond Negotiation Deadlocks: The Importance of Mediation and Leadership Change," in *Deadlocks in Multilateral Negotiations: Causes and Solutions*, ed. Amrita Narlikar (Cambridge, UK ; New York: Cambridge University Press, 2010), 236.

disengagement and public apathy, and is characterised by ‘missed deadlines, rejected compromise texts, and failed summits’¹⁰². An impasse differs from a ‘stalemate’, which refers to a particular moment in time during which both sides feel that they have exhausted all competitive options. It usually leads to de-escalation rather than disengagement¹⁰³. Thirdly, the process-dimension of an impasse situation implies that it does not necessarily constitute an end-point of negotiations. An impasse is a preliminary stage during negotiations that could be overcome, leading to agreement, or that could turn into a breakdown of negotiations. The impasse is regarded as sub-optimal outcome in the sense that the parties still believe that reaching an agreement could be possible; otherwise they would break off negotiations. Thus, it differs from a complete breakdown in the negotiation process, which Narlikar sees as a further type of deadlock¹⁰⁴.

In the following sections, I analyse firstly the substance of the contentious issues that both parties agreed upon. Secondly, I explore whether opposing negotiating positions were persistent over a considerable period of time. Thirdly, I examine if both sides were willing to continue the negotiation process despite the persistence of disagreement. All three characteristics together define the existence of an impasse situation.

1.1 NON-AGREEMENT: THE ‘CONTENTIOUS NEGOTIATING ISSUES’

The impasse situation was first and foremost visible with the non-agreement regarding a number of so-called ‘contentious issues’ during the EPA negotiations: most notably the scope of market access commitments, the length of the liberalisation period and the additionality of financial resources.

1.1.1 The Scope of Liberalisation and the Transition Period

Disagreement coming from the West African side over the scope and timeframe of liberalisation commitments represented one of the key stumbling blocks of the impasse situation. Both parties held opposing positions regarding the scope of the market access offered by the West African side, and the length of the transition

¹⁰² Narlikar, *Deadlocks in Multilateral Negotiations: Causes and Solutions*, 5.

¹⁰³ *Ibid.*, 4-5.

¹⁰⁴ Narlikar refers to three types of deadlocks: a ‘complete breakdown in the negotiation process’, a ‘stalemate’, and an ‘extended delay’. The latter category resembles this thesis’s definition of an impasse situation. Note then that this definition of an impasse situation is narrower than Narlikar’s concept of deadlock; *Ibid.*, 4-5.

period. Firstly, the EU and West Africa held different positions regarding how to liberalise ‘substantially all trade’ as part of the requirements of Article 24 GATT (see chapter 3, section 1). On the one hand, the EU proposed an interpretation of Article 24 according to which it would have to liberalise 100% of its trade volumes, while the African side would liberalise only 80%. The total between both parties would hence still meet the threshold of liberalising 90% of trade volumes, which was seen as representing ‘substantially all trade’. On the other hand, the West African side proposed a different interpretation of Article 24, which allowed for a greater use of asymmetrical treatment between the parties. It suggested a liberalisation of 60-70% on the West African side, while the EU liberalised 100%, which would lead to an average of approximately 85% of liberalisation of the trade between the parties.

Secondly, the parties held conflicting positions with regard to the length of time it took for liberalisation commitments to be implemented. Again, the legal framework did not provide a clear-cut definition of the period of time necessary to fulfil the requirement of WTO compatibility. The EU argued in favour of a transition period of 10-15 years, which is considered a standard time for implementation. By contrast, West Africa advocated for a period of 25-30 years, in order to give developing countries more time to implement trade-related commitments.

1.1.2 The Additionality of Financial Aid

While there was a recognition on both sides that financial aid should be integrated in the EPA process¹⁰⁵, a major conflict of interests became manifest during the negotiations regarding the additionality of resources. This negotiating position became associated with the issue of the ‘EPA programme for development’ during the negotiation process, commonly known by its French acronym ‘PAPED’. The idea behind the PAPED programme was to identify supply-side capacity constraints that would need to be addressed in the case of further trade liberalisation. The PAPED programme was intended to serve as a positive donor support agenda that would help the region to increase its competitiveness. Specifically, the aim was to support the

¹⁰⁵ The provision of financial resources to West Africa was accordingly mentioned in the Cotonou Agreement (Art. 18), the Council mandate setting out the European mandate for the negotiations (Par. 2.2), the ACP negotiating guidelines (Section II (c)) and the EU-ECOWAS roadmap for EPA negotiations (Art. 42).

region ‘to take full advantage of the opportunities offered by EPA and minimize the negative effects of the agreement’¹⁰⁶.

While PAPED was generally welcomed and supported by the European side, opposing negotiating positions were manifest regarding its funding. While the EU insisted that no additional sources could be provided by the European Commission, the West African side rejected the idea of relying on existing funds, such as the EDF, for implementing the programme. Instead, West Africa demanded binding commitments to provide additional financial resources as part of an EPA agreement¹⁰⁷. The Council of the European Union, however, decided that funding ‘will be provided through the Cotonou Agreement instruments, in particular the EDF’s [European Development Fund’s] regional and national envelopes, and through relevant instruments financed by the general budget of the EU’¹⁰⁸. In this way, disagreement over the PAPED programme presented another substantial aspect of the impasse situation.

1.1.3 Other Trade-Related Negotiating Issues

The scope and transition period of liberalisation commitments as well as the question of additional financial resources have been singled out as the most contentious negotiating issues due to their perceived relevance, the level of politicisation and the non-negotiability of compromise solutions. Nonetheless, it is important to note that disagreement between the EU and West Africa was also manifest regarding other ‘contentious issues’.

Another trade-related negotiating issue that was part of the disagreement forming the impasse situation was the inclusion of the Most Favoured Nations (MFN) clause. It stipulated that any more favourable market access conditions that the region would in the future grant to other major economic players needed to be awarded to the EU as well. While the EU insisted on its inclusion in the EPA agreements, the West African region was fiercely opposed. The MFN clause was seen to undermine South-South cooperation. This issue became above all important in the post-2007 negotiating period.

¹⁰⁶ MAIS, ‘The EPADP: A “smokescreen” aid for trade pushing for free trade between the EU and West Africa?’, Policy briefing, 18 October 2010, 8.

¹⁰⁷ See for instance ACP negotiating guidelines, Section II, (k).

¹⁰⁸ Council of the European Union, Draft Council Conclusions - EPA Development Programme (PAPED)

- Adoption, Brussels, 26 April 2010, Document No. 8950/10, Annex, Par. 11.

Moreover, both sides disagreed over what kind of rules of origin to adopt in the EPA agreement. These rules define how the origin of a product is to be established (its 'nationality'), which has consequences on the extent to which a country can make use of free market access to the EU. If, for instance, Senegal would wish to export a product to the EU under the EPA regime, it would need to testify that the product indeed originated within the country. West Africa demanded a renegotiation of the rules of origin, in order to make them more lenient and hence development-friendly. While the EU generally agreed to improve the rules of origin, disagreement persisted regarding the kind of changes that should be part of the EPA agreements.

Other contentious negotiating issues were the elimination of export taxes, regional levies, infant industry provisions, the standstill provision and the non-execution clause¹⁰⁹. Regarding each issue, the West African side generally demanded greater flexibility regarding the use of tariffs or other measures that could be used to protect the national economy and those producers continuing to be uncompetitive. By contrast, the European side was adamant to limit the use of trade-distorting measures, and generally adopted negotiating positions that entailed more comprehensive commitments to furthering trade liberalisation. The EU for instance demanded the abolishment of export taxes and infant industry provisions, while the West African side advocated for the continued use of both trade policy instruments¹¹⁰.

1.1.4 Procedural Issues: Renewing the WTO Waiver

Disagreement over the desirability of extending the WTO waiver constituted another contentious issue in the negotiations. This issue differed from those mentioned above due to it not relating to the substance of the EPA agreement, but rather to the conditions under which it was negotiated. To ensure WTO compatibility, both parties originally agreed to conclude the negotiations by the end of 2007 (expiry date of previous trade regime). Yet, when it became clear during 2006 that it would be unrealistic to conclude a comprehensive trade regime by the end of 2007, the West African side took the negotiating position that the EU should re-apply for an extension of the waiver. If granted, this would have allowed the continuation of the previous trade regime, while giving both parties more time to conclude the

¹⁰⁹ For an overview of the contentious negotiating issues see Lui, Dan and Sanoussi Bilal. "Contentious Issues in the Interim EPAs: Potential Flexibility in the Negotiations." *European Centre for Development Policy Management (ECDPM) Discussion Paper* (2009).

¹¹⁰ *Ibid.*, pp. 13-18 and 23-27.

negotiations. The EU, however, was fiercely opposed to such a demand and argued that it would be unlikely to gain another extension of the waiver. Moreover, such an extension was rejected as too costly due to a fear that other developing countries would seek equal concessions¹¹¹.

1.2 PERSISTENT DISAGREEMENT: THE RELUCTANCE TO COMPROMISE

All this being said, the sole characteristic of opposing negotiating positions over the substance of a number of negotiating issues does not necessarily imply that negotiations hit an impasse situation. Only when disagreement is persistent, with the parties unwilling to adopt their negotiating positions to accommodate their conflicting interests to reach a compromise, can we speak of an impasse situation. When examining the process of EPA negotiations, it becomes apparent that opposing negotiating positions persisted over a considerable period of time, which characterises an impasse situation. In the following section, I trace the development of the negotiating positions on the key contentious issues of the EPA process to examine whether or not disagreement was persistent (over the negotiating periods of 2002-2007 and 2008-2010).

1.2.1 Negotiation Period 2002-2007

Negotiations of Economic Partnership Agreements between the EU and the West African negotiating region – represented by the Economic Community of West African States – officially started in 2002 when all African, Caribbean and Pacific countries negotiated together with the EU. After a first negotiation phase, the bilateral EU-ECOWAS negotiations were launched in Cotonou on the 6th of October 2003¹¹². However, there were no substantial negotiations during much of that first year. It was only in August 2004 that the negotiating parties came up with a so-called ‘Road Map for Economic Partnership Agreement Negotiations between West Africa and the European Community’. Among other things, the roadmap laid out the negotiating structure and an indicative schedule for the negotiations. These in turn were split up into three main phases (see Box 3):

¹¹¹ Mareike Meyn, "Economic Partnership Agreements: A 'Historic Step' Towards a 'Partnership of Equals'?" *Development Policy Review* 26, no. 5 (2008), 522.

¹¹² African Trade Policy Centre, ‘EPA Negotiations: African Countries Continental Review’, 19 February 2007, 44.

Box 3 – Originally envisaged EPA negotiation phases (EU-ECOWAS)

- *Phase 1: September 2004 to September 2005:* review of the tools available for consolidating and strengthening the economic and trade integration of the West African region; establishment of the EPA reference framework; formulation and Implementation of the programme to enhance competitiveness and of an ‘Upgrading Programme’.
- *Phase 2: September 2005 to September 2006:* definition of the overall EPA architecture and preparation of the draft agreement on all trade-related issues.
- *Phase 3: September 2006 to December 2007:* Negotiations between both parties on the liberalisation of trade in goods and services, and conclusion of the EPA.

(Source: ECOWAS-UEMOA Review report 2006)¹¹³

During the first two negotiation phases (until September 2006), the talks had not yet reached an explicit impasse situation on the contentious issues outlined above. Actors seemed caught at a prior stage: cooperation partners needed to prepare and consolidate their negotiating positions internally before they could engage in negotiations. Especially on the West African side, this seemed to be problematic in the initial negotiation phases.

For instance, after the conclusion of the roadmap the West African region set up five thematic working groups¹¹⁴. However, by the end of 2005 little substantial progress had been made in these working groups. Regarding the trade-related issues, progress was particularly slow on intellectual property rights, competition policy, trade in services and investment framework¹¹⁵. The thematic group on investment, for instance, only met for the first time in May 2005 in Abuja. It was reported that, by the second meeting in Ouagadougou in December 2005, not much progress had been

¹¹³ ECOWAS/UEMOA, ‘Report on the review of the negotiations of the West Africa-EU Economic Partnership Agreement (EPA) consistent with article 37.4 of the Cotonou Agreement’, submitted to the Ministerial Monitoring Committee of 28-30 November 2006.

¹¹⁴ The working groups focused on the following issues: customs union as well as free trade area and trade facilitation; technical barriers to trade and standards as well as sanitary and phytosanitary measures; intellectual property and competition; services et investments; and finally sectors of production; ECOWAS/UEMOA, ‘Report on the review of the negotiations of the West Africa-EU Economic Partnership Agreement (EPA) consistent with article 37.4 of the Cotonou Agreement’, submitted to the Ministerial Monitoring Committee of 28-30 November 2006, 6.

¹¹⁵ EC, ‘The trade and development aspects of EPAs’, Commission staff working document, SEC(2005) 1459, Brussels, 9 November 2005, 18.

achieved¹¹⁶. The European Commission noted in a 2005 working paper on EPAs that ‘[w]ork on competition and investment policies, foreseen in the road map, will go ahead but West Africa region is still developing its position and regional policy on these issues and discussions have not started’¹¹⁷. The interviews that were conducted confirmed the insufficient level of preparation on the ECOWAS side in this early phase of negotiations¹¹⁸. This meant that negotiations between the EU and West Africa could not really begin, and the EPA process was very much characterised by delay rather than by an impasse situation.

The pace of negotiations began to pick up during the third negotiating phase (September 2006-end of 2007). From the end of 2006 onwards, negotiations gained speed, and the West African side generally became more engaged in the negotiation process. A wider array of stakeholders was included in the negotiation process, which helped to establish national and regional negotiating positions on the West African side¹¹⁹. Once the West African position became clearer, the substantial disagreement on the contentious negotiating issues became apparent. Opposing negotiating positions persisted up until the 2007 deadline, which suggests the emergence of an impasse situation.

Firm disagreement over the extent of market access became manifest during the EU-ECOWAS negotiating session in Ouagadougou, held from the 23rd until the 26th of January 2007¹²⁰. The EU initially proposed 80% of market opening over a transition period of 10-15 years, while West Africa demanded 60% of market access opening over a period of 25-30 years. Neither side was willing to make substantial concessions on these positions during the entire year of 2007. On the 20th of July of 2007, the West African ministers of trade had a meeting in Accra at which they reiterated their

¹¹⁶ ECOWAS, ‘ECOWAS Common Investment Market Initiative’, Key note address by Prof. Bamba, Lagos, 15 November 2011, http://www.privatesector.ecowas.int/en/III/Key_Note_Address_of_Commissioner.pdf.

¹¹⁷ EC, ‘The trade and development aspects of EPAs’, Commission staff working document, SEC(2005) 1459, Brussels, 9 November 2005, 18.

¹¹⁸ Interview 63, Abuja, government official, December 2011; Interview 67, Abuja, civil society representative, December 2011; Interview 31, Brussels, ECOWAS representative, November 2010; Interview 64, Abuja, EU official, December 2011.

¹¹⁹ Most ECOWAS member states set up cross-cutting trade committees that included representatives from all key ministries, and oftentimes comprised representatives from the private sector and civil society as well. Interview 68, Abuja, ECOWAS representative, December 2011; Interview 44, phone-to-capital, government official, October 2011; note that some countries set up these institutional structures only at a later stage in the negotiations. For example, Gambia launched a coordinating committee on trade in 2009.

¹²⁰ Bilaterals.org, Tetteh Hormeku, 2 February 2007, “Deadlock of Economic Partnership Agreements (EPA) in Ouagadougou”, http://www.bilaterals.org/spip.php?page=print&id_article=7057&lang=en.

position on only 60% of market opening over 25-30 years¹²¹. Neither side was willing to move beyond their proposals in the remaining time before the 2007 negotiating deadline.

One of the other substantial negotiating issues that both sides persistently held opposing negotiating positions on was financial aid. Already in October 2006 during the Niamey meeting of the Ministerial Monitoring Committee, the West African side voiced its demand for additional financial aid. At this meeting, the idea of an EPA regional fund was brought up for the first time¹²². Shortly thereafter, the General Affairs and External Relations Council (GAERC) of the European Union noted in the conclusion of its meeting from the 16th-17th of October 2006 that the need for financial assistance, which may occur as a result of EPA negotiations, should rather be addressed under the already existing framework of 'aid for trade', in particular EDF resources. While incremental changes in the negotiating positions on both sides could be observed over the course of 2007, both parties remained firm on their contrasting negotiating positions regarding the question of additional financial aid. In October 2007, the European Commission reiterated its position in another communication, stating that 'the programming of the 10th European Development Fund (EDF) offers a unique opportunity to synchronise trade policy decisions taken in the EPAs and programming of EDF resources'¹²³. By contrast, the ECOWAS side reiterated on the 5th of October 2007 at a special meeting of its Ministerial Monitoring Committee on the EPA negotiations in Abidjan, Côte d'Ivoire, that in the current proposal 'financing accompanying measures for the EPAs are not in place'¹²⁴. High-level negotiations in Brussels on the 18th of October 2007 did not lead to a breakthrough on the impasse regarding financial aid.

¹²¹ICTSD, 'EPA update', Trade Negotiations Insight, Vol. 6 No. 5 (September 2007), http://acp-eu-trade.org/library/files/TNI_EN_6-5.pdf; Pambazuka, 'ECOWAS Seeks Commitment on Development', posted by Yves Niyiragira, 19 May 2009, <http://www.pambazuka.org/aumonitor/comments/2372/>; note that the percentage refers to the reduction to zero of its tariffs on a basket of goods that accounted for 60% or 80% by value of its imports from the EU in 2003; Christopher Stevens, "The EU, Africa and Economic Partnership Agreements: Unintended Consequences of Policy Leverage," *The Journal of Modern African Studies* 44, no. 03 (2006), 448.

¹²² Lui, Dan, 'The Aid for Trade Agenda and accompanying measures for EPAs: Current state of affairs', ECDPM Discussion Paper 86, Maastricht, November 2008.

¹²³ EC, 'Economic Partnership Agreements', Communication from the Commission to the Council and the European Parliament, Brussels, 23 October 2007, COM (2007) 635 final.

¹²⁴ Reported for instance Momagri.org, 'Calls to Extend EPA Negotiations', 22 October 2007, http://www.momagri.org/UK/personal-accounts/Calls-to-Extend-EPA-Negotiations_213.html; see also Abcburkina.net, 'EPAs – West Africa demands an extended deadline', <http://www.abcburkina.net/en/nos-dossiers/vu-au-sud-vu-du-sud/522-251-ape-la-cedeao-demande-une-prolongation-des-negociations>.

The procedural issue of the 2007 deadline became another key aspect of the impasse situation, the parties disagreeing over it for a long period of time. From the 28th-30th of November 2006, the West African side held a EPA Ministerial Follow Up Committee at which ministers, for the first time, proposed to extend the negotiating deadline until the end of 2010¹²⁵. The incompatibility of this demand with European negotiating positions already became apparent in early 2007 and remained unchanged throughout the final year before the 2007 deadline. It was reported that, at the Ouagadougou negotiating meeting between the EU and ECOWAS from the 23rd-26th of January 2007, the extension of the December 2007 deadline was one of the main issues that both parties could not agree on¹²⁶. On the 3rd of September 2007, ECOWAS representatives reiterated their request for an extension of the EPA deadline during a brainstorming meeting. The European Commission, to the contrary, again rejected the possibility of extending the WTO waiver¹²⁷. The impasse remained firm, with West Africa again urging the Commission to extend the current waiver at its MMC meeting in Abidjan, Côte d'Ivoire, on the 5th of October 2007. However, at a subsequent high-level negotiation meeting in Brussels on the 18th of October 2007 the EU again declared that it regarded an extension of the WTO waiver beyond the end of 2007 as incompatible with the provisions of the Cotonou Agreement¹²⁸. The EU Ministers turned down the West African's waiver request at the ECOWAS-EU Ministerial Troika meeting on the 11th of October 2007¹²⁹.

Not only did the EU and West Africa hold opposing positions on the negotiating issues of the scope and time period of liberalisation commitments, the additionality of financial aid and the renewal of the waiver, but opposing negotiating positions were persistent throughout much of the third phase of EPA negotiations prior to the 2007 deadline. This suggests that disagreement was indicative of the emergence of an impasse situation.

¹²⁵ ICTSD, Trade Negotiations Insight, Vol. 6 No. 1 (January/February 2007), http://acp-eu-trade.org/library/files/TNI_EN_6-1.pdf.

¹²⁶ Bilaterals.org, Tetteh Hormeku, 2 February 2007, "Deadlock of Economic Partnership Agreements (EPA) in Ouagadougou", http://www.bilaterals.org/spip.php?page=print&id_article=7057&lang=en.

¹²⁷ Reported in: ICTSD, Trade Negotiations Insight, Vol. 6 No. 6 (October 2007), http://www.acp-eu-trade.org/library/files/TNI_EN_6-6.pdf.

¹²⁸ ICTSD, Trade Negotiations Insights, Vol. 6 No. 8 (December 2007 & January 2008), http://acp-eu-trade.org/library/files/TNI_EN_6-8.pdf.

¹²⁹ Council of the European Union, '12th ECOWAS-EU Ministerial Troika Meeting', Ouagadougou, Burkina Faso, Final communiqué, Brussels, 11 October 2007, 13840/07 (Presse 231).

1.2.2 Negotiating Period 2008-2010

After the failure to meet the 2007 deadline, both sides eventually decided to continue with negotiations. Yet, the reiteration of the commitment to the EPA process did not seem to translate into making progress at the negotiation table. While the first year of the continued negotiations was characterised mostly by delay, the impasse situation was reiterated thereafter.

Much of 2008 was again characterised by delay, rather than by an impasse situation, between the EU and West Africa. This was due to the West African region needing to devote most of the year towards internally consolidating their negotiating positions, and to prepare a joint market access offer for the EU. The failure to reach an agreement by the end of 2007 left the region internally split, with Ghana and Cote d'Ivoire breaking ranks and initialising an interim EPA. At that time, it was not clear that all West African countries would decide to continue the negotiations as a region, as both mistrust and anger followed from the decision of the two non-LDC countries to individually support an interim agreement. Not only was it necessary to create momentum for negotiating as a joint region again, it also became much more pressing to finalise the discussions over a Common External Tariff for the ECOWAS region: a prerequisite for signing a trade agreement as a regional bloc. Due to this internal consolidation process, negotiations with the EU were delayed. While the parties first committed to trying to complete further negotiations by the end of 2008¹³⁰, the deadline was (temporarily) moved to June 2009¹³¹.

Towards the end of 2008, negotiations between the EU and West Africa were resumed. On the 18th of December 2008, the West African Heads of State directed the ECOWAS and UEMOA commissions at the ECOWAS Summit to fast-track negotiations, in order to be able to meet the deadline¹³². Yet, when negotiations between the EU and West Africa began to pick up, the persistence of opposing negotiating positions on the major contentious issues became apparent once again.

Disagreement was, firstly, manifest regarding the scope of market opening

¹³⁰ Center for International Environmental Law, 'Intellectual Property in European Union Economic Partnership Agreements with the African, Caribbean and Pacific Countries: What way Forward after the Cariforum EPA and the interim EPAs?', April 2008, 7.

¹³¹ Africa-eu.org, 'EPAs: the state of play', 23 February 2009, <http://www.africa-eu.org/The-project/Newsletter/Newsletter-n.-5-February-2009/EPAs-the-state-of-play>.

¹³² Final Communiqué, 35th ordinary session of the authority of heads of state and government, ECOWAS Commission, Abuja, 19 December 2008, Ref.: ECW/CEG/ABJ/35.

commitments. The West African region tabled a first draft market access offer to the EU at the joint technical and senior level EPA negotiations taking place from the 16th-20th of February 2008 in Dakar, Senegal. This offer proposed a liberalisation of 60% on the West African side over a period of 25 years, and hence represented a continuity of the demands the region had voiced prior to the 2007 deadline – albeit with more detail. The EU, however, continued to insist that 60% would not be sufficient in terms of the scope of market access opening, and proposed 15 years as an adequate transition period. Over the course of the next two years, the West African side did become slightly more flexible on this issue (see Figure 6). At the negotiating session in July 2009, held again at Dakar, the region proposed to liberalise 63.12% of its markets to the EU, while still insisting on 25 years as a transition period before liberalisation commitments needed to be fully implemented. The region made further concessions at the technical and senior level negotiating meeting in Abidjan held in November 2010, when it agreed to a market access opening of 67% over 25 years. A final concession was made during a meeting of senior officials in Brussels in March 2010, when the ECOWAS region proposed a liberalisation commitment of 70% over 25 years. This position was reiterated during the following two negotiating session, held in June 2010 in Ouagadougou and in September 2010 in Brussels.

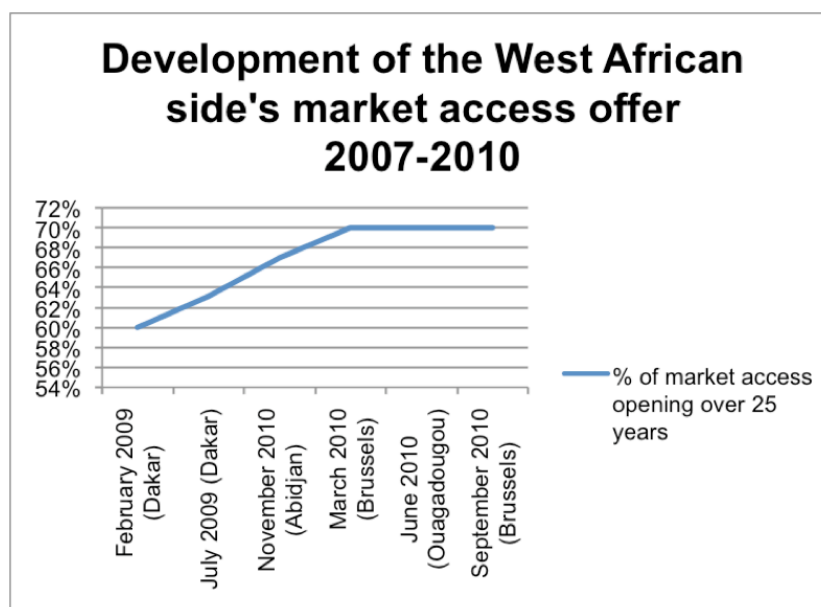


Figure 6 – ECOWAS Market Access Offer (2007-2010)¹³³

¹³³ Source: own compilation of data taken from the ‘EPA Negotiations Update’ in the monthly newsletter ‘Trade Negotiation Insights’ (time period 2007-2010), International Center for Trade and Sustainable Development (ICTSD), Geneva, <http://ictsd.org/news/tni/>.

While the West African side modified its offer from 60% to 70% market access opening, both parties nonetheless failed to reach common ground. On the one hand, the EU insisted that the scope of the market access offer was not substantial enough. Instead of accepting 70% of market access opening, the EU was reported to have insisted on 80% during the negotiations¹³⁴. Another stumbling block regarding the market access offer was the length of the liberalisation period. Neither side made any substantial concessions regarding the length of the implementation phase of market opening commitments, and so distributive negotiation stances persisted. West Africa stood firm on its demand of 25 years, while the EU insisted on 15 years throughout the negotiating period of 2008-2010.

Similar to the negotiations prior to the 2007 deadline, the second major negotiating issue that both sides persistently failed to agree on was the question of additional financial resources. The West African side's demand regarding this issue became more concrete in the negotiating period after the 2007 deadline when the PAPED programme was designed. A first draft version was presented at a technical negotiation meeting in Brussels from the 20th-24th of April 2008. In February 2009, the PAPED framework was adopted by the ECOWAS parties during a regional workshop in Accra¹³⁵, and an improved version of the PAPED was submitted to the EU. At that time, the PAPED programme had not yet been validated by the European side. The key issue of contention was the question of financial resources: who should provide them, in what form, and how much was needed? Similar to the pre-2007 negotiating period, West Africa and the EU continued to disagree over the question of the additionality of financial resources¹³⁶. On the 26th of April 2010, the Council finally provided an answer to the West African side's submission on the idea of having an EPA Development Programme as part of the trade agreement. While the

¹³⁴ Interview 66, Abuja, civil society representative, December 2011; Interview 65, Abuja, ECOWAS representative, December 2011; Interview 57, phone-to-capital, ECOWAS official, October 2011; Interview 44, phone-to-capital, government official, October 2011; Interview 49, phone-to-capital, ECOWAS official, October 2011; Interview 50, phone-to-capital, private sector representative, November 2011.

¹³⁵ Email exchange with ECOWAS official; MAIS, 'The EPADP: A "smokescreen" aid for trade pushing for free trade between the EU and West Africa?', Policy briefing, 18 October 2010; Agritrade.cta.int, 'EPA negotiation issues between West Africa and the EU', Executive brief: Update, February 2010, <http://agritrade.cta.int/Agriculture/Topics/EPAs/EPA-negotiation-issues-between-West-Africa-and-the-EU>.

¹³⁶ Note that the scope of financial aid became a further, but less central, source of disagreement in this regard. While the West African side demanded €9.5bn over an initial period of five years (2010-2014), the EU proposed to commit €6.5bn over the same period of time.

Council was generally supportive of Paped, it continued to reject the demand for binding commitments regarding additional financial resources. When negotiations resumed in a joint session in Brussels from the 13th-17th of September 2010, the parties once again failed to reach an agreement on both the sources and the amount of financial aid, as well as the question of whether legally binding commitments would be necessary¹³⁷.

As a consequence of persistent disagreement on these major contentious issues, the impasse situation persisted. Negotiations got to yet another low-point when the African Union Ministers of Trade uniformly adopted the Kigali Declaration on the 2nd of November 2010. The declaration not only lamented the persistent impasse situation – the ‘lack of progress in resolving the differences between the parties’¹³⁸ – but was also seen as a condemnation of the EU’s approach to the EPA negotiations¹³⁹. The persistence of opposing negotiating positions over time is hence indicative of the characterisation of the preliminary negotiating outcome as an impasse situation. By November 2010, the African Union Trade Ministers called upon their governments to take appropriate steps in ‘resolving the impasse on the EPA negotiations’¹⁴⁰. While the empirical analysis of this thesis is limited to the negotiating process up until November 2010, the impasse situation continues until the day of the writing of this thesis (December 2012).

¹³⁷ ICTSD, Trade Negotiation Insights, Vol.9 No.8 (October 2010), <http://ictsd.org/i/news/tni/87673/>.

¹³⁸ African Union, ‘Kigali Declaration on the Economic Partnership Agreements’, AU conference of Ministers of Trade, 29 October – 2 November 2010, Kigali, Rwanda, AU/ EXP/TD/Decln/2 (VI).

¹³⁹ Joint statement by the West African Civil Society Platform on the Cotonou Agreement (POSCAO), Economic Justice Network of Ghana (EJN) and the Secretariat of the Africa Trade Network (ATN) on the occasion of the ECOWAS Ministerial Monitoring Committee (MMC) of the EPA negotiations, Accra, 28 - 30 November 2011.

¹⁴⁰ African Union, ‘Kigali Declaration on the Economic Partnership Agreements’, AU conference of Ministers of Trade, 29 October – 2 November 2010, Kigali, Rwanda, AU/ EXP/TD/Decln/2 (VI).

Negotiating issue	West African position	European position	Persistence of opposing positions
Scope of liberalisation and transition period	60-70% of market opening over 25-30 years	80% of market opening over 15 years	end of 2006-2010* (ongoing)
Financial aid (PAPED)	binding commitments on additional aid	non-binding commitments and reliance on existing funds	end of 2006-2010* (ongoing)
WTO waiver	extension of the WTO waiver beyond 2007	no new waiver	end of 2006-2007

Table 3 – Selected ‘Contentious Issues’ in EPA Negotiations 2002-2010
* 2008 characterised by delay

1.3 WILLINGNESS TO COOPERATE

A third important characteristic of an impasse situation is that, while the parties stand firm on opposing negotiating positions over a considerable period of time, they nonetheless do not wish to break off negotiations. This is because they continue to believe that cooperation could be mutually beneficial.

After the fiasco of the 2007 deadline –which was not only missed, but also led to a political rupture in the relationship between the parties– both sides could have decided to abandon EPA negotiations. Yet, they decided to continue the negotiation process. For instance, the summary of conclusions of the ECOWAS-EC negotiating meeting in Dakar from the 22nd-23rd of July 2009 noted that both sides ‘reiterated their commitment to take all necessary measures in view of achieving, in conformity with the conclusions of the Meeting of Chief Negotiators held on 17th June 2009, an agreement mutually beneficial to each of the Parties’¹⁴¹. Hon. Simon Osei Mensah, member of the ECOWAS Parliament, explicitly stated that ‘West Africa is not adverse to an Economic Partnership Agreement especially one that is beneficial to its citizens’¹⁴². An EU press release similarly declared after a negotiating session in October 2009 in Abidjan, Cote d’Ivoire, that ‘[b]oth sides remain committed to further negotiations, to come to an offer that reflects the development needs of the

¹⁴¹ EU/ECOWAS/UEMOA, Negotiation Meeting at the level of Senior Officials, Dakar, 22nd-23rd of July 2008, Summary of conclusions.

¹⁴² Presentation of Hon. Simon Osei Mensah, Member of the ECOWAS Parliament, Ouagadougou, Burkina Faso, 28th-30th October 2009.

region'¹⁴³. The parties continued to express their belief that cooperation could be mutually beneficial. An official from the West African side, for example, said that 'I think ...[with] goodwill on both sides, it should be possible to really have the trade regime that will serve the interests on both sides'¹⁴⁴. The Trade Ministers of the African Union officially reiterated their desire to continue EPA negotiations in 2010, claiming that they '[r]eaffirm Africa's commitment to concluding and signing full and comprehensive development-friendly EPAs as a first option and the need to consider other options only when that goal is not achieved'¹⁴⁵. The EU similarly reiterated that 'EPAs are an integral part of EU and ACP political and development commitments under the Cotonou Agreement'¹⁴⁶. Clearly, neither side preferred breaking off the negotiations to continuing the EPA process in the negotiation period after the 2007 deadline.

To summarise, the preliminary outcome of EPA negotiations can be characterised as an impasse situation. Disagreement between the EU and West Africa became apparent on a number of contentious issues, and both sides remained firm on their opposing negotiating positions over a considerable period of time. Yet, neither side wanted to break off the negotiations entirely.

2. The Impasse as a 'Puzzling' Outcome

The puzzle of this thesis follows from the assumption that the repeated impasse situation constituted a so-called 'sub-optimal' outcome of the negotiating process. The notion of 'sub-optimal' suggests that a better outcome could have been achieved, had the actors opted for a different course of action. To support the claim that the impasse in the particular case of EPA negotiations represented a sub-optimal, and therefore puzzling, outcome of the negotiation process, the following section examines, firstly, whether or not the nature of the policy are under consideration was

¹⁴³ EC, DG Trade, 'EPA Flash News: Talks on the EU-West Africa Economic Partnership Agreement (EPA): Abidjan (Côte d'Ivoire), 23-24 October 2009', Brussels, 27 October 2009.

¹⁴⁴ Interview 35, Brussels, AU representative, November 2010.

¹⁴⁵ African Union, 'Report of the meeting of senior officials', Conference of Ministers of Trade, 6th ordinary session, Kigali 29 October – 2 November 2010, AU/TD/EXP/Rpt(VI), par. (i).

¹⁴⁶ European Commission, 'EPA Reflection paper', internal document, October 2010.

closer to a 'positive-sum' or 'zero-sum' game. An impasse situation is less surprising in the latter case. Secondly, I assess whether or not the impasse represented a 'sub-optimal' outcome in the sense that it was costly to both sides. I contrast the outcome of negotiations with the goals both sides set for themselves in the EPA process.

2.1 EPA NEGOTIATIONS AS A 'POSITIVE-SUM' GAME

The impasse is only a puzzling outcome if we can plausibly assume that cooperation could have been mutually beneficial for both the EU and West Africa. If it was clear from the beginning that cooperation did not promise gains to both sides (zero-sum situation), the impasse would have been the obvious outcome. One could suspect that, given the different economic structures of the EU and West Africa regions, their interests in negotiating a free trade agreement were simply incompatible – with the agreements benefitting either the EU or West Africa, but not both. Yet, I argue that negotiating an EPA constituted a positive-sum game, as trade liberalisation potentially offered gains to both sides that were not mutually exclusive. In the following, I highlight the opportunities for mutual (and complementary) gains presented by negotiating a trade agreement between the EU and West Africa¹⁴⁷. Given the positive-sum nature of EPA negotiations, however, we would have expected both sides to be able to accommodate their conflicting interests in a mutually beneficial way. This is because in positive sum games the negotiating issues are fungible, and disagreement can usually be 'negotiated away' by some kind of package deal, compromise or attempts to 'split the difference'¹⁴⁸.

Improvements in the trade regime with the EU promised huge economic benefits for the West African side, given that the EU constitutes their most important trading partner: 21% of all ECOWAS exports go to the EU and 38% of ECOWAS imports come from the EU¹⁴⁹, while more than half of the region's overall official development assistance is provided by the EU and its member states¹⁵⁰. The interest of the West African side in negotiating a free trade agreement did, on the one hand, lie in

¹⁴⁷ Note that this does not imply that it would have been politically feasible to negotiate such an agreement. However, this section highlights that such negotiations could be approached as a positive sum game.

¹⁴⁸ James D. Fearon, "Bargaining, Enforcement, and International Cooperation," *International Organization* 52, no. 02 (1998), 285.

¹⁴⁹ Data from 2008 EUROSTAT, quoted in: Wildner, German Development Institute, <http://astm.lu/wp-content/uploads/2011/03/Die-Economic-Partnership-Agreements-Tobias-Wildner.pdf>.

¹⁵⁰ Data from 2007, own compilation, source: <http://stats.oecd.org/>.

the benefits associated with increased market access. The benchmark for what would count as ‘increased’ market access was the ‘Everything But Arms’ (EBA) regime. Under the EBA, the EU offers duty free quota free market access to West Africa¹⁵¹ since 2002, with overall tariff levels of approximately 0.2%. Note that individual tariff levels were nonetheless higher, with a 43.3% tariff applied on imports coming from the livestock sector¹⁵². So-called ‘non-tariff barriers’ to trade, such as stringent rules of origin or sanitary regulations, continue to present obstacles to West African exports to the EU that could be further reduced. Room for improving the market access hence existed. Along these lines, the EU declared that EPA negotiations would leave no country worse off than they were under the previous Lomé/Cotonou types of preferences¹⁵³. The inversion of this argument implies that EPA negotiations should leave countries better off than before, or in other words promise gains for the West African region.

It is suggested that, in the case of EPA agreements, economic gains could moreover follow from improvements of the macroeconomic environment, deepening of regional economic integration, increased competitiveness, from benefits for the consumers who can rely on a greater variety of imported products at lower prices, and from an increase in investment and technology transfers¹⁵⁴. For instance, Professor Nwoke noted in a workshop related to EPAs that the Nigerian economy ‘is currently plagued by poor and decadent infrastructure, heavy cost of doing business, and largely dominated by intermediaries’ elements of the ruling class¹⁵⁵. While he criticised the EU’s proposal of EPAs for not addressing the region’s needs, there was an acknowledgement that transforming the economy could be beneficial for West Africa. An impact assessment study on the tentative effects of EPAs on Senegal argues along similar lines that ‘the EPAs could be quite beneficial economically for Sierra if they can be used to leverage important policy reforms’¹⁵⁶.

¹⁵¹ Except for Ghana, Ivory Coast, and Nigeria, which are non-Least Developed Countries.

¹⁵² IFPRI, ‘Impact Study of the Economic Partnership Agreements (EPAs) in the Six ACP Regions’, Final Report, January 2008, 36.

¹⁵³ As set out in the Cotonou Partnership Agreement, Article 37(6).

¹⁵⁴ See IFPRI, ‘Economic Partnership Agreements between the European Union and African, Caribbean, and Pacific Countries - What Is at Stake for Senegal?’, Valdete Berisha-Krasniqi, Antoine Bouët, Simon Mevel, FPRI Discussion Paper No. 00765, April 2008, 3.

¹⁵⁵ Manufacturers Association of Nigeria (MAN)/The Nigerian Economic Summit Group (NESG), ‘Report of MAN-NESG 2-day workshop in EU-ECOWAS Economic Partnership Agreement negotiations’, Lagos, 15-18 May 2008.

¹⁵⁶ Landell Mills, ‘Sierra Leone - EPA Impact Study’, John Olympio, Pierre Bidé and Daniel Ndlela, February 2006, 97.

Note that whether or not an EPA could indeed be beneficial depends on the substance of the agreement, and on how it would be implemented. This being said, most observers agree that entering into a reciprocal free trade agreement with the EU potentially promises economic benefits for West Africa if it, firstly, were to increase market access to the EU, and, secondly, were to advance economic reforms to overcome trade-related capacity constraints within the region and to deepen regional economic integration¹⁵⁷.

From the European perspective, potential economic benefits of a reciprocal trade agreement are of a comparatively minor importance, due to its different structural position within the trading relationship. Only around 1.5% of the total extra-EU-27 exports and imports go to or come from the ECOWAS region¹⁵⁸. Nevertheless, reciprocal trade agreements did promise some economic gains for the EU, especially since the West African region maintained tariffs on most EU imports. Both trade creation and trade diversion effects would be expected. In the case of trade diversion, the EU would be able to divert exports from other regions of the world, not because the European products would be more competitive but because the market access conditions would be more favourable. Greater reciprocity in liberalisation commitments hence means that the EU would be likely to increase its exports to the region. For instance, a World Bank study on the economic effects of an EPA on Nigeria calculates that the country's imports from the EU would increase by 7.4% after the preferential tariff liberalisation associated with an EPA agreement¹⁵⁹. The impact assessments on the effects of the EPA on West Africa generally note that trade

¹⁵⁷ See for instance Meyn, *Economic Partnership Agreements: A 'Historic Step' Towards a 'Partnership of Equals'?*, 517; Soamiely Andriamananjara and others, "Assessing the Economic Impacts of an Economic Partnership Agreement on Nigeria," *World Bank Policy Research Working Paper* 4920 (2009), 28; Amin Alavi, Peter Gibbon and Niels J. Mortensen, "EU-ACP Economic Partnership Agreements (EPAs): Institutional and Substantive Issues," (2007), 82, Walkenhorst, Peter and Olivier Cattaneo, 'Trade, Diversification and Growth in Nigeria', World Bank, MPRA Paper No. 23735, April 2006, 53; note that impact assessments related to African economies need to be treated with particular caution. This is because data is often not readily available, the informal sector dominates in many African countries, and assumptions that trade models rely upon might not hold in the specific context of the economies concerned. Yet, there are currently no better alternatives available.

¹⁵⁸ Eurostat, Data from September 2011, 'ECOWAS-EU - trade and investment statistics', [http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/ECOWAS-EU - trade and investment statistics](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/ECOWAS-EU_-_trade_and_investment_statistics).

¹⁵⁹ Andriamananjara and others, *Assessing the Economic Impacts of an Economic Partnership Agreement on Nigeria*, 13.

diversion would take place, and there would be an increase of EU exports to the region if EPAs were to be concluded¹⁶⁰.

Note that the mere possibility of mutual gains from trade liberalisation does not say anything about whether or not these gains are equal for both side, or more generally just. For example, negotiating a free trade agreement with marginal benefits for the West African side does little to address the way in which the current structure of the global economy systematically disadvantages those countries whose economy depends primarily on the export of primary goods. Nonetheless, the above analysis does suggest that negotiating an EPA agreement, in principle, could have been mutually beneficial. While a reciprocal free trade agreement may not have qualified, as the EU declared, as an 'innovative attempt to harness trade policy to development'¹⁶¹, it did seem to offer an opportunity for mutual (albeit not necessarily equal) gains. Yet, if mutual gains were available in a positive sum game, it becomes part of the puzzle why the cooperation partners were unable to settle on an agreement.

To further emphasise the puzzling nature of the impasse in EPA negotiations as a positive sum game, it is, moreover, helpful to compare it to trade negotiations that took (and take) place in the context of the negotiations rounds conducted under the GATT and the WTO¹⁶². Impasse situations have historically been a part of the multilateral trade negotiations conducted under these legal frameworks. The Uruguay round negotiated under the GATT agreement was for instance characterised by an impasse situation over how to reform agriculture, which prevented a conclusion by the originally envisaged deadline of December 1990¹⁶³. The latest set of multilateral trade negotiations taking place under the WTO umbrella, the so-called Doha

¹⁶⁰ See for instance Pricewaterhouse Coopers, "Sustainability Impact Assessment of the EU-ACP Economic Partnership Agreements. Full Report," (2005); Martin Busse and others, "The Impact of ACP/EU Economic Partnership Agreements on ECOWAS Countries: An Empirical Analysis of the Trade and Budget Effects," *Institut Für Wirtschaftsforschung, Hamburg* (2004); Andriamananjara and others, *Assessing the Economic Impacts of an Economic Partnership Agreement on Nigeria*; A. Adenikinju and O. Alaba, "EU-ACP Economic Partnership Agreements: Implication for Trade and Development in West Africa," *TPRTP, University of Ibadan, Nigeria* (2005) ; Friedrich Ebert Foundation, 'The Cotonou scenarios - negotiations on the Economic Partnership Agreements between the European Union and West Africa', June 2009, Cotonou, Benin; Pannhausen, Christoph, 'Economic Partnership Agreements and Food Security: What is at stake for West Africa?', DIE-GDI discussion paper, Bonn, September 2006.

¹⁶¹ EC, Statement by EU Trade Commissioner Peter Mandelson, October 2005, <http://trade.ec.europa.eu/doclib/html/125868.htm>.

¹⁶² The GATT was replaced in 1995 with the WTO as a new international organisation.

¹⁶³ US International Trade Commission, "The Impact of Trade Agreements: Effect of the Tokyo Round, U.S.-Israel FTA, U.S.-Canada FTA, NAFTA, and the Uruguay Round on the U.S. Economy," DIANE Publishing, August 2003, 34.

development round, is characterised by fierce disagreement and many predict that it will be hardly possible to reach an agreement¹⁶⁴. This could lead us to suggest that the failure of the EU and West Africa to conclude an EPA over a prolonged period of time might be less puzzling than stated since impasse situations are to be expected in international trade negotiations. Yet, given the structural and historical differences between the GATT/WTO on the one hand, and the EU-ACP trade negotiations on the other hand, it is not possible to understand the impasse situation encountered in EPA negotiations by looking at the GATT/WTO context.

First of all, the multilateral nature of trade cooperation under the GATT/WTO framework differs from the bi-lateral negotiations in the EPA case in several respects¹⁶⁵. The former involves writing common rules¹⁶⁶ rather than concluding a specific trade agreement. Hence, while bi-lateral trade negotiations facilitate the immediate exchange of reciprocal concessions, multilateral trade negotiations 'multilateralise reciprocity', i.e. they 'establish[...] rules of reciprocity on a generalized basis across three or more countries'¹⁶⁷. The WTO/GATT's provisions are, moreover, confined by mandate to the regulation of trade cooperation and usually do not touch upon the provision of financial aid¹⁶⁸. Bi-lateral negotiations are not necessarily confined to the realm of trade policy, while issue-area linkages are potentially more comprehensive.

¹⁶⁴ Tony McGrew, "After Globalisation? WTO Reform and the New Global Political Economy," in *Governing the World Trade Organization*, eds. Thomas Cottier and Manfred Elsig (New York: Cambridge University Press, 2011), 34; Simon J. Evenett, "Reciprocity and the Doha Round Impasse: Lessons for the Near Term and After," *Aussenwirtschaft: Schweizerische Zeitschrift Für Internationale Wirtschaftsbeziehungen/The Swiss Review of International Economic Relations* 62, no. 4 (2007).

¹⁶⁵ On the ways in which the characteristics of different negotiation forums affect cooperation, see John S. Odell, *Negotiating Trade: Developing Countries in the WTO and NAFTA* (Cambridge, UK ; New York: Cambridge University Press, 2006); Emilie Hafner-Burton, "Forum Shopping for Human Rights: The Transformation of Preferential Trade," Manuscript Drafted for Participation in the Workshop on Forum Shopping and Global Governance at the European University Institute, Florence, Italy, 23-24 April 2004; Davis, *International Institutions and Issue Linkage: Building Support for Agricultural Trade Liberalization*.

¹⁶⁶ Odell, John and Antonio Ortiz Mena L.N., 'How to Negotiate Over Trade: A Summary of New Research for Developing Countries', paper included within the programme of the Geneva International Academic Network (GIAN), April 2004, 3.

¹⁶⁷ Amrita Narlikar, *The World Trade Organization: A very Short Introduction* (Oxford: Oxford University Press, 2005), 5.

¹⁶⁸ Note that some technical assistance and capacity-building programmes have been integrated into the WTO framework. Yet, they are not part of the negotiation rounds.

The way in which the multilateral trade ‘game’ is played, hence, necessarily differs from bi-lateral negotiations at the trade-development nexus¹⁶⁹. Wilkinson argues that the bargaining problems in multilateral trade negotiations are the result of the fact that GATT/WTO members conduct iterated rounds of trade negotiations characterised by diffuse rather than specific reciprocity¹⁷⁰. It encourages an exchange in which concessions made in one negotiating round may lead to demands for new concessions in subsequent negotiation rounds. In order to close a negotiating round, all countries need to agree on a ‘package’ deal. Given the unequal power of the GATT/WTO member states and the path-dependent way in which the negotiations unfolded, this system of iterated negotiating rounds is likely to encourage zero-sum situations over time. As argued by Wilkinson,

‘[t]his iteration has, inevitably, put GATT contracting parties/WTO members at loggerheads with one another; and the development of the GATT/WTO has been such that the two groups most frequently perceived to be so are developing countries (those primarily seeking to rectify past anomalies) and their industrial counterparts (those seeking to protect sectors of decreasing competitiveness and political sensitivity as well as to open up new areas of economic opportunity)’¹⁷¹.

Elsig and Cottier, moreover, note the existence of a ‘structural failure’ in the WTO’s consensus-based decision-making procedures, which lead to a ‘decision-making decision trap from which it is hard to escape’¹⁷². Given the shifting balance of power in global politics, more and more countries are able to exert their veto power¹⁷³ – which perpetuates the current impasse situation. The difficulties to reach agreement at the Doha development round are, therefore, partly the result of a structural and historical bias towards a zero-sum situation inherent in the GATT/WTO system.

EPA negotiations, on the contrary, differ substantially in terms of their negotiating structure and historical origin. They are only between two negotiating parties and are not necessarily part of an iterated set of negotiations. EPA agreements (once concluded) would hold indefinite validity. This reduces the structural biases towards a

¹⁶⁹ Note that negotiation positions adopted in the Doha round are nonetheless likely to affect the decision-making in the bi-lateral EPA game. The Doha negotiations are currently stalled, with the issue of industrialised countries’ agricultural subsidies and the liberalisation of trade in services as one of the main stumbling blocks of the negotiations. Negotiation positions at the bi-lateral level are unlikely to diverge substantially. On the stalemate in the Doha round see Gallagher, *Understanding Developing Country Resistance to the Doha Round*.

¹⁷⁰ Rorden Wilkinson, "Barriers to WTO Reform: Intellectual Narrowness and the Production of Path-Dependent Thinking," in *Governing the World Trade Organization*, eds. Thomas Cottier and Manfred Elsig (New York: Cambridge University Press, 2011).

¹⁷¹ *Ibid.*, 318.

¹⁷² Tony McGrew, *After Globalisation? WTO Reform and the New Global Political Economy*, 300.

¹⁷³ *Ibid.*, 301.

zero-sum game that underpin the impasse situation in the current Doha round. As argued above, EPA negotiations resemble as positive sum game. Moreover, disagreement over EPAs needs to be seen against the specific historical context of EU-ACP relations. The post-colonial era has been characterised by a clientelistic relationship between the partners, which promised mutual gains to both sides¹⁷⁴. While not everybody would agree with the former EU Trade Commissioner who speaks of an ‘excellent history of cooperation’¹⁷⁵ it is clear that the Cotonou Partnership Agreement (CPA) (2000) between the EU and ACP countries represents the most comprehensive North-South partnership so far, involving state and non-state actors and political as well as financial and economic cooperation¹⁷⁶. An important incentive for cooperation was that concluding an agreement was linked to the financial resources of the European Development Fund for ACP countries. As part of the CPA, the EU and ACP countries had moreover agreed to conclude new WTO-compatible trading arrangements by the end of 2007, the Economic Partnership Agreements. During previous negotiations of EU-ACP cooperation it was always possible to reach agreement on a new trade regime¹⁷⁷. Hence, in contrast to the Doha development round, it was much more surprising why it was so difficult to reach an agreement during the EPA process.

2.2 THE IMPASSE AS A COSTLY AND ‘SUB-OPTIMAL’ OUTCOME

In this section, I intend to show that the impasse is puzzling because it was a sub-optimal outcome. I argue that the impasse was not only in neither side’s interest¹⁷⁸, but that the parties could have achieved a more beneficial outcome (at least for one side). Meyn bluntly states that ‘the preliminary analysis ... suggests that the outcome of 5

¹⁷⁴ John Ravenhill, *Collective Clientelism*.

¹⁷⁵ Statement made by Trade Commissioner Peter Mandelson, in: EC, ‘Trading for Development An European Union – Pacific Economic Partnership Agreement’, April 2007, 1, http://trade.ec.europa.eu/doclib/docs/2007/june/tradoc_134815.pdf.

¹⁷⁶ German Development Institute, ‘ACP-EU Relations beyond 2020: Exploring European Perceptions’, *Briefing Paper* 11 (2013), 2.

¹⁷⁷ On a historical overview of EU-ACP trade cooperation, see for instance William Brown, "Restructuring North-South Relations: ACP-EU Development Co-Operation in a Liberal International Order," *Review of African Political Economy* 27, no. 85 (2000).

¹⁷⁸ Note that I hence merely attempt to show that the outcome was sub-optimal and detrimental regarding the actors’ own understandings of the goals they wanted to pursue, not from the perspective of the analyst’s presumably ‘objective’ evaluation of the interests they held.

years of negotiation is highly unsatisfactory¹⁷⁹. This makes us wonder why it was not averted.

Firstly, what were the goals the EU wanted to pursue in EPA negotiations, and to what extent was the impasse helpful to achieve them? Examining ‘the’ interest of the EU presumably wanted to pursue is a difficult undertaking since the EU as an institution is a highly heterogeneous actor. While facing the danger of oversimplification, it is nonetheless possible to point at general aspects we can plausibly expect to be driving forces for the EU’s (and its Member States’) interests in negotiating an Economic Partnership Agreement with West Africa.

First of all, it is also plausible to presume that the EU’s interest in EPA negotiations was to some extent driven by its desire to establish itself as a ‘friend’ of the developing world. This motive reflects the ideas of Europe as a ‘normative’¹⁸⁰, ‘responsible’¹⁸¹ or ‘ethical’¹⁸² power that are prevalent in the literature on the EU as a global actor. Manner prominently argues that the EU as a historically grown political form is characterised to some extent by a ‘commitment to placing universal norms and principles at the centre of its relations with its member states and the world’¹⁸³. These approaches, however, have been criticised for being unreflective, or too idealistic, about the actual role of the EU¹⁸⁴. We should therefore be wary to use these concepts in an uncritical way to assess the EU’s behaviour and policies in international negotiations. They do, however, point at the importance of the ideational foundation of the EU’s own perspective on its role in global politics.

The view that the EU wanted to establish itself in the EPA negotiations as a ‘friend’ of the developing world¹⁸⁵ was close to the ideas of a ‘normative’ power. The EU’s desire to strengthen its role as development partner of the region was for

¹⁷⁹ Meyn, *Economic Partnership Agreements: A 'Historic Step' Towards a 'Partnership of Equals'?*, 525.

¹⁸⁰ Ian Manners, "Normative Power Europe Reconsidered: Beyond the Crossroads," *Journal of European Public Policy* 13, no. 2 (2006).

¹⁸¹ Hartmut Mayer and Henri Vogt, *A Responsible Europe?: Ethical Foundations of EU External Affairs* (Basingstoke: Palgrave Macmillan, 2006).

¹⁸² Lisbeth Aggestam, "Introduction: Ethical Power Europe?" *International Affairs* 84, no. 1 (2008).

¹⁸³ Ian Manners, "Normative Power Europe: A Contradiction in Terms?" *JCMS: Journal of Common Market Studies* 40, no. 2 (2002), 241.

¹⁸⁴ See for instance H. Sijrsen, "The EU as a ‘normative’ power: How can this be?" *Journal of European Public Policy* 13, no. 2 (2006); Kalypso Nicolaidis and Robert Howse, "'This is My EUtopia...': Narrative as Power," *JCMS: Journal of Common Market Studies* 40, no. 4 (2002).

¹⁸⁵ This perspective was reflected in various public declarations as well as the interviews conducted for this thesis; Interview 20, Brussels, Commission official, February 2010; Interview 12, Brussels, Commission official, February 2010; Interview 13, Brussels, Commission official, February 2010; Interview 23, Brussels, Commission official, February 2010.

instance manifest in the statement made by a Commission official who told me in an interview that:

‘what we wanted to do is precisely not to do as the others and to do something which is nicer, something which is more comprehensive. So from our perspective, for the substance, we also wanted to have this image of Europe is trying to do something, not just have this GSP, you like it, you do it. We tried to be more hands-on and to look at what a trade agreement for development could look like’¹⁸⁶.

Doing something that is ‘nicer’, and having ‘this image of Europe is trying to do something’, in this way constituted important motives behind engaging in the ambitious attempt to negotiate a new trade regime with Africa. This desire is likely to reflect both the normative motive to do ‘good’ by helping to reduce poverty, as well as the strategic interests that follow from being a favoured cooperation partner in the developing world¹⁸⁷.

Negotiating a development-oriented trade agreement with the ACP countries was, moreover, seen to serve the EU’s political interests in maintaining strong political ties with the region. I was for instance told in one of the interviews that ‘if you have that bloc behind you to support you with the other negotiations you know it is an important factor, even if money wise trade for Europe is negligible’¹⁸⁸. The particular interests of the former colonial powers that represent major players within the EU are –while decreasing– still seen as constitutive of a strategic interest in maintaining close cooperative ties with African countries¹⁸⁹.

The prospects of short-term economic gains, to the contrary, were seen as relatively negligible¹⁹⁰. EU trade with the ECOWAS countries amounts to only around

¹⁸⁶ Interview 23, Brussels, Commission official, February 2010.

¹⁸⁷ On the motives of the EU and its member states as development actors compare Martin Holland, *The European Union and the Third World* (New York: Palgrave, 2002); Siegfried Schieder, "Strategisches Schenken, Eigennützige Hilfe Oder Solidarität? Die Cotonou-Politik Frankreichs, Deutschlands Und Schwedens Im Rahmen Der EU-Entwicklungspolitik," Beitrag Auf Dem 24. Wissenschaftlichen Kongress Der DVPW an Der Christian-Albrechts-Universität Zu Kiel 21.-25. September 2009; Sven Grimm, *Die Afrikapolitik Der Europäischen Union: Europas Aussenpolitische Rolle in Einer Randständigen Region* (Hamburg: Institut für Afrika-Kunde im Verbund Deutsches Übersee-Institut, 2003), 56.

¹⁸⁸ Interview 29, Brussels, Commission official, November 2010.

¹⁸⁹ Holland for instance asserts that the preferential treatment accorded to the group of African, Caribbean and Pacific countries primarily follow from post-colonial ties and historical links with the region; Holland, *The European Union and the Third World*, 170.

¹⁹⁰ Interview 29, Brussels, Commission official, November 2010; Interview 24, Brussels, Commission official, February 2010; Interview 13, Brussels, Commission official, February 2010; Interview 23, Brussels, Commission official, February 2010; see also Gerrit Faber and Jan Orbie, "The EU’s Insistence on Reciprocal Trade with the ACP Group - Economic Interests in the Driving Seat?", paper prepared for the ‘EUSA Tenth Biennial International Conference Montreal’, Canada, 17-19 May 2007.

1.5% of the total extra-EU-27 exports and imports. The economic relationship with the region is moreover dominated by the trade of oil with Nigeria, which is not directly affected by an EPA agreement since the EU generally does not impose tariffs on oil imports. 67% of EU imports from the ECOWAS region are mineral fuels, out of which a majority is crude oil coming from Nigeria. At the same time, 32% of EU exports to the ECOWAS region constitute mineral fuels (primarily refined oil)¹⁹¹. As argued by an EU official commenting on the motives behind EPA negotiations: ‘money wise trade for Europe is negligible’¹⁹².

Reciprocal trade agreements were, however, seen as an opportunity to secure long-term economic gains from trade cooperation with West Africa¹⁹³. It was acknowledged for instance by one of the European negotiators in an interview situation that

‘there somewhere also is a well-understood interest of Europe. And of course, I also negotiate from the European point of view, even if these negotiations are to a large extent motivated in terms of development policy’¹⁹⁴.

Given these goals the EU presumably wanted to pursue, the impasse situation was a highly costly outcome. Not only did the EU fail to achieve its goals, the (preliminary) outcome of EPA negotiations was even detrimental to its interests. Not reaching an agreement was detrimental to both the interests in advancing long-term economic gains, as well as in strengthening the political partnership between the regions. The outright resistance to the proposed EPA agreements and the politicisation of the negotiation process, moreover, undermined the EU’s intention to establish itself as a ‘friend’ of the developing world. To the contrary, the EU’s attempts to push for the conclusion of EPA agreements were seen as detrimental to the region’s development concerns. Instead of welcoming the EU’s initiative to re-negotiate the trade regime, EPAs were at times even compared to a ‘death warrant’¹⁹⁵, a ‘fist-to-fist

¹⁹¹ Eurostat, Data from September 2011, ‘ECOWAS-EU - trade and investment statistics’, http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/ECOWAS-EU_-_trade_and_investment_statistics.

¹⁹² Interview 29, Brussels, Commission official, November 2010.

¹⁹³ Langan for instance claims that the EU held strategic interests to open up such sectors as telecommunications and finance for European companies, Mark Langan, "ACP–EU Normative Concessions from Stabex to Private Sector Development: Why the European Union's Moralised Pursuit of a ‘Deep’ Trade Agenda is Nothing ‘New’ in ACP–EU Relations," *Perspectives on European Politics and Society* 10, no. 3 (2009), 417.

¹⁹⁴ Interview 20, Brussels, Commission official, February 2010 (own translation).

¹⁹⁵ Mr Kingsley Ofei Nkansah, Vice Chairperson of FoodSPAN, quoted in: Ghana News Agency, “Economic Partnership Agreement Would Collapse Ghana's Feeble Economy – Akomea”, 5 June 2006, <http://www.modernghana.com/news/100088/1/economic-partnership-agreement-would-collapse-ghan.html>.

situation¹⁹⁶ and ‘nothing less than re-colonisation’¹⁹⁷. Sierra Leone’s Deputy Bank Governor Alhaji Mohamed Fofana exemplarily stated in 2009 that ‘[t]he proposed EPAs are interpreted as a diversion from the basic principles that should guide the EU/ACP arrangements and as a reflection of insensitivity on the part of the EU to the genuine interests of development and cooperation’¹⁹⁸. The EU would have surely wanted to avoid the ‘EPA backlash’¹⁹⁹ and resistance it elicited with what was intended to be ‘an ambitious and innovative attempt to harness trade policy to development’²⁰⁰.

It is plausible to suggest, moreover, that the impasse situation constituted a sub-optimal outcome from the European perspective. In previous rounds of trade negotiations with African countries, the EU always succeeded in reaching a cooperation agreement. This indicates that a more favourable outcome could have been possible. Moreover, the costly ‘communication disaster’ can hardly be seen as an inevitable outcome, as it followed from the way in which the EU negotiated (and communicated) throughout the EPA process. For instance, the EU could have made it much clearer from the start that it did not intend to make aid a part of the agreements²⁰¹. Clearly, the impasse situation was a ‘sub-optimal’ outcome from the European perspective.

While it is equally difficult to make generalisations about ‘the’ West African interests in EPA negotiations, it is nonetheless possible to identify broad tendencies and goals that underpinned the region’s collective negotiating approach in the EPA process. First of all, the ECOWAS region saw EPA negotiations as an opportunity to attract more financial resources for its countries. An aid package was seen as integral part of an agreement. A statement made by a West African trade representative succinctly summarised the region’s conception of its goals in EPA negotiations when stating in an interview that ‘for us we want to maximise what we

¹⁹⁶ Interview 5, Brussels, embassy official, July 2008.

¹⁹⁷ Pazumbaka News, “Africa: Africa Trade Network: Declaration of civil society organizations”, 26 February 2008, <http://www.pambazuka.org/en/category/development/46380>.

¹⁹⁸ Bank of Sierra Leone, Speech by the Deputy Bank Governor Alhaji Mohamed Fofana, National Seminar on the Economic Partnership Agreement, Sierra Leone, 12-13. December 2007, <http://bankofsierraleonecentralbank.org/pdf/Seminar%20on%20Economic%20Partnership.pdf>.

¹⁹⁹ San Bilal and Isabelle Ramdoo, “Losing old friends: The risk of an EPA backlash”, Trade Negotiations Insights Vol. 9, No. 8, October 2010, <http://ictsd.org/i/news/tni/87811/>.

²⁰⁰ EC, Statement by EU Trade Commissioner Peter Mandelson, October 2005, <http://trade.ec.europa.eu/doclib/html/125868.htm>.

²⁰¹ Interview 29, Brussels, Commission official, November 2010.

would get from the EU to help our development'²⁰². Secondly, the region generally saw an interest in averting the introduction of far-reaching trade liberalisation commitments, while being able to maintain old trade preferences²⁰³. Or, as Bilal put it, 'EPAs are generally not perceived as an opportunity, but as a fate', while '[t]he prime objective has been to maintain their preferential market access to the EU while making minimal commitments in terms of opening markets or regulatory reforms'²⁰⁴.

Such a defensive approach was seen to serve the region's self-interests in the sense that most countries were not eager to push more actively for a reform agenda in trade negotiations with the EU. Twelve out of the fifteen ECOWAS countries are Least Developed Countries (LDCs), which implies that the current productivity of their economies is relatively low, which arguably creates a greater fear to lower trade barriers. Key players within the region such as Nigeria, Ghana (related to quality standards at the border) and Senegal pursue relatively protectionist policies²⁰⁵, which further underpins the region's general interest in maintaining the old system of preferences instead of making commitments to greater market opening. Moreover, restoring peace and order and building the local economy were of greater importance in those countries within the region that have internal conflicts (Côte d'Ivoire) or that are in post-conflict situations (Liberia and Sierra Leone)²⁰⁶. Low ambitions in pushing for an offensive reform agenda moreover reflected the generally marginal importance that trade takes on among the list of national priorities and objectives in most ECOWAS countries²⁰⁷. Challenges in terms of limited trade negotiation capacities, including a shortage of impact assessment studies, helped little to foster a greater interest in conducting far-reaching trade reforms through negotiations with the EU²⁰⁸.

²⁰² Interview 30, Brussels, embassy official, November 2010.

²⁰³ Note that individual countries, in particular the non-LDC Cote d'Ivoire, were driven to a greater extent by a pro-liberalisation agenda (they were, however, unable to shape the agenda of the West African side on the regional level). Moreover, it does not preclude the possibility that trade liberalisation could have been mutually beneficial, despite the region's generally low levels of interests in carrying out neo-liberal trade reforms.

²⁰⁴ San Bilal, 'EPAs: Vision, faith or blindness?', in ICTSD, *Trade Negotiations Insight*, Vol. 6 No. 6 (October 2007).

²⁰⁵ Interview 51, phone-to-capital, ECOWAS official, October 2011.

²⁰⁶ African Trade Policy Centre, 'EPA Negotiations: African Countries Continental Review', 19 February 2007, 52.

²⁰⁷ Inye N. Briggs, 'Trade-related capacity building needs assessment for ECOWAS', paper commissioned by the United Nations Economic Commission for Africa (UNECA), 30 September 2007, 20.

²⁰⁸ For a detailed analysis of the trade negotiation capacity constraints and levels of preparedness of ACP countries in EPA negotiations see African Trade Policy Centre, 'EPA Negotiations: African Countries Continental Review', 19 February 2007; on capacity constraints see also Inye N. Briggs,

Against the background of these interests the West African region wanted to pursue, the impasse situation can (mostly) be considered as a costly outcome. The impasse situation left the West African region not only with empty hands in terms of the aid package it had hoped for, but the regional integration process was, moreover, seriously disturbed by the failure to reach a regional agreement. While not signing an agreement meant that the region generally averted greater commitments on liberalisation, not reaching a regional agreement was nonetheless costly in economic terms. This is because Ghana and Cote d'Ivoire saw themselves forced to initial an interim EPA. Being non-LDC countries, they did not have the fall-back option of the EBA regime and faced the threat of losing duty-free-quote-free market access to the EU after the passing of the 2007 deadline. Splitting the region, however, has proven costly at times in which West Africa attempts to strengthen regional economic integration. Dr. Ibn Chambas, Executive Secretary and later President of the Economic Community of West African States from 2002 until 2009, argued along these lines that

‘[s]o far both sides agree that the process has not been satisfactory. In some regions, an interim EPA has been signed separately with individual countries, thereby creating different trading regimes within regions. This defeats the principle objective of reinforcing regional integration’²⁰⁹.

The impasse can, moreover, be considered as a sub-optimal outcome in the sense that better strategy choices were available to the West African region. While it is unclear to what extent the EU was willing to accept the region's demands, the costly outcome of splitting the region internally did not seem to have been an inevitable outcome. For instance, had the region taken the whole negotiating process more seriously, it is plausible to suggest that it would have been possible to come up with some kind of regional agreement that all West African countries could have signed up to. While such alternative options were discussed prior to the 2007 deadline, the region decided not to pursue them. Instead, they asked for an extension of the waiver

‘Trade-related capacity building needs assessment for ECOWAS’, paper commissioned by the United Nations Economic Commission for Africa (UNECA), 30 September 2007.

²⁰⁹ Dr. Ibn Chambas, quoted in: vanuatunews.com, ‘ACP wants regional EPA's, not interim agreements with individual members’, 3 August 2010, http://www.vanuatunews.com/index.php?option=com_content&view=article&id=198:acp-wants-regional-epas-not-interim-agreements-with-individual-members&catid=1:vanuatu-news&Itemid=64.

– which was unsuccessful²¹⁰. Clearly, more optimal strategy choices seemed conceivable.

Yet, if the impasse constituted not only a costly but also a sub-optimal (preliminary) outcome of the EPA process, one is left wondering why it was not avoided. To paraphrase the words of Tsebelis: ‘choices that do not appear to be the best an actor can do are puzzling because most observers assume... that people try to behave in ways that maximize the achievement of their presumed goals, that is, they make optimal choices’²¹¹. This is important because it indicates that something must have ‘gone wrong’ over the course of the negotiations, and underpins this thesis’ emphasis on analysing the level of strategic interaction. Doing so helps us to better understand which strategies were adopted, for what reasons, and how they led to the ‘sup-optimal’ outcome of the impasse situation.

3. Conclusion

This chapter examined in detail the impasse situation as the preliminary outcome of the negotiations process, including the major points of disagreement, and their persistence over time. I have shown that disagreement between the EU and West Africa went beyond the usual discord in negotiations. During much of the final year of EPA negotiations before the envisaged deadline at the end of 2007, as well as in the consecutive negotiating period, the parties hit an impasse situation. Key contentious issues were the scope and timeframe of liberalisation, the additionality of financial aid, the Most Favoured Nations clause and the West African side’s demand to extend the WTO waiver.

The present chapter equally explored why the impasse situation was a ‘puzzling’ preliminary outcome of the negotiation process. The impasse situation was not only costly given the goals both sides attempted to pursue, but also resulted in the EU and West Africa forfeiting the benefits they could have attained by cooperating with each other. Given that we presume that it would have been possible to act differently at the negotiating table, we are left wondering why both sides made seemingly sub-optimal

²¹⁰ Interview 57, phone-to-capital, ECOWAS official, October 2011.

²¹¹ George Tsebelis, *Nested Games: Rational Choice in Comparative Politics* (Berkeley: University of California Press, 1990), 1.

strategy choices. It is within this context that the present thesis endeavours to better understand how strategic interaction unfolded, and what kind of cooperation problems prevented the EU and West Africa from settling on a ‘more optimal’ agreement.

Before turning to the analysis of strategic interaction in the EPA process, the next chapter examines the existing context of the rules of the game in the case of EPA negotiations. In doing so, it explores the existing context of different kinds of social norms and conventions that characterise the issue-areas of trade cooperation and development cooperation, and the particular legal rules under which the negotiations were conducted.

4 The Rules of the Game in EPA Negotiations

EPA negotiations were a set of trade negotiations that were framed in terms of a ‘development dimension’. The European Council emphasised that EPAs must serve the objective of poverty reduction and are ‘above all an instrument for development’¹. The EU officially claimed that ‘[w]hat is innovative about this North-South trade agreement is that it unites the two regions behind a common objective: promoting the development of West Africa, home to many of the world’s poorest countries’². Clearly, EPA negotiations were seen to differ from conventional trade negotiations without a ‘development dimension’. EC representative David O’Sullivan, Director General of External Trade of the EC, publicly declared along these lines that

‘I am a trade negotiator – normally a mercantilist profession! But DG Trade does not approach these negotiations in the usual way, where we seek to gain economic advantage from each other. This is clearly not the objective with the ACP. Our objective with you is to build on our privileged relationship and to secure and improve your market access into the EU, in order to serve a wider development goal.’³

This chapter examines the rules of the game in the case of EPA negotiations. The negotiations resided at the nexus-area between trade and development cooperation, and were framed as an attempt to link the goals of development policies with the negotiation of a new trade regime. I argue that this linkage of different issue-areas gave rise to a conflicting set of social norms and conventions. The legal framework of the negotiations insufficiently clarified what set of rules the actors could expect to be applicable. I illustrate that it is against this background, that the EU and West Africa interpreted the rules of the game in different ways.

The chapter fits into the overall argument of the thesis by questioning that we can explain cooperation problems by looking at the strategic dilemmas within clearly defined games. If conflicting understandings of the rules of the game were crucial in the EPA process, as this thesis claims, we as a first step need to inquire what the context of the negotiations was, and in what ways the rules of the game were (or were not) predefined. In doing so, this chapter illustrates the argument that the rules of the

¹ European Commission, Council Mandate on EPAs, tradoc_112023[1], paragraph 2.2; 5.

² European Commission, “Statement by EU Trade Commissioner Peter Mandelson”, October 2005, http://trade.ec.europa.eu/doclib/docs/2005/november/tradoc_125868.pdf.

³ Speech by David O’Sullivan at the ACP Ministerial Meeting on EPAs, Brussels, 9 November 2007, http://ec.europa.eu/commission_barroso/ashton/speeches_articles/spdos001_en.htm.

game cannot be reduced to the actors' interests and beliefs, but need to be seen against the context of existing webs of social norms and conventions. The chapter also provides an example of issue-area linkages as a reason for a 'Battle over Games' to emerge. It points out how far the linkage of trade cooperation and development cooperation might have undermined the emergence of stable expectations about each other's behaviour – a prerequisite for reaching an agreement in bargaining processes. Finally, by highlighting the EU's and the West African side's divergent interpretations of the rules of the game, the chapter lays the groundwork for the central claim of this thesis that 'playing different games' led to the impasse situation.

Firstly, this following chapter aims to conceptualise the rules of trade cooperation and the social norms and conventions embodied therein. It describes the social norms and conventions constitutive of the rules of development cooperation before turning to the potential sources of conflict and ambiguity between them. Secondly, this chapter examines the particular legal framework under which EPA negotiations were conducted. While the linkage of trade and development policies might have potentially destabilised the actors' expectations about the kind of game they were playing, the actors could have resolved these tensions by clearly specifying the rules applicable in the EPA process. Yet, as I will show in this section, neither the legal rules of the WTO framework, nor the Cotonou Agreement or the parties' negotiating mandates provided the actors' with clear-cut expectations about the rules of the game in EPA negotiations. The tensions between the social norms and conventions constitutive of trade cooperation and development cooperation hence persisted and provided part of the social context against which the actors had to define the game they were playing in the case of EPA negotiations. Finally, this chapter briefly sketches the EU's and the West African side's divergent interpretations of the rules of the game.

1. Social Norms and Conventions: The Issue Areas of Trade and Development

The following section, firstly, reviews the existing literature on trade and development cooperation to uncover the context of pre-existing social norms and conventions that underpin the rules of these issue-area specific cooperation games. In

a second step, the compatibility of the social norms and conventions of both issue-areas will be assessed to examine the way in which the linkage could have led to ambiguity about the rules applicable at the trade-development nexus. I highlight the potential conflicts that stem from the different kinds of social norms and conventions applicable in the issue-areas of trade and development. This argument is based on the assumption that social norms and conventions are particular to given situations, i.e. functionally differentiated issue-areas⁴.

1.1 THE TRADE GAME

The following section provides an overview of the social norms and conventions that can be understood to be constitutive of cooperation ‘games’ in the issue-area of trade, and the particular definitions of the ‘rules of the game’ they lead to.

1.1.1 Social Norms

The current institutionalisation of the game of trade cooperation dates back to the establishment of the General Agreement on Trade and Tariffs (GATT) in 1947. The degree of formal institutionalisation of the trade cooperation game is very high, with the World Trade Organisation (WTO) currently providing the cornerstone of the legal regime. The WTO as an organisation, was created in 1995 and builds upon the GATT of 1947. The GATT of 1994, comprising of the GATT of 1947 provisions, provides the current legal framework for cooperation in trade in goods⁵. Comprehensive trade rounds or dispute settlement procedures are conducted within the GATT/WTO framework⁶. The Doha development round began in 2001 and is the latest set of negotiation rounds initiated under the framework of the WTO. The WTO has currently 153 member states, which underlines its profound importance in shaping the game of trade cooperation.

⁴ For similar approaches see Michael Zürn, Klaus-Dieter Wolf and Manfred Efinger, "Problemfelder Und Situationsstrukturen in Der Analyse Internationaler Politik. Eine Brücke Zwischen Den Polen," *Theorien Der Internationalen Beziehungen, PVS-Sonderheft* 21 (1990); Barry Buzan and Mathias Albert, "Differentiation: A Sociological Approach to International Relations Theory," *European Journal of International Relations* 16, no. 3 (2010); Luc Boltanski and Laurent Thévenot, *On Justification: Economies of Worth* (Princeton: Princeton University Press, 2006).

⁵ Given that the agreements in EPA negotiations have so far been mostly limited to trade in goods, trade in services (GATS) or intellectual property rights (TRIPS) will not be assessed. Both are, however, important parts of the global trade game.

⁶ Christina L. Davis, "International Institutions and Issue Linkage: Building Support for Agricultural Trade Liberalization," *The American Political Science Review* 98, no. 1 (Feb., 2004), 155.

Regarding the social norms that delimit the range of acceptable goals and strategies, the most influential value that currently underpins the WTO framework is reflected in its strong pro-trade bias, i.e. the credo that liberalising trade is desirable. While the paradigms that have underpinned trade games are subject to change over time, the liberal belief that free trade is beneficial underpins both the GATT and the WTO regime⁷. Benería argues that ‘WTO policies are predicated on an assumption that trade is better than no trade and that barriers to trade are harmful to national and international welfare’⁸. This view is built on the neo-liberal belief that liberalising trade relations, and reducing the state-led ‘regulatory burden’ on economic markets, leads to utility-maximisation in the interaction between self-interested and rational economic actors⁹.

Endorsing a ‘pro-trade’ view shapes the social norms that delimit the range of acceptable behaviour in trade cooperation games: while self-interested utility-maximising behaviour is deemed appropriate, the trade regime ‘characterize[s] actions interfering with the free movement of goods, services, and capital as unjustifiable interference with free trade’¹⁰. Drake and Nicolaïdis argue along these lines that the very concept of ‘trade’ is based on the ‘normative presumptions that "free" trade was the yardstick for good policy against which regulations, redefined as nontariff barriers (NTBs), should be measured and justified only exceptionally’¹¹. In particular, ‘protectionism’ is discredited as acceptable behaviour, while furthering trade liberalisation is considered as desirable.

The social norms constitutive of trade cooperation in this way lead to particular conceptualizations of the basic elements of the ‘rules of the game’ in trade cooperation. On a general level, the ‘players’ can be understood to be defined by their property of being trade partners. Ford argues that these roles could be further

⁷ Lourdes Benería and Savitri Bisnath, *Global Tensions: Challenges and Opportunities in the World Economy* (New York: Routledge, 2004), 163; note that Ruggie argues that the trade regime is built on the idea of ‘embedded liberalism’, which qualifies the strong pro-trade bias by adding the need of state-led regulation; John Gerard Ruggie, "International Regimes, Transactions, and Change: Embedded Liberalism in the Postwar Economic Order," *International Organization* 36, no. 2 (1982); yet, since the completion of the Uruguay round, the ‘pro-trade’ view has become the dominant interpretation of the WTO framework, see James Thou Gathii, "Re-Characterizing the Social in the Constitutionalization of the WTO: A Preliminary Analysis," *Widener Law Symposium Journal* 7 (2001).

⁸ Benería and Bisnath, *Global Tensions: Challenges and Opportunities in the World Economy*, 163.

⁹ Gathii, *Re-Characterizing the Social in the Constitutionalization of the WTO: A Preliminary Analysis*, 151.

¹⁰ *Ibid.*, 152.

¹¹ William J. Drake and Kalypso Nicolaidis, "Ideas, Interests, and Institutionalization: "Trade in Services" and the Uruguay Round," *International Organization* 46, no. 1 (Winter, 1992), 40.

specified, for instance as ‘protectionist trader’ or ‘reciprocal trader’¹². The ‘trade game’ is further specified by particular goals the actors want to achieve: ‘payoffs’ follow from the economic gains associated with trading goods or services. Possible ‘moves’ are the liberalisation of tariffs or non-tariff barriers, or their reversal (protectionist policies).

1.1.2 Conventions

Conventions are understood to clarify what kind of behaviour to rationally expect in a given interaction situation. They are shaped by regulative norms about how to interact and causal beliefs about how the world works, and define the coordination principles applicable in a given situation.

Strategic interaction within a trade game is constrained by three main regulatory norms that are formalised in the WTO framework: the most-favoured nation treatment (MFN) obligation (Article 1 GATT 1994), the national treatment obligation (Article 3 GATT 1994) and the idea of reciprocity (enshrined in Article XXVIIIbis GATT 1994). The MFN clause aims to prevent discrimination between WTO member states. It states that if one member lowers its tariffs vis-à-vis another country (or grants other trade-related benefits), it must immediately and unconditionally extend all benefits to like products of all other member states. The national treatment obligation prohibits discrimination between imports and like domestic products. Reciprocity implies that countries are expected to make equivalent tariff concessions during rounds of trade negotiations. It is considered the central regulatory norm behind the General Agreement on Tariffs and Trade (GATT),¹³ and has been described as the dominant negotiation or coordination principle in trade negotiations¹⁴.

The reciprocity principle as part of the conventions of how ‘trade games’ work, is underpinned by a certain set of causal beliefs about how the world, or more specifically, the economy works. Trade cooperation is commonly regarded as a positive sum game because gains of one side are not seen to be at the expense of the

¹² Jane Ford, *A Social Theory of the WTO: Trading Cultures* (Houndmills, Basingstoke, Hampshire ; New York: Palgrave Macmillan, 2003), 10.

¹³ Robert O. Keohane, "Reciprocity in International Relations," *International Organization* 40, no. 1 (Winter, 1986), 1.

¹⁴ Gilbert R. Winham, "Negotiation as a Management Process," *World Politics* 30, no. 1 (Oct., 1977), 87-114; M. Hilf, "Power, Rules and Principles - which Orientation for WTO/GATT Law?" *Journal of International Economic Law* 4, no. 1 (March 01, 2001); Keohane, *Reciprocity in International Relations*; note that within the GATT/WTO framework several exemptions from reciprocity exist for developing countries (see section 1.1).

other side¹⁵. This is because of a firm causal belief that the exchange of goods potentially leaves both sides better off. Even though both sides share an interest in trade liberalisation, however, benefits break down to the exchange of different goods¹⁶. Free trade is not understood to be a common public good since the gains are divisible¹⁷. A central cooperation problem in trade negotiations therefore is the collective action problem of where to settle on the 'Pareto-frontier', i.e. the set of mutually beneficial equilibrium outcomes. Even though unilateral market liberalisation would be beneficial, states are understood to attempt to maintain levels of tariff protection of their own markets because domestic interest groups might lobby in favour of export-promotion, while attempting to protect import-competing businesses. As a consequence, states often attempt to maintain their own levels of protection, while demanding market opening from their counterparts. Krugman claims, for instance, that trade negotiations 'are a game scored according to mercantilist rules, in which an increase in exports ... is a victory, and an increase in imports ... is a defeat'¹⁸. It is against these beliefs, about how markets work, that the norm of reciprocity became important. It serves as a coordination principle that requires both sides to liberalise their markets in a roughly equivalent manner. Distributional problems in trade games are, hence, solved through the accommodation of complementary interests on a reciprocal basis.

This has implications for the kind of rational negotiating behaviour that trade partners can expect at the negotiation table. Scholars depict bargaining as the predominant mode of interaction in trade cooperation¹⁹. More precisely, actors can expect trade talks to be characterised by bargaining for concessions that are mutually equivalent and beneficial. Gilbert Winham argues that 'the principle of reciprocity is a determinant of bargaining behavior'²⁰. Actors can expect each other to offer compensations for concessions, or to offer mutually beneficial package deals.

¹⁵ Kenneth A. Oye, "Explaining Cooperation Under Anarchy: Hypotheses and Strategies," *World Politics* 38, no. 1 (Oct., 1985).

¹⁶ Viktor Aleksandrovich Kremenyuk, *International Negotiation: Analysis, Approaches, Issues* (San Francisco: Jossey-Bass, 2002), 317.

¹⁷ Andreas Hasenclever, Peter Mayer and Volker Rittberger, *Theories of International Regimes* (Cambridge ; New York: Cambridge University Press, 1997), 62.

¹⁸ Paul Krugman, "What should Trade Negotiators Negotiate about?" *Journal of Economic Literature* 35, no. 1 (Mar., 1997), 114.

¹⁹ Kremenyuk, *International Negotiation: Analysis, Approaches, Issues*, 317.

²⁰ Gilbert R. Winham, *International Trade and the Tokyo Round Negotiation* (Princeton, N.J.: Princeton University Press, 1986), 62.

Kremenyuk notes, for instance, that trade talks in a multilateral setting are characterised by the exchange of concessions and actual ‘horse-trading’ over tariff reductions²¹. Trade partners can, moreover, expect each other to face incentives to conceal their real preferences, i.e. to be unwilling to share information. On the one hand, following Putnam’s model of a two-level game, negotiators could increase their individual gains by pretending to have smaller ‘win-sets’ than they actually do²². A larger win-set is understood to weaken their own bargaining position in the process of reaching agreement on a mutually beneficial deal. On the other hand, states need to reveal their preferences to some extent, as knowledge of the other side’s interest is a precondition for offering mutually beneficial package deals²³.

The following table provides a summary of the elements of the rules of the game in the case of trade cooperation, underpinned by the set of social norms and conventions particular to the issue-area of trade (table 4).

	Element of the rules of the game	Issue area of trade cooperation
Basic elements of issue-area (policy level)	‘Players’	Trade actors: protectionist/reciprocal trader
	‘Set of moves’	Liberalise/protect market gains from trade
	‘Payoffs’	Distributive bargaining; sharing information partly beneficial
How to play the game (procedural level)	Mode of interaction	Reciprocity
	Coordination principles	

Table 4 – The Rules of the Game in Trade Cooperation

1.2 THE DEVELOPMENT GAME

This section explains in detail the social norms and conventions that underpin particular conceptions of the rules of the game in the issue-area of development cooperation.

1.2.1 Social Norms

The game of development cooperation was established gradually after the wave of independence of former Western colonies in the 1960s. Development cooperation is

²¹ Kremenyuk, *International Negotiation: Analysis, Approaches, Issues*.

²² Robert D. Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games," *International Organization* 42, no. 3 (Summer, 1988), 452.

²³ Richard H. Steinberg, "In the Shadow of Law Or Power? Consensus-Based Bargaining and Outcomes in the GATT/WTO," *International Organization* 56, no. 2 (Spring, 2002), 362.

understood in the classical sense as the provision of development assistance, e.g. foreign aid.²⁴ The explicit aim of the development game is to improve the economic and social conditions in the recipient country. Compared to the trade game, development cooperation is far less formalised. There exists no overarching legal regime. The institutionalisation of the development game has proceeded mostly on the basis of informal social norms around which the actors' expectations converge. While trade cooperation is built around the normative assumption that trade liberalisation is desirable, development cooperation is centred on the social norm that rich countries should help poor countries. This view is supported by Elgström who claims that 'the most important norm concerning foreign economic aid to LDCs [Least Developed Countries] is the norm stating that rich states should give assistance to poor countries'²⁵. References to helping those countries that are unable to develop on their own²⁶ and the *moral obligation* to assist are central reflections of this norm in the discourses on development cooperation²⁷. Principles of solidarity may play a role, as well as the general "'aid-should-be-given" norm'²⁸.

The fact that Western donors are often criticised for not living up to their promises to help development countries²⁹ underlines that the dominant conception of development cooperation is that industrialised countries *should* help developing countries³⁰. The aim of development cooperation is that aid should allow the recipient countries to support policies or initiate policy reforms that will be favourable to the poor³¹. Regardless of the true effects of development aid or the motives of the donors,

²⁴ Note that development cooperation is increasingly defined through other policy instruments as well that result from linkages with other issue areas, e.g. the security-development nexus, or the climate-development nexus.

²⁵ Robert H. Jackson, "Quasi-States, Dual Regimes, and Neoclassical Theory: International Jurisprudence and the Third World," *International Organization* 41, no. 4 (Autumn, 1987), 545; Ole Elgström, *Foreign Aid Negotiations: The Swedish-Tanzanian Aid Dialogue* (Aldershot ; Brookfield, Vt., USA: Avebury, 1992), 26.

²⁶ Dambisa Moyo, *Dead Aid: Why Aid is Not Working and how there is a Better Way for Africa* (New York: Farrar, Straus and Giroux, 2009), 31.

²⁷ Riina Yrjölä, "The Invisible Violence of Celebrity Humanitarianism: Soft Images and Hard Words in the Making and Unmaking of Africa," *World Political Science Review* 5, no. 1 (2009), 18.

²⁸ Ole Elgström, "Norms, Culture, and Cognitive Patterns in Foreign Aid Negotiations," *Negotiation Journal* 6, no. 2 (1990), 150.

²⁹ Andy Storey, "Normative Power Europe? Economic Partnership Agreements and Africa," *Journal of Contemporary African Studies* 24, no. 3 (2006); Paul Goodison, "EU Trade Policy & the Future of Africa's Trade Relationship with the EU," *Review of African Political Economy* 34, no. 112 (Jun., 2007).

³⁰ Elgström, *Norms, Culture, and Cognitive Patterns in Foreign Aid Negotiations*, 150.

³¹ See for instance Paul Collier and David Dollar, "Can the World Cut Poverty in Half? how Policy Reform and Effective Aid can Meet International Development Goals," *World Development* 29, no. 11 (11, 2001).

Abrahamsen notes that ‘development is always presented as a humanitarian and moral concern, an ethical obligation on behalf of the rich to help and care for those less fortunate’³².

Following on from the social norm constitutive of development cooperation, we can derive particular definitions of the rules of the game, i.e. the ‘players’, the available ‘moves’ and ‘payoffs’ in a development game. The players –the rich and the poor– are referred to as ‘donor’ and ‘recipient’ countries, whose relationship is characterised by power asymmetry. They play different roles in the development game: while the donor is expected to help and advise developing countries, the recipient is expected to collaborate, i.e. to follow the donors’ terms and conditions.

Various ‘moves’ are conceivable within such a development game. Helping recipient countries could take the form of financial transfers, or giving advice on policies that would be best suitable for fostering economic growth and improving social well-being. Baaz highlights that ‘capacity building’ and ‘knowledge transfer/exchange’ have become important practices on the part of the donor countries³³. The power asymmetries between the cooperation partners imply that the moves available to the recipient country are largely shaped by the ‘rules’ set up by the donor country³⁴. The dominance of the donor is usually justified with the need to ensure accountability for the use of taxpayers’ money,³⁵ as well as the potentially constrained partner or recipient³⁶. The recipient country’s possible moves are, therefore, largely restricted to acceptance or non-acceptance/non-compliance of the donor’s conditions.

The ‘payoffs’ of development cooperation are not confined to the economic values associated with the provision of aid. The literature identifies a two-fold value of development cooperation on the side of the donor. They derive benefits from the normative values associated with helping the poor to reduce poverty because ‘[c]aring about those less fortunate than ourselves is a commonly held value in most

³² Rita Abrahamsen, *Disciplining Democracy: Development Discourse and Good Governance in Africa* (London ; New York, N.Y.: Zed Books, 2000), 17.

³³ Maria Eriksson Baaz, *The Paternalism of Partnership: A Postcolonial Reading of Identity in Development Aid* (New York: Zed Books, 2004), 25.

³⁴ *Ibid.*, 75.

³⁵ Basil E. Cracknell, *Evaluating Development Aid: Issues, Problems and Solutions* (New Delhi; London: Sage Publications Pvt. Ltd, 2000), 55.

³⁶ Baaz, *The Paternalism of Partnership: A Postcolonial Reading of Identity in Development Aid*, 25.

societies³⁷. At the same time, donor countries are expected to use development cooperation instrumentally to pursue other self-interested goals³⁸. This is partly because many of the donor's self-interested motives in the development goal can be achieved through the development of the partner country. Donors could, for instance, be interested in stabilising a country or region for security reasons,³⁹ or in reducing migration flows through development⁴⁰, or, for instance, use tied aid to increase their own economic gains⁴¹.

1.2.2 Conventions

A number of voluntary codes of conduct or declarations exist, which shape the conventions of how to interact in development games. Given their non-binding character they often fail to constrain state actions in practice. They serve, however, as benchmarks for how the development game is to be played. The main regulative norms that shape the conventions about how to play the development game are the principles of conditionality and ownership.

Conditionality has become part of the development game to counter 'macroeconomic mismanagement', i.e. the possibility that the effectiveness of foreign aid is prevented by 'unsound domestic policies in the recipient countries'⁴². Recipient countries might face incentives to use financial aid for immediate gains, as long-term development benefits are, for instance, unlikely to win an election⁴³. 'Dysfunctional situations in many recipient countries might, moreover, create incentives to use aid to increase the gains of the elite, rather than the welfare of the population that suffers

³⁷ Clark C. Gibson, *The Samaritan's Dilemma: The Political Economy of Development Aid* (Oxford ; New York: Oxford University Press, 2005), 87.

³⁸ Dirk Messner, "Entwicklungspolitik Als Globale Strukturpolitik," in *Deutsche Aussenpolitik: Sicherheit, Wohlfahrt, Institutionen Und Normen*, eds. Thomas Jäger, Alexander Höse and Kai Oppermann (Wiesbaden: VS Verlag für Sozialwissenschaften, 2011), 400

³⁹ There is a vast literature on the security-development nexus, see for instance Chandler 2007 The security-development nexus and the rise of 'anti-foreign policy.

⁴⁰ On the ideational underpinnings of the migration-development nexus, see Alexander Betts, *Protection by Persuasion: International Cooperation in the Refugee Regime* (Ithaca: Cornell University Press, 2009).

⁴¹ Tied aid stipulates that the experts or companies needed to implement the development assistance programme in the recipient country need to be of the nationality of, or resident in, the donor country.

⁴² Jakob Svensson, "When is Foreign Aid Policy Credible? Aid Dependence and Conditionality," *Journal of Development Economics* 61, no. 1 (2000), 62.

⁴³ Mosley, Harrigan and Toye for instance argue that short-term political pressures might prevent governments from adopting neo-liberal economic reforms, even if they accept that it would be beneficial in the long-run; Paul Mosley, Jane Harrigan and J. F. J. Toye, *Aid and Power: The World Bank and Policy-Based Lending* (London ; New York: Routledge, 1990), 70.

from poverty⁴⁴. Donor countries, therefore, make the provision of aid dependent upon the fulfilment of certain conditions. In this way, they hope to be able to ensure that the recipient countries implement the agreed policy measures⁴⁵. The convention to make conditionality part of aid negotiations is underpinned by the particular causal belief that ‘weak macro performance of aid in many developing countries is largely due to unsound domestic policies in the recipient countries’⁴⁶.

Regulatory norms have developed over the last decades, however, that constrain the donor’s use of conditionality in negotiation settings. The Paris Declaration on Aid Effectiveness (2005) and the Accra Agenda for Action (2008) have strengthened the principles of ownership in development cooperation. Recipient countries, therefore, have the possibility to use references to ownership to fight off overly restrictive aid conditionality. The principle of ownership has by the late 1990s come to dominate the discourse on development cooperation⁴⁷. The OECD Development Cooperation Directorate (DCD-DAC) claims accordingly that ‘[i]t is now the norm for aid recipients to forge their own national development strategies with their parliaments and electorates’.⁴⁸ It implies a ‘decline in a donor’s authority over their own aid packages as well as a greater responsibility on behalf of the recipient’⁴⁹. Maintaining policy space has emerged as the ‘buzz-word’ in the development game. It builds on the causal belief that sovereignty is a necessary condition to deploy successful development policies⁵⁰. A lack of ownership is assumed to negatively affect implementation and, therefore, the efficiency of development policies⁵¹.

Based on these conventions about how to play the development game, we can make certain assumptions about the kind of rational negotiating behaviour that donors and recipients can expect in foreign aid negotiations. In contrast to the ‘horse-trading’ characteristic of the bargaining process in trade negotiations, donors and recipient can

⁴⁴ Gibson, *The Samaritan's Dilemma: The Political Economy of Development Aid*, 55.

⁴⁵ Note that this does not apply to cases of so-called general budget support (GBS), which is unconditional aid given in support of a national development strategy. Most donors remain hesitant to rely on GBS, still constituting an exception to the traditional development game.

⁴⁶ Svensson, *When is Foreign Aid Policy Credible? Aid Dependence and Conditionality*, 62.

⁴⁷ Lindsay Whitfield, *The Politics of Aid: African Strategies for Dealing with Donors* (Oxford ; New York: Oxford University Press, 2009); Gibson, *The Samaritan's Dilemma: The Political Economy of Development Aid*.

⁴⁸ OECD Webpage, ‘Paris Declaration and Accra Agenda for Action’, http://www.oecd.org/document/18/0,3343,en_2649_3236398_35401554_1_1_1_1,00.html

⁴⁹ *Ibid.*, 4.

⁵⁰ Kevin P. Gallagher, "Understanding Developing Country Resistance to the Doha Round," *Review of International Political Economy* 15, no. 1 (02, 2008), 63.

⁵¹ Gibson, *The Samaritan's Dilemma: The Political Economy of Development Aid*, 85.

expect each other to be more inclined to engage in problem-solving behaviour. Elgström describes aid negotiations as ‘friendly and open discussions’ with a high degree of mutual trust⁵². He further notes that

‘the actors don’t engage in quid pro quo negotiations This seems to be a central component of foreign aid bargaining, ... distinguishing it from many other bargaining situations⁵³.

This is because development cooperation usually starts with a ‘fixed-pie’, i.e. a particular amount of Official Development Assistance, which merely needs to be allocated to the recipient. What the sum of the ‘pie’ is depends on domestic level negotiations and is usually not part of the negotiations between donors and recipients.

Agreement in development games can be either reached through processes of arguing and persuasion, or through more coercive means. Donors attempt to persuade recipient countries to spend development aid on particular programmes or priorities, based on causal arguments about their importance for sustainable development. Elgström, for instance, notes the prevalence of an exchange of arguments in foreign aid negotiations between the Tanzanian and the Swedish government:⁵⁴ ‘for the most part, SIDA [the Swedish development agency] has turned to a persuasive strategy and tried to convince MAJI and other agencies about the advantages of its suggestions’⁵⁵. Donors could also resort to more coercive measures, imposing conditions on recipient countries⁵⁶.

Regarding the willingness of the actors to reveal their preferences over outcomes, the incentives to share information are higher than in the trade game.⁵⁷ If the development game is conceived of in terms of a problem-solving exercise (with the problem being poverty),⁵⁸ the incentives for information sharing between the donor and the recipient are supposedly high. Gibson argues, for instance, that designing efficient development policies is likely to ‘require a combination of scientific and time-and-place knowledge’⁵⁹. It hence becomes necessary for the recipient to reveal

⁵² Elgström, *Foreign Aid Negotiations: The Swedish-Tanzanian Aid Dialogue*, 133.

⁵³ *Ibid.*, 6.

⁵⁴ *Ibid.*, 138.

⁵⁵ *Ibid.*, 128.

⁵⁶ Gibson, *The Samaritan's Dilemma: The Political Economy of Development Aid*, 66.

⁵⁷ *Ibid.*, 42.

⁵⁸ *Ibid.*, 50; Gibson highlights that two other types of problems may exist: those in which a proposed solution may not work, and those where a solution may exist but is not adopted. Type two and three, however, can be seen as following from the first situation, which arguably represents the archetype of development cooperation.

⁵⁹ *Ibid.*, 42.

information about how payoffs can be achieved, while the donor needs to share its scientific know-how.

The following table summarises the rules of the game in the case of development cooperation that are underpinned by the social norms and conventions discussed in this section (see table 5).

	Element of the rules of the game	Issue area of development cooperation
Basic elements of issue-area (policy level)	‘Players’ ‘Set of moves’	Donor/recipient Help/no help; compliance/non-compliance
How to play the game (procedural level)	‘Payoffs’ Mode of interaction	poverty reduction Integrative-problem solving/advice-giving; sharing information is beneficial
	Coordination principles	Conditionality/ ownership

Table 5 – The Rules of the Game in Development Cooperation

1.3 LINKING TRADE AND DEVELOPMENT GAMES: TENSIONS AND AMBIGUITIES AT THE LEVEL OF THE RULES OF THE GAME

EPA negotiations are neither a pure trade game nor a pure development game, but reside at the trade-development nexus. How to integrate trade and development games, however, is not a straight-forward exercise. This section aims to uncover the way in which ambiguities and tensions between the social norms and conventions characteristic of trade and development games might lead to divergent interpretations of a) the basic ‘elements’ of the rules of the game at the trade-development nexus: the ‘players’, the available ‘moves’ and ‘payoffs’ associated with different outcomes; and b) the rules of interaction.

1.3.1 Incompatibilities at the Level of Social Norms

Framing cooperation in terms of both trade and development could give rise to ambiguities and tensions at the level of the social norms constituting the rules of the game. The different social norms that constitute development and trade games potentially give rise to value conflicts. This is because in development cooperation, acceptable outcomes and behaviour is evaluated according to the moral value of ‘helping the poor’. Trade cooperation, to the contrary, is centred on the value of

mutual utility maximization and understood in monetary terms. While ‘appropriate’ behaviour and goals in development cooperation are, therefore, associated with the extent to which they live up to the moral obligation or duty of the rich to help those in need, ‘appropriateness’ in trade games is associated with utility-maximising behaviour. This is because outcomes in trade negotiations are commonly evaluated in terms of monetary gains, which as such have little to do with the values of justice or solidarity.

Framing trade negotiations in terms of development promotion, therefore, leads to a conflict between the values that lie at the heart of cooperation. Depending on the social norms the actors decide to prioritise – helping the poor or increasing mutual economic gains –, the cooperation game at the trade-development nexus could have very different rules. These fundamental value conflicts are reflected in the ambiguities and tensions regarding the kind of ‘player’, the ‘moves’ and ‘payoffs’ that could define the trade-development game. While these differences can be overcome if the actors agree on how to reconcile them, the issue-area linkage in this way gives leeway to different possible conceptualisations of the trade-development game. What is referred to in abstract terms as ‘game A1’ and ‘game A2’ in the conceptual framework of a ‘Battle over Games’ follows from the different possibilities to play the nexus-game. This is important within the overall argument of this thesis because it provides us with a possible answer to the question of why the rules of the game might be contested in the first place, and why the cooperation partners might have subjectively divergent understandings thereof in a ‘Battle over Games’.

First of all, the cooperation partners are constituted by different criteria in both issue-areas: donors and recipients are defined by their differences, in contrast to trade partners, which are functionally equal⁶⁰. Ambiguities and tensions, hence, exist regarding the characteristics of the *players* of the nexus-game? If pictured closer to the development game, inequalities between the actors constitute the players. If the trade game is dominant, actors are more likely to see themselves as formally equal business partners. Depictions of the players also influence what kinds of utilities are considered as desirable, which might lead to further incompatibilities, as discussed in the following.

⁶⁰ Special and Differential Treatment arguably constitutes an exception to the basic rules of trade cooperation, and represent a possible attempt to combine trade and development cooperation (see section 2.3.2).

Ambiguities, moreover, relate to the choices the actors face: What kinds of *moves* are acceptable in trade-development games? Can the weaker partner expect the other side to be responsive to demands for development aid, or does the focus lie on a mutually beneficial exchange of goods? Can the stronger negotiation partner be expected to forfeit possible economic gains to help the developing country? Another potential tension results from the different *payoff values* associated with trade and development cooperation. Trade cooperation aims at increasing gains from trade, while development cooperation is directed at increasing the level of development in developing countries. The former is built around the idea that liberalisation is beneficial for every state (due to the principle of the comparative advantage), while the latter is partly associated with the moral value of the helping the poor.

1.3.2 Incompatibilities at the Level of Conventions

While a multitude of different ways to combine these constituent elements of the nexus-game are possible, the following table (see table 6) illustrates the way in which divergent answers could lead to different expectations about the strategic situation of the nexus-game. The linkage might make it difficult for the actors to hold stable expectations about each other's behaviour unless they agree on how to reconcile the tensions between the social norms and conventions applicable in trade and development cooperation.

If the game is pictured closer to the development game or trade game, the regulatory norms and coordination principles that the actors regard to be salient in a given interaction situation, might differ fundamentally. This affects what actors regard as rational negotiation strategies in cooperation games at the trade-development nexus. This is important because if the cooperation partners are unaware that they hold subjectively divergent understandings of the rules of the game, this complicates greatly the cooperation problems associated with strategic interaction (situation of 'mutual detachment' in the 'Battle over Games').

Following from the different conventions of how to interact, we can detect tensions and ambiguities regarding the kind of negotiation strategies we would expect to be prevalent in trade negotiations with a development dimension. A first tension might arise regarding the mode of interaction expected at the bargaining table. Distributive bargaining and the offering of reciprocal package-deals might, for instance, enable cooperation partners to overcome impasse situations in a game depicted as closer to

the trade game. To the contrary, if the nexus-game is seen as closer to the development game, advice-giving on the kind of trade policies to adopt might be an integral part of the donor's attempts to help the recipient country in its efforts to fight poverty. Problem-solving and argumentation are key elements of negotiations in development cooperation, while trade negotiators do not primarily need to argue, but to present mutually beneficial package-deals. Unlike the practice of advice-giving, the rational assessment of package-deals does not depend on being accepted as knowledgeable and trustworthy.

Ambiguities, moreover, exist regarding the coordination principles that could serve as a focal point in the 'nexus-game'. If it is depicted as closer to trade cooperation, actors expect reciprocity to serve as a coordination mechanism at the negotiation table. If the nexus-game is seen as closer to classical development games, however, the donor might see the necessity to impose conditionality on the recipient country. Such asymmetrical intrusion into domestic policy-making would, to the contrary, seem unexpected and even misplaced if the nexus-game is seen as closer to trade cooperation. It hence remains ambiguous to what extent the cooperation partners can expect each other to digress from the principle of reciprocity as a possible way to integrate trade and development cooperation. Finally, sharing information is a rational strategy in development games that is necessary to ensure aid effectiveness, but is potentially less beneficial in trade games. Linking trade and development cooperation, therefore, leads to tensions regarding different possible ways of depicting rational negotiating behaviour in cooperation games at the trade-development nexus.

	Element of the rules of the game	Ambiguities at the trade-development nexus
Basic elements of issue-area (policy level)	‘Players’	Are they donors/recipients or traders?
	‘Set of moves’	Do the actors engage in trade liberalisation or the redistribution of resources (provision of aid)?
	‘Payoffs’	Do the actors value gains from trade or the reduction of poverty?
How to play the game (procedural level)	Mode of interaction	Do the actors engage in problem-solving or distributive bargaining? Is sharing information beneficial?
	Coordination principles	Can the actors expect each other to hold reciprocal or asymmetrical rights and obligations (conditionality) in an exchange situation?

Table 6 – Ambiguities about the Rules of the Game at the Trade-Development Nexus

2. Defining the Rules of the Game in the Case of EPA Negotiations

This chapter has proposed a conceptualisation of how the linkage of trade and development policies might have potentially destabilised the actors’ expectations about the kind of game they were playing in a negotiation situation characterised by the linkage between trade and development cooperation. Yet, framing EPA negotiations in terms of a ‘development dimension’ did not necessarily imply that it was impossible for the EU and West Africa to hold stable expectations about each other’s behaviour at the negotiation table. The rules of the game could have been clarified by the cooperation partners a) through institutionalised patterns of interaction and past experiences; b) the legal framework under which EPA negotiations were conducted, i.e. the WTO and the Cotonou Agreement; c) the particular negotiating mandates in the case of EPA negotiations. Yet, as I argue in the following, neither of these pathways was sufficient to clarify in unambiguous terms what set of rules to expect.

2.1 INFORMAL SOCIAL NORMS AND CONVENTIONS: EPAs AS PRECEDENT CASE

One might suggest that even if EU-Africa trade relations are not governed by a set of clear-cut legal rules, social norms and conventions have surely developed over time, thereby contributing to the firm institutionalisation of cooperation games. While historically created patterns of interaction in EU-Africa trade cooperation are likely to have been influential in shaping both side's perspective on the rules of EPA negotiations, the related social norms and conventions are unlikely to have served as an unambiguously given reference frame for the cooperation partners. This is because EPA negotiations intended to be a 'break with the past'⁶¹, thereby disrupting and challenging the validity of previously established social norms and conventions. As argued by Lui: '[t]hough negotiators and commentators on both sides have tried to point to precedents in other free trade agreements the EPA negotiations are, by any definition, accepted as 'exceptional cases''⁶².

The envisaged EPAs were geared towards introducing a fundamental shift in EU-ACP trade relations: firstly, by introducing reciprocal liberalisation in trade and goods and services, and secondly, by breaking up the unity of the ACP group into six, later seven, regional sub-groups as a means to further regional integration. Goodison claims that the envisaged EPAs represented 'a shift from the Lomé Convention's non-reciprocity commitment to a basic regime of free trade between the EU and EPA regions'⁶³. The establishment of a free trade area under Article 24 GATT implied substantive changes on the part of the ACP countries, including 'the 're-designing' of developmental strategies and their 'locking-in' in the long term'⁶⁴. Under the previous Lomé system of unilateral trade preferences, ACP countries could apply barriers on imports from the EC⁶⁵. The EPA regime hypothetically required ACP countries to significantly reduce tariffs on EU imports, with full liberalisation of about 80% of trade volumes (see discussion under section 1.1 on the requirement of liberalising

⁶¹ Karel van Hoestenbergh and Hein Roelfsema, "Economic Partnership Agreements between the EU and Groups of ACP Countries: Will they Promote Development?" *UNU-CRIS Occasional Papers* 27 (2006), 7.

⁶² Dan Lui and Sanoussi Bilal, "Contentious Issues in the Interim Epas: Potential Flexibility in the Negotiations," European Centre for Development Policy Management (ECDPM) Discussion Paper (2009), 7.

⁶³ Goodison, *EU Trade Policy & the Future of Africa's Trade Relationship with the EU*, 247.

⁶⁴ Alex Nunn and Sophia Price, "Managing Development: EU and African Relations through the Evolution of the Lomé and Cotonou Agreements," *Historical Materialism* 12, no. 4 (2004), 203.

⁶⁵ ECDPM, '*EPA Negotiations: Where do we stand?*', 31 March 2008, <http://www.acp-eu-trade.org/index.php?loc=epa/background.php>.

‘substantially all trade’). While the economic effects of EPAs were contested, Perez and Karingi claimed that Africa would ‘face unprecedented challenges’, in particular regarding those economies that are less diversified⁶⁶.

In addition to the requirement of WTO compatibility, the EU, secondly, emphasised that the expiring Lomé waiver provided a welcome opportunity to re-think the approach to fostering development through preferential trade agreements with developing countries. This included a questioning of the social norms and conventions that underpinned the previous trading scheme. The disappointing results of the Lomé regime seemed to discredit the usefulness of unilateral preferences. Despite preferential access for over 30 years, the proportion of EU imports from ACP countries dropped from 7% to 3% of EU imports⁶⁷. Reciprocal, albeit asymmetrical, liberalisation coupled with regional integration was hoped to constitute a more promising avenue to fostering economic development in the ACP region⁶⁸. Therefore, for the first time since the 1960s, the ACP region was split in six negotiating configurations that bilaterally engaged with the EU⁶⁹. EPA negotiations were thus geared towards introducing substantial reforms of the EU-ACP trade regime. The social norms and conventions that underpinned trade cooperation *in the past* were hence unlikely to provide the EU and West Africa with a clear-cut understanding of the rules of EPA negotiations.

2.2 THE LEGAL FRAMEWORK

The regime that is most likely to influence the actors’ understanding of the rules of EPA negotiations is the WTO. It offers general rules about how to integrate development goals and trade cooperation and, therefore, serve as a framework for the trade-development game. Moreover, the requirement of WTO compatibility was one of the driving forces behind initiating EPA negotiations in the first place. Yet, as I

⁶⁶ Romain Perez and Stephen Njuguna Karingi, "How to Balance the Outcomes of the Economic Partnership Agreements for Sub-Saharan African Economies?" *World Economy* 30, no. 12 (12, 2007), 1880.

⁶⁷ EC, “Economic Partnerships”, *European Commission – Trade*, <http://ec.europa.eu/trade/wider-agenda/development/economic-partnerships/>.

⁶⁸ EC, "EU Trade Policy Towards Developing Countries", European Commissioner for Trade Karel De Gucht, conference speech, Brussels, 16 March 2010, <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/10/96&format=HTML&aged=0&language=EN&guiLanguage=en>.

⁶⁹ The negotiating regions were: West Africa (ECOWAS), Eastern and Southern Africa (ESA), Central Africa (CEMAC), Southern Africa (SDAC), the Pacific (PIF) and the Caribbean (CARIFORUM) region. Later on, the Eastern African Community, formerly part of ESA, was included as seventh negotiating region.

argue in this section, while the legal clauses limit the room for manoeuvre, they leave room for divergent interpretations. In the case of EPA negotiations, it was ambiguous in how far ‘Special and Differential Treatment’ (SDT) would be applicable to Article 24 GATT, under which the negotiations were conducted. They open the possibility of treating developing countries more favourably compared to other WTO Members. Moreover, the WTO vision of how to make trade rules development-oriented differs structurally from bi-lateral cooperation games because its mandate is strongly focused on multilateral trade cooperation. Examining the rules of the ‘Doha Development round’ is, therefore, likely to provide us with limited insights regarding the rules of EPA negotiations.

While the aim of achieving WTO compatibility was one of the main triggers for initiating EPA negotiations, the WTO framework did not necessarily help to clearly define the game the actors are playing. EPA negotiations were initiated because the previous system of unilateral trade preferences violated the requirement of non-discrimination among WTO members. While previously made possible by a waiver, developing countries from regions outside of the African, Caribbean and Pacific (ACP) countries were no longer willing to grant exceptional preferences to this historically grown group of developing countries. Lomé preferences were only available to ACP countries, while other countries with a similar level of development had to rely on the Generalised System of Preferences when exporting to the EU. With the Lomé waiver set to expire at the end of 2007, it became necessary to renegotiate the EU-ACP trade regime in such a way that it would be compatible with the WTO.

The EU and ACP countries chose the path to negotiate a reciprocal free trade area under Article 24 GATT. This was seen as a way to preserve the preferential trade relationship between both partners, as its application would remain restricted to the EU and the six, later seven, negotiating regions of the ACP countries. Setting up a free trade area is one of the few possibilities within the WTO framework to restrict trade concessions to a particular set of partners⁷⁰. The requirement of non-discrimination usually demands a passing on of tariff cuts or other market opening commitments to other WTO members, or in the case of preferential North-South

⁷⁰ Free trade areas are exempted from the non-discrimination principle because of the assumption that they lead to an overall deepening of free trade even if not applicable to all WTO members, given the substantial market opening requirements they entail.

agreements, to at least all other developing countries with a similar level of development.

Article 24 GATT allows for the establishment of free trade areas (FTAs) that cover 'substantially all trade' over a 'reasonable period of time'. While this limited the possible goals and means of cooperation, it did not, however, provide the actors with an unambiguous framework for the negotiations they were to embark upon. The main problem was that what the term 'substantially all trade' implies has not yet been clearly defined within the WTO framework⁷¹. In previous cases, there has been an understanding that the 'substantially all trade' requirement refers to a liberalisation of 90% of trade volumes, while the 'reasonable period of time' implies a period that only in exceptional cases should go beyond 10 years⁷². Yet, there was neither a legally binding interpretation of Article 24, nor has it been applied consistently. Even developed countries have often applied transition periods longer than 15 years⁷³.

A further layer of ambiguity was added by the North-South character of EPA negotiations. The WTO regime contains the idea that countries with a lower level of economic development should be given more favourable treatment. 'Special and Differential Treatment' (SDT) provisions are an integral part of the WTO regime. SDT provisions, however, do not necessarily provide a clear-cut guideline for negotiations because they continue to stand in stark contrast to the key principle of the WTO regime: the ideas of reciprocity⁷⁴. The majority of the 145 SDT provisions are non-binding commitments and often do not overrule the general principle of reciprocity⁷⁵. In the case of EPA negotiations, the application of STD provisions was highly contested.

Article 24 itself makes no recourse to SDT provisions, which gave rise to ambiguity about the extent to which asymmetry should apply. Thallinger, for

⁷¹ Lui and Bilal, *Contentious Issues in the Interim EPAs: Potential Flexibility in the Negotiations*, 5.

⁷² Gerhard Thallinger, "From Apology to Utopia EU-ECP Economic Partnership Agreements Oscillating between WTO Conformity and Sustainability," *European Foreign Affairs Review* 12, no. 4 (2007), 508.

⁷³ For instance: US-Morocco FTA: 24 years for Morocco, and 18 years for US, or US-Australia FTA: 18 years for US; source: ECDPM, 'Which way forward in EPA negotiations? Seeking political leadership to address bottlenecks', Sanoussi Bilal and Isabelle Ramdoo, Discussion paper No. 100 (November 2010), 15-16.

⁷⁴ Cosmas Milton Obote Ochieng, "The EU-ACP Economic Partnership Agreements and the 'Development Question': Constraints and Opportunities Posed by Article XXIV and Special and Differential Treatment Provisions of the WTO," *Journal of International Economic Law* 10, no. 2 (1 June, 2007), 4.

⁷⁵ *Ibid.*, 13.

instance, criticises the ‘blurry contours’ and ‘imprecise provision’ of Article 24 GATT in the case of EPA negotiations⁷⁶. Whether developing countries could also be expected to liberalise 90% of their trade volumes if negotiating with developed countries, is not specified. If SDT were to apply, developing countries would arguably be allowed to maintain higher levels of protection⁷⁷. The EU proposed an interpretation of Article 24 according to which the EU needs to liberalise 100%, while the African side liberalises only 80% of its trade volumes. There was, however, no legal precedent case to support this interpretation, which was highly contested. Ochieng argues, for instance, that these legal ambiguities gave rise to contestation over ‘the interpretation and applicability of reciprocity and special and differential treatment (SDT) in Free Trade Agreements (FTAs) between developing and developed countries’⁷⁸. Given that debates over the legal interpretation remained unsettled, it was far from clear to what extent the EU needed to take development concerns and the principles of asymmetry or reciprocity into account to make EPAs WTO compatible.

Yet, one could expect the ongoing Doha Development round to influence conceptions of the rules of the game in the case of EPA negotiations. The so-called Doha round is the latest round of trade negotiations among the WTO members, in which development objectives have featured prominently. However, the structural differences between the Doha round and EPA negotiations make it unlikely that they can offer a blueprint for the trade-development game applicable to EU-West Africa negotiations (see chapter 4, section 2.1). To sum up, the WTO framework certainly influences the possible ways in which actors understand cooperation games at the trade-development nexus. Its rules –and in particular Article 24 GATT, however, did not offer clear-cut prescriptions regarding the bi-lateral case of EPA negotiations. Tensions that exist between trade cooperation and development cooperation are to some extent replicated, rather than clarified, within WTO law. SDT for developing countries exists, but does not necessarily overrule the central norm of reciprocity. It remains highly ambiguous to what extent it applies to Article 24 GATT. Given the

⁷⁶ Thallinger, *From Apology to Utopia EU-ECP Economic Partnership Agreements Oscillating between WTO Conformity and Sustainability*, 507.

⁷⁷ Lui and Bilal, *Contentious Issues in the Interim EPAs: Potential Flexibility in the Negotiations*, 7.

⁷⁸ Ochieng, *The EU-ACP Economic Partnership Agreements and the 'Development Question': Constraints and Opportunities Posed by Article XXIV and Special and Differential Treatment Provisions of the WTO*, 1.

room for different interpretations of the WTO framework in the case of EPA negotiations, it would be rather surprising if actors were to settle naturally on a joint understanding of the ‘rules of the game’ of EPA negotiations.

2.3 THE COTONOU PARTNERSHIP AGREEMENT

Another pre-existing regime of great importance for the understandings of the EPA cooperation game is the Cotonou Partnership Agreement (CPA). It provides the legal basis for EPA negotiations. Article 37(1) CPA states that Economic Partnership Agreement shall be negotiated ‘during the preparatory period which shall end by 31 December 2007 at the latest’. The requirements regarding the substance of EPA agreements remain, however, very vague. Article 37(7) CPA demands that the agreements shall aim at ‘the progressive removal of barriers to trade between the Parties, in accordance with the relevant WTO rules’. In the case of EPAs, this implies accordance to Article 24 GATT, which, as argued above, remains highly contested.

Article 37(9) CPA moreover calls for an improvement of the ‘current market access for the ACP countries through inter alia, a review of the rules of origin’. What this implies in concrete terms remains unclear, as several different ways of revising or improving the rules of origin exist. Meyn argues, for instance, that, as a consequence, ‘[t]he extent to which ACPs market access will be improved by more generous RoO (rules of origin), as stipulated in Article 37.9 Cotonou, is far from clear⁷⁹. Article 37(7) CPA moreover contains several references to the need to ‘take account of the level of development’ in ACP countries and to make negotiations

‘as flexible as possible in establishing the duration of a sufficient transitional period, the final product coverage, taking into account sensitive sectors, and the degree of asymmetry in terms of timetable for tariff dismantlement, while remaining in conformity with WTO rules then prevailing’.

By referring to the WTO framework, rather than specifying its provisions, the Cotonou Partnership Agreement is of little help in clarifying the implications of Article 24 GATT in the case of EPA negotiations. The CPA therefore does not provide the negotiation parties with a clear understanding about how the aims of trade liberalisation and development promotion ought to be combined in the EPA cooperation game.

⁷⁹ Mareike Meyn. "Economic Partnership Agreements: A Historic Step Towards a Partnership of Equals?", Overseas Development Institute (2008), 3.

2.4 THE NEGOTIATING MANDATES

Regarding the means of cooperation that were available to the cooperation partners in EPA negotiations, there was an official recognition that because of the highly unequal levels of economic development of the cooperation partners the means needed to go beyond those of classical trade cooperation. This was reflected in the kinds of cooperation means listed in the Cotonou Agreement, the EU negotiating mandate, the ACP negotiation guidelines as well as the joint EU-ECOWAS roadmap (see box 4). They referred to both traditional means of trade cooperation such as the mutual lowering of tariffs (regulatory means), as well as means usually associated with development cooperation, such as the provision of financial aid or infrastructure support programmes (redistributive means).

Despite the persisting indeterminacy of the existing regimes regarding cooperation at the trade-development nexus, the particular set-up and mandate for the EPA negotiations could have clarified the rules of the cooperation game. Given the huge power asymmetries between the parties, the EU's approach towards EPA negotiations was decisive in determining the institutional set-up of the negotiation process⁸⁰. Yet, rather than clarifying what the trade-development framing meant in terms of the concrete goals and means of the negotiations, the set-up of EPA negotiations only increased existing ambiguities.

Box 4- List of the means in the official negotiating mandates/legal framework

- Establishing free trade areas by reducing tariffs and non-tariff barriers on substantially all trade between the partners (Cotonou Agreement, Art. 37; Council mandate, Par. 2.2. and Art. 3; EU-ECOWAS Roadmap, Art. 4), and to foster the gradual integration of the ACP States into the world economy (Cotonou Agreement, Art. 28a; ACP negotiating guidelines, Art. 34a);
- Investment and private sector development (Cotonou Agreement, Art. 21; EU-ECOWAS roadmap, Section II; indirect reference in Council mandate, Par. 2.2);
- Macroeconomic and structural reforms and policies, including capacity building (Cotonou Agreement, Art. 22; Council mandate, Par. 3; ACP negotiating guidelines, Article 35), such as infrastructure development (Cotonou Agreement,

⁸⁰ Stephen Kingah, "The Revised Cotonou Agreement between the European Community and the African, Caribbean and Pacific States: Innovations on Security, Political Dialogue, Transparency, Money and Social Responsibility," *Journal of African Law* 50, no. 01 (2006), 59.

Art. 23e and k), or improvements in competition policy (Cotonou Agreement, Art. 45; ACP negotiating guidelines, Article 35, Trade-related issues (i));
- Provision of financial resources to West Africa (Cotonou Agreement, Art. 18; Council mandate, Par. 2.2; ACP negotiating guidelines, Section II, (c) ‘Development cooperation issues’; EU-ECOWAS roadmap, Art. 42).

With regard to prioritising trade or development goals and principles, the EU did little to clarify its position. While rhetorically endorsing development objectives, DG Trade –rather than DG Development⁸¹– was given the lead in the negotiations⁸². At the same time, this did not seem to imply a clear prioritisation of trade goals, as development objectives were repeatedly referred to. The European Council, for instance, emphasised in its 2002 negotiating mandate that EPAs must serve the objective of poverty reduction and are ‘above all an instrument for development’⁸³. The Council of Foreign Ministers adopted the EU’s mandate for the Commission to negotiate the agreements on 17 June 2002. It was based on the Commission’s recommendations from April⁸⁴, in which it was clearly stated that EPAs are ‘above all an instrument for development’⁸⁵. The EU officially claimed that ‘[w]hat is innovative about this North-South trade agreement is that it unites the two regions behind a common objective: promoting the development of West Africa, home to many of the world’s poorest countries’⁸⁶.

Yet, DG Trade, who was given the lead in the negotiations, traditionally pursues the aim of increasing the economic gains of the European Union, rather than the fight against poverty. These ambiguities between trade and development goals were mirrored in the institutional set-up of the EU’s negotiation structure. While DG Trade officially took the lead in negotiations, DG Development was also present at the negotiation table. Moreover, a considerable number of the people in charge of EPA

⁸¹ In previous rounds of trade cooperation with the ACP region, DG Development was responsible for conducting the negotiations on the European side.

⁸² European Commission, Council Mandate on EPAs, tradoc_112023[1].

⁸³ European Commission, Council Mandate on EPAs, tradoc_112023[1], paragraph 2.2; 5.

⁸⁴ Ole Elgström and Magdalena F. Larsén, "Free to Trade? Commission Autonomy in the Economic Partnership Agreement Negotiations," *Journal of European Public Policy* 17, no. 2 (2010).

⁸⁵ Section 2.2., “Recommendation for a Council Decision authorising the Commission to negotiate Economic Partnership Agreements with the ACP countries and regions”, *European Commission*, SEC (2002) 351 final, 9 April 2002.

⁸⁶ European Commission, “Statement by EU Trade Commissioner Peter Mandelson”, October 2005, http://trade.ec.europa.eu/doclib/docs/2005/november/tradoc_125868.pdf.

negotiation within DG Trade formerly worked at DG Development⁸⁷. This, however, only increased the lack of clarity about the game the actors were playing at the trade-development nexus.

This section has demonstrated that the set of pre-existing rules that provided the framework for EPA negotiations was characterised by indeterminacy, a precondition for a 'Battle over Games' to emerge. If it had been clearly defined what the requirements of Article 24 GATT were in the case of trade negotiations between developed and developing countries, it would be implausible to suggest that the cooperation problems the actors faced related to the possibility of subjectively divergent understandings of the rules of the game. Yet, the WTO framework was inconclusive with the regard to the application of SDT provision in EPA negotiations. Neither the Cotonou Partnership Agreement, nor the way in which the EU set up the negotiation process helped to identify an objective set of goals and means that actors could expect to predominate in the EPA process. Given the unprecedented nature of EPA negotiations, old patterns of social norms and conventions were unlikely to provide unambiguous focal points about what kind of game to play.

3. Interpreting the Rules of the Game: European and West African Perspectives

This section uncovers and contrasts the EU's and the West African side's divergent interpretations of the rules of the game in the case of EPA negotiations⁸⁸. The perspectives are put in the context of the tensions and ambiguities that followed from the trade-development linkage. The expectations to play different games provide the background for the empirical analysis of strategic interaction in the following chapters of the thesis, and will be further specified.

⁸⁷ The trade division of DG Development was transferred to DG Trade before EPA negotiations started; Interview 23, Brussels, Commission official, February 2010; Ole Elgstroem and Jess Pilegaard, "Imposed Coherence: Negotiating Economic Partnership Agreements," *Journal of European Integration* 30, no. 3 (2008), 370.

⁸⁸ Note that reconstructing the actors' interpretations of the rules of the game in hindsight presents a methodological challenge. The interview material I rely upon was collected in between 2008 and 2011, yet negotiations started in 2002. I address this methodological shortcoming by contextualising interview quotes with official documents published at an earlier point of time.

3.1 THE EU'S INTERPRETATIONS OF THE RULES OF THE GAME

Basic elements of the issue area

As a consequence of the 'development framing' of the trade negotiations, it was ambiguous in how far the EU could be expected to act as a 'donor' or 'development partner' who is, to at least some extent, interested in helping the poor, or as a 'trade partner', who is only interested in maximising their own gains from economic cooperation. In terms of the role the EU would take on as a 'player' in EPA negotiations, it expected to act simultaneously as both a trade and a development partner. This view was exemplarily expressed in a statement made by then Development Commissioner Louis Michel. When being questioned about the EU's commercial self-interests in EPA negotiations he claimed that '[w]e are generous but not naïve'⁸⁹. While it was made clear that 'we are interested in development in Africa'⁹⁰, this did not seem to undermine the expectation to act, at times, as a self-interested trade partner. Playing the role of a 'donor', however, was clearly rejected in the context of EPA negotiations. A Commission representative stated for instance that

'we don't want to be seen as buying the agreements - it's not about going to West Africa and saying "take that billion and sign", it's not at all the point - if we did that it would just completely negate the whole EPA perspective.'⁹¹

Regarding the 'set of moves' in EPA negotiations, the trade-development linkage led to ambiguity about the prevalence of choices related to market opening or to the provision of financial aid and the imposition of conditionality. The EU seemed to see the basic 'moves' or choices it faced as whether or not it insists on an ambitious reform package as part of EPA agreements. On the one hand, the EU expected to face the choice to end the history of 'special' trade regimes towards the countries of the African, Pacific and Caribbean group that West Africa formed part of. Such a step towards doing trade business 'as usual' would either imply negotiating a trade agreement that meets the minimum requirements of WTO compatibility, or not to replace the previous system of Lomé preferences at all. This strategic option was reflected in the statement of a Commission official who told me that 'we could have

⁸⁹ Q&A: "We are generous but not naïve", Interview with Louis Michel, EU Development Commissioner, IPS, Bruxelles, February 11 2008, <http://www.ipsnews.net/news.asp?idnews=40762>.

⁹⁰ Interview 20, Brussels, Commission official, February 2010.

⁹¹ Interview 23, Brussels, Commission official, February 2010.

chosen to say OKthe regime is illegal, there is another regime which is available, you get transferred, end of the story'⁹².

On the other hand, the EU and West Africa saw the choice of insisting on negotiating an ambitious and comprehensive free trade agreement. In contrast to the option of falling back on existing preferential regimes for developing countries, this would require the establishment of a reciprocal market opening between the EU and West Africa. This understanding of the strategic choices –or ‘set of moves’– constitutive of EPA negotiations was reflected in the statement of a Commission official in one of the interviews, who told me that this option was ‘trying to do something, not just have this GSP [Generalised System of Preference]’, which allows you to ‘be more hands-on and to look at what trade agreement for development could look like’.⁹³ In September 2005, the then Trade Commissioner Mandelson recalled that the vision for EPAs is to negotiate ‘a powerful tool for development’, which ‘build[s] an economic framework which will stimulate sufficiently rapid and broad-based economic growth in order to contribute to an effective reduction of poverty’⁹⁴.

The trade-development linkage moreover created ambiguity about the kind of ‘payoffs’ that would be seen as constitutive of EPA negotiations. The EU expected that gains from cooperation would primarily relate to trade regulation, with the ‘payoffs’ of the game stemming from implementing a ‘reform package’ geared towards further trade liberalisation. In particular, EPA agreements were seen as an opportunity to lock-in far-reaching macroeconomic reforms in West Africa that help the region to stimulate economic growth, while at the same time serving the interests of European investors in the region. It was repeatedly emphasised that the agreement should go beyond traditional trade cooperation and include the so-called ‘new issues’ such as investment or other ‘behind-the-border’ aspects of economic governance, while fostering regional integration in West Africa. Reducing the obstacles to investment⁹⁵, good governance⁹⁶, ‘long-standing structural reform’⁹⁷, and the

⁹² Interview 23, Brussels, Commission official, February 2010.

⁹³ Interview 23, Brussels, Commission official, February 2010.

⁹⁴ EC, DG Trade/DG Development, introductory comments by Peter Mandelson (September 2005) in ‘A new approach in the relations between European Union and Eastern and Southern Africa Countries’, January 2006, 1.

⁹⁵ Interview 20, Brussels, Commission official, February 2010.

⁹⁶ Interview 20, Brussels, Commission official, February 2010; Interview 15, Brussels, Commission official, February 2010; Interview 29, Brussels, Commission official, November 2010.

⁹⁷ Interview 15, Brussels, Commission official, February 2010.

diversification of production⁹⁸ were explicitly mentioned as central aspects of trade agreements with West Africa, –all of which imply a far-reaching restructuring of domestic economic policies in West Africa. Another EU representative told me in an interview that the agreements should be ‘about rules, about binding commitments, about establishing economic structures in Africa’⁹⁹. As stated by Commissioner Mandelson in 2005, ‘EPAs are, at root, about putting progressive trade policy into practice’¹⁰⁰. In a different speech in 2005, he emphasised that ‘I would argue that developing countries, no less than developed countries, benefit from transparent procurement rules, a predictable climate for badly needed foreign investment, or effective competition authorities that level the playing field’¹⁰¹. Another Commission official explicitly told me in an interview that the general idea behind EPAs is ‘to have this as a trigger of reforms’¹⁰². An internal commission staff working paper on ‘*The trade and development aspects of EPA negotiations*’ (2005) similarly stated that

‘EPAs are part of the overall effort to build up the economic governance framework, the stable, transparent and predictable rules necessary to lower the costs of doing business, attract fresh domestic or foreign investment and make ACP producers more diversified and competitive’¹⁰³.

Redistributive means associated with development cooperation, to the contrary, were not expected to be a crucial part of the ‘payoffs’ in EPA negotiations. One Commission official made the point that EPAs ‘should be good for development in their design, and then money is just there to help implement them’¹⁰⁴.

How to play the game

Regarding the way in which strategic interaction unfolds, the EU did expect that the linkage between trade and development goals would lead to negotiating behaviour that differs from both classical trade and development cooperation. While trade cooperation is usually associated with ‘horse-trading’ and bargaining, donors needs to

⁹⁸ Interview 15, Brussels, Commission official, February 2010.

⁹⁹ Interview 20, Brussels, Commission official, February 2010, (own translation).

¹⁰⁰ Speech by Peter Mandelson, ‘Economic Partnership Agreements: progressive trade policy into practice’, ACP – EU Joint Parliamentary Assembly, Bamako, Mali, 19 April 2005, SPEECH/05/241.

¹⁰¹ EC, ‘Trade at the Service of Development: An action plan for 2005 for the EU Trade Commissioner’, Lecture by Peter Mandelson at the London School of Economics. London, 4 February 2005.

¹⁰² Interview 23, Brussels, Commission official, February 2010.

¹⁰³ EC, ‘The trade and development aspects of EPA negotiations’, commission staff working document, Brussels, 9 November 2005, SEC(2005) 1459, 30.

¹⁰⁴ Interview 9, Brussels, Commission official, February 2010; similar views expressed in; Interview 12, Brussels, Commission official, February 2010; Interview 22, Brussels, Commission official, February 2010.

make sure that the money it funds is spent in a way that helps to address the problem of poverty –two very different tasks. The EU interpreted the linkage primarily in the sense that it would lead to a greater prevalence of problem-solving attempts as compared to the distributive bargaining in classical trade negotiations.

EU officials frequently alluded to the expectation that they would engage in a dialogue on development at the negotiating table¹⁰⁵. The development framing was seen to imply that, as stated by an EU official participating in the negotiations, ‘from the EU side you have to make sure that in terms of the provisions, what is actually in the agreements, is development-oriented’¹⁰⁶. Such a problem-solving mode relies on the presumption that the cooperation partners are to some extent willing to openly share information, in particular internal impact assessments and data about the economy, with each other. A Commission official from DG AidCO for instance told me that ‘to pursue something that is development-friendly. ... you can only do this together’. This is because the climate needs to be ‘collaborative which is also necessary to really get results’¹⁰⁷.

It hence seemed that the EU expected that the fact that EPA negotiations would necessarily also be about ‘trade bargains’ – with EPAs being a free trade agreement – did not undermine the possibility of joint problem-solving about how to design development-oriented trade policy reforms. While it was acknowledged that ‘this is a negotiation’¹⁰⁸, i.e. that bargaining plays a role, the EU expected that it could still act as a development partner who jointly designs trade reforms. One of the commission officials for instance argued along these lines that

‘there is much less of a conflict than is actually perceived, but of course there is one because we are negotiating –in a way opposing partners around the table– although in actual fact this is a very different negotiation from other negotiations because we do not have offensive interests in this negotiation’¹⁰⁹.

In terms of the coordination principles, reciprocity was seen to take priority over the principle of asymmetry associated with development cooperation. While the Council mandate referred to the need for a ‘degree of asymmetry in terms of the

¹⁰⁵ Interview 12, Brussels, Commission official, February 2010; Interview 40, Brussels, Commission official, December 2010; Interview 29, Brussels, Commission official, November 2010; Interview 20, Brussels, Commission official, February 2010; Interview 22, Brussels, Commission official, February 2010.

¹⁰⁶ Interview 12, Brussels, Commission official, February 2010.

¹⁰⁷ Interview 13, Brussels, Commission official, February 2010.

¹⁰⁸ Interview 12, Brussels, Commission official, February 2010; Interview 13, Brussels, Commission official, February 2010; Interview 17, Brussels, Commission official, February 2010.

¹⁰⁹ Interview 13, Brussels, Commission official, February 2010.

timetable for tariff dismantling' when making bargains, it explicitly emphasised that reciprocity is the key coordination principle of EPA negotiations:

'It has sometimes been understood that the principle of differentiation implies that reciprocity would not be required from least developed countries (LDCs), participating in an EPA. This is, of course, not the case. Reciprocity is one of the basic elements of EPAs from which no partner wishing to participate can be expected without depriving EPAs of their essence'¹¹⁰.

Goodison similarly came to the conclusion in 2005 that the 'standard EC view [is] that reform of WTO rules on free-trade areas (article XXIV) is not needed, since the existing provisions provide sufficient flexibility for the conclusion of development-oriented EPAs'¹¹¹. In justifying this view, the EU referred to positive effects of greater market opening on development countries, as it leads to 'the tangible benefits of deeper economic integration through more ambitious regional trade agreements among developing countries (just as through agreements between developed and developing countries)'¹¹².

3.2 THE WEST AFRICAN SIDE'S INTERPRETATIONS OF THE RULES OF THE GAME

Basic elements of the issue area

The West African side, to the contrary, interpreted the development framing of the negotiations in very different terms. In terms of the kinds of 'players' in negotiations at the trade-development nexus, the West African side interpreted its own role very much along that of a dependent 'recipient' in a highly unequal relationship. A Brussels-based West African trade representative complained, for instance, in one of the interviews that 'they are the ones giving the options. They are the ones giving us the duty free, quote free, they are the ones giving us everything'¹¹³. Simon Osei Mensah, a member of the ECOWAS parliament, similarly noted a 'perception in West Africa that the EPA is an agreement between two unequal partners'¹¹⁴.

¹¹⁰ Section 4.4., "Recommendation for a Council Decision authorising the Commission to negotiate Economic Partnership Agreements with the ACP countries and regions", *European Commission*, SEC (2002) 351 final, 9 April 2002.

¹¹¹ Paul Goodison, "Six Months on: What Shift is there in the EU Approach to EPA Negotiations?" *Review of African Political Economy* 32, no. 104-105 (2005), 296.

¹¹² EC, DG Trade, 'Second Submission on Regional Trade Agreements – Clarifications and Improvements to GATT Art. XXIV Provisions', 26 April 2005, Draft, Brussels, 5

¹¹³ Interview 8, Brussels, embassy official, July 2008; similar view expressed in; Interview 30, Brussels, embassy official, November 2010.

¹¹⁴ Presentation of Hon. Simon Osei Mensah, Member of the ECOWAS Parliament, Ouagadougou, Burkina Faso, 28th-30th October 2009, http://www.europarl.europa.eu/intcoop/acp/04_regional/pdf/mensah_en.pdf.

Seeing its own role in negotiations at the trade-development nexus primarily in terms of a ‘recipient’ implied that the EU’s role was seen as that of a ‘donor’ who provides help to the dependent partner. This view was, for instance, made clear by an ECOWAS official who told me that ‘regarding the EPA negotiations, if they won’t help us to do that and just aim at opening our markets, it is not in our interest’¹¹⁵. Another Brussels-based officer similarly stated that ‘it’s not really about trade we can’t compete if it’s only trade’¹¹⁶.

Regarding the ‘set of moves’ in EPA negotiations, the West African region expected that the ‘development’ framing implied that it could lobby for aid as part of the trade agreement. If these demands are not heard, the region saw its alternative choice to be to reject cooperation altogether. The former would include attempts to increase leverage against the EU as a ‘donor’ in a development partnership. If these demands for help are not met, all that is left to the region is the option not to sign an agreement at all. Or, in the words of a Nigerian trade analyst: ‘if it does not have a development component, it is a lost game already’¹¹⁷. Another West African trade official who was a former member of a national negotiating team on EPAs told me that ‘if they don’t have a deal on development, the negotiation is as good as not being concluded. That has been clear’¹¹⁸. The ‘set of moves’ the EU faced was, accordingly, understood to be either the neglect of the West African side’s demands for aid, or –if pressure is strong enough– the accommodation thereof.

The ‘payoffs’ were associated much more with ‘aid’ and redistribution rather than trade regulation. An official of the ECOWAS Secretariat told me that ‘from day one the region had believed in signing an agreement which is not just about market access liberalisation but also about the development dimension’¹¹⁹. The roadmap concluded in 2004 reasserted that ‘the main aim of the EPA is to contribute to reinforcing regional integration and the sustainable economic development of West Africa’¹²⁰. In particular, gains were associated with financial aid that would be used to cover ‘adjustment measures and programmes’ that include the improvement of the region’s

¹¹⁵ Interview 3, phone interview, ECOWAS representative, September 2008.

¹¹⁶ Interview 30, Brussels, embassy official, November 2010.

¹¹⁷ Interview 53, phone-to-capital, civil society representative, November 2011.

¹¹⁸ Interview 46, phone-to-capital, government official, October 2011.

¹¹⁹ Interview 68, Abuja, ECOWAS representative, December 2011.

¹²⁰ ECOWAS/EC, ‘Road Map for Economic Partnership Agreement Negotiations between West Africa and the European Community’, Accra, 4 August 2004.

competitiveness and production capacity¹²¹. Improving the trade-related infrastructure was mentioned repeatedly as a key benefit from cooperation¹²². The 2002 ACP negotiating guidelines already mentioned the need to improve competitiveness as part of the EPA process, with particular reference to capacity building measures¹²³. Trade-related means, to the contrary, were seen as part, but not parcel, of the ‘payoffs’ of the EPA deal. Reciprocal trade liberalisation was even regarded as detrimental to the region, if not accompanied by financial aid to address existing supply-side constraints. As argued by Hon. Alhaji Mohamed Daramy, ECOWAS Commissioner for Trade, Customs and Free Movement of Persons and Goods: ‘[m]arket-access opening will not lead to development unless the EU provides support to EPADP/PAPED [the EPA-related financial aid programme] and addresses the supply-side constraints’¹²⁴.

How to play the game

The West African side interpreted the consequence of the linkage between trade and development goals for interaction at the negotiating table in terms that differed from the European perspective. Instead of a predominance of problem-solving, with a presumably unproblematic coexistence of some elements of ‘horse-trading’, the West African side expected EPA negotiations to be above all about distributive bargaining¹²⁵. Sharing of information was not seen to be part of the negotiation process, given that both sides pursue self-interested bargains when it comes to the terms of the trade agreement. Simon Osei Mensah, a member of the ECOWAS parliament, exemplarily noted the existence of a fear ‘that the stronger and more exposed partner may exploit the system to the disadvantage of the less privileged partners due to unequal levels of development and competitive

¹²¹ John Olympio, Seydou Sacko, Dominique Fifatin, ‘The challenges of the West Africa EPA’, in: ICTSD, Trade Negotiations Insights, Vol. 6 No. 8 (December 2007 & January 2008).

¹²² Hon. Alhaji Mohamed Daramy, ECOWAS Commissioner for Trade, interviewed in ICTSD, Trade Negotiation Insights Vol 9, No 5, June 2010; Jonathan Aremu, consultant to the Common Investment Market of ECOWAS, quoted in: “Expert urges EU to develop Nigeria’s infrastructure”, *allafrica.com*, 18 January 2010, <http://allafrica.com/stories/201001190069.html>; Interview 30, Brussels, embassy official, November 2010; Interview 31, Brussels, ECOWAS representative, November 2010; Interview 2, phone-to-capital, government official, September 2008.

¹²³ ACP Council of Ministers, ‘ACP guidelines for the negotiations of Economic Partnership Agreements’, ACP/61/056/02 [FINAL], 5 July 2002.

¹²⁴ ICTSD, Trade Negotiation Insights Vol 9, No 5, June 2010; http://ictsd.org/downloads/tni/tni_en_9-5.pdf.

¹²⁵ Interview 44, phone-to-capital, government official, October 2011; Interview 54, phone-to-capital, ECOWAS official, October 2011; Interview 53, phone-to-capital, civil society representative, November 2011; Interview 67, Abuja, civil society representative, December 2011; Interview 68, Abuja, ECOWAS representative, December 2011.

strengths¹²⁶. The EU was expected to act as an ‘adversary’¹²⁷ in a ‘fight’¹²⁸ or a ‘David-Goliath situation’¹²⁹ or a ‘cat against tiger’¹³⁰ – a view that differed notably from the EU’s expectation of a problem-solving atmosphere at the negotiating table.

Instead, there was a general expectation that interaction at the negotiating table could be conceived of in terms of the lobbying attempts constitutive of development cooperation¹³¹. This interpretation was also evident regarding the prioritisation of asymmetrical rather than reciprocal coordination principles. A capital-based trade officer argued that in the case of EPAs ‘the trade negotiations have to be given a development face since the West or Europe is far more advanced in different fields So you have to therefore ensure that we have some level of preferential treatment’¹³². An ECOWAS representative argued along similar lines that it would be unfair if West Africa were put on the same level, i.e. be subject to symmetric rules, given the inequality and asymmetry in the capacity levels of both sides¹³³.

3.3 SUMMARY AND CONTEXTUALISATION OF DIVERGENT PERSPECTIVES

The following table summarises and compares the EU’s and the West African side’s divergent expectations about the kind of ‘game’ they would play in EPA negotiations (see table 7). It highlights the different interpretations of the rules of the game, which were contextualised against the tensions and ambiguities that resulted from the conflicting sets of social norms and conventions associated with trade ‘games’ and development ‘games’. Since this thesis understands the ‘rules of the game’ to be distinct from (yet co-constituted by) the actors’ interests in a given situation, a few clarifications are necessary at this stage that put the above findings into the context of the empirical analysis of the negotiation process in the following chapters.

¹²⁶ Presentation of Hon. Simon Osei Mensah, Member of the ECOWAS Parliament, Ouagadougou, Burkina Faso, 28th-30th October 2009,

http://www.europarl.europa.eu/intcoop/acp/04_regional/pdf/mensah_en.pdf.

¹²⁷ Lefaso.net, ‘ABLASSE OUEDRAOGO : "Au Burkina, c’est la malédiction des 3 M"’, 19 August 2009,

<http://www.lefaso.net/spip.php?article32851&rubrique4>.

¹²⁸ Interview 3, phone interview, ECOWAS representative, September 2008; Interview 8, Brussels, embassy official, July 2008.

¹²⁹ Interview 8, Brussels, embassy official, July 2008.

¹³⁰ Interview 3, phone interview, ECOWAS representative, September 2008.

¹³¹ Interview 44, phone-to-capital, government official, October 2011.

¹³² Interview 1, phone-to-capital, government official, September 2008.

¹³³ Interview 61, Abuja, ECOWAS representative, December 2011.

While the analytical distinction between the rules of the game and the actors' interests is at times blurry, it is nonetheless a worthwhile undertaking. It allows us to show, firstly, how divergent understanding of the rules of the game shape the actors' subjective expectations about each other's behaviour. The empirical analysis in chapter five will come back to this aspect. In this way, I demonstrate that the negotiating strategies chosen by the cooperation partners did not merely reflect their interests, but moreover related to the actors' subjectively divergent expectations about the rules 'out there' that structure strategic interaction in a given situation. Secondly, it enables us to better understand how (re)negotiating the rules of the game is part of the bargaining processes between self-interested actors. Chapter six engages with these attempts to establish a particular understanding of the rules of the game as a dominant reference frame for an interaction situation. I show how both sides held an interest in pushing for their conceptions of the rules of the game, and why they were ultimately unsuccessful. Both aspects help us to shed new light on the sources of cooperation problems states face.

	Element of the rules of the game	European perspective	West African perspective
Basic elements of issue-area (policy level)	'Players'	trade partners and development partners	donor/recipient
	'Set of moves'	insist on ambitious reform package/do not insist on ambitious reform package	lobby for trade partnership with aid/stay out of the deal
	'Payoffs'	gains from trade regulation	gains from redistribution
How to play the game (procedural level)	Mode of interaction	parallel existence of distributive bargaining and integrative problem-solving; sharing information mostly beneficial	distributive bargaining; sharing information mostly not beneficial
	Coordination principles	reciprocity	asymmetry

Table 7 – Summary of Divergent Interpretations of the Rules of the Game

4. Conclusion

This chapter has mainly done three things: firstly, it developed the argument that the rules of the game were not firmly institutionalised when the EU and West Africa started the negotiation process. In particular, the legal framework of the WTO and the Cotonou agreement provided many loopholes for divergent interpretations, and did not specify what precisely to expect in a trade negotiation with a ‘development dimension’. It is against this context that this chapter, secondly, attempted to portray the pre-existing social context of EPA negotiations in more detail. Doing so was based on the assumption that the games states play are not reducible to the actors’ preferences and beliefs, but depend on the way in which they are embedded in a pre-existing social context of interaction. In particular, I argue that the games played by states are informed by social norms that delimit the range of acceptable goals and strategies, as well as convention that define how to interact. Thirdly, I have uncovered and contrasted the EU’s and the West African side’s divergent interpretations of the rules of the game in the case of EPA negotiations.

These insights are important for the argument developed in this thesis because it helped us to understand why the rules of the game were contested in the case of EPA negotiations. It argues that misguided expectations about each other’s behaviour were facilitated by the tensions between the different social norms and conventions particular to trade and development cooperation. The linkage between trade and development policies in this way undermined the development of stable expectations in the case of EPA negotiations, and facilitated the emergence of a ‘Battle over Games’. Mainstream rationalist models of strategic interaction, to the contrary, rarely problematise the social context of interaction to inquire why the rules of the game might be contested in the first place. Moreover, by contrasting the EU’s and the West African side’s divergent interpretations of the rules of the game this chapter has shown that the rationalist assumption of common knowledge about the games states play might not always apply.

The following chapters examine how paying attention to the actors' divergent understandings of the rules of the game helps us to uncover the actors' decision-making rationales, and why strategic interaction reiterated (rather than solved) the costly impasse situation.

5 Talking Past Each Other: EPA Negotiations 2002-2007

This chapter explores the negotiation process of the Economic Partnership Agreements (EPAs) between the EU and West Africa in the period from 2002 until 2007. The negotiating parties had originally envisaged concluding the negotiations by the end of 2007. When the deadline was approaching substantial conflicts on a number of contested negotiating issues emerged. Yet, neither side was willing to change its negotiating positions, which ultimately led to the impasse situation. The failure to reach an agreement by the envisaged negotiating deadline was not only disappointing to the EU and West Africa, but highly costly to both sides. It is against this context that this chapter examines why strategic interaction led to the impasse situation.

The main argument developed in this chapter is that the lack of firmly institutionalised rules of the game facilitated the emergence of the impasse. It led to a situation in which both sides expected to be playing different games. The EU assumed trade negotiations with a ‘development dimension’ to be above all about trade regulation. The West African side, however, interpreted the essence of negotiations primarily in terms of financial aid. As a consequence thereof, both the EU and West Africa chose negotiating strategies that were ultimately detrimental to the goals they originally envisaged to achieve. They made misguided offers to each other, and held ill-conceived expectations about the other side’s reactions. Neither was the EU willing to accept aid as part of an EPA agreement, nor did the West African side regard the proposed macroeconomic reforms as beneficial. The European insistence on far-reaching market opening was seen as an unacceptable intrusion into domestic affairs, which led to unanticipated resistance prior to the negotiating deadline.

Within the context of the argument of this thesis, this chapter provides an illustration of the cooperation problems that could emerge if the actors hold different interpretations of the rules of the game and are unaware of those of the opposing side. While conflicting interests are usually the starting point, they do not necessarily determine the outcome of negotiations. This chapter illustrates how strategic interaction unfolds depends on the particular negotiating strategies that the actors

have chosen, and a shared recognition of a set of rules that determine what they bargain about and how. I will show that the choice of sub-optimal negotiating strategies can best be understood by pointing at the actors' divergent interpretations of the rules of the game, and not by a lack of information as such, as rationalist approaches might suggest. I uncover the divergent causal and normative beliefs (and the identities that underpin them) that inform the 'rational' choices made by participants. On the contrary, rationalist approaches are unable to fully capture these driving forces because they usually presume that actors hold 'common knowledge' or 'common prior beliefs' about the cooperation situation. This chapter, in this way, shows why it is important to take on a constructivist-informed approach towards strategic interaction.

In the following I, firstly, examine the negotiating strategies chosen by the EU and the West African side and the decision-making rationale that underpinned them. Based on this analysis I, secondly, analyse how the negotiating strategies hampered reaching an agreement and what kind of cooperation problems led to the emergence of the impasse situation. In doing so, the failure of both sides' negotiating strategies is related to each party's inability to reach agreement on the three major contentious negotiating issues in the pre-2007 period: market access conditions, financial aid, and the extension of the WTO waiver. Finally, I discuss the explanatory value of the 'Battle over Games' framework in relation to existing rationalist accounts of strategic interaction.

1. The Choices of Negotiating Strategies

The key to understanding how the impasse situation emerged during the negotiation process prior to the 2007 deadline lies in understanding why both the EU and West Africa chose negotiating strategies that were ultimately detrimental to the goals they had originally hoped to achieve (see chapter 3, section 2.2). Had they acted differently, it might have been possible to avert the costly impasse situation by the end of 2007.

Hence, this section aims, as a first step, at reconstructing the particular negotiating strategies¹ chosen by both sides and the decision-making rationale that underpinned them. The negotiation strategies adopted by states are not only reflections of the goals they want to pursue, but also of the particular expectations of the actors about the kind of negotiation ‘game’ they would engage in. Reconstructing the subjectively divergent understandings of the rules of the game that underpinned the rationale behind the negotiating strategies presents a challenge to mainstream rationalist approaches, who usually assumed that these rules are common knowledge among the actors.

1.1 THE EU’S NEGOTIATING STRATEGY: ‘EPAs AS REFORM PACKAGE - CAKE IT OR LEAVE IT!’

The EU’s approach towards EPA negotiations was driven by a two-folded goal: firstly, negotiating a reciprocal trade regime with West Africa was seen to serve its own political interests and long-term economic considerations. Secondly, the EU’s desire and strategic interest in establishing itself as a ‘friend’ of the developing world led to an interest in negotiating a development-oriented trade partnership². The EU faced several different strategic options to pursue these goals when embarking upon EPA negotiations. While the expiry of the WTO waiver of the Lomé/Cotonou system of trade preferences was set, it was not predetermined what the EU would regard as the most rational reaction given the interests it wanted to pursue.

First of all, the EU could have simply not offered to negotiate a new trade regime with the ACP countries. This would have implied that West Africa (and the other ACP regions) would have fallen back on the Generalised System of Preferences (GSP), a preferential trading scheme for developing countries. Market access conditions for developing countries are, however, more restricted under the GSP scheme compared to the Lomé/Cotonou preferences. Secondly, the EU could have simply attempted to gain a renewal of the waiver. Thirdly, it would have been possible, though not legal, to ignore the requirement of WTO compatibility. The US, for instance, offers the African Growth and Opportunity Act trading scheme to a

¹ Note that a strategy is generally understood to be a ‘plan of action’ that guides goal-oriented behaviour. Since negotiating strategies are likely to be adopted during the course of a negotiating process, it is difficult to reconstruct one single strategy that the EU and West Africa relied upon. It is, however, possible to identify the general strategic approach behind their negotiating positions in the EPA process, and ways in which it was modified.

² See chapter 3, section 2.

number of African countries which is not WTO compatible. Yet, it has not been legally challenged so far which suggests that WTO law does not always set clear boundaries for the options faced by states. Finally, the EU could have used the expiry of the waiver to significantly restructure the trade regime with the ACP countries. This approach presumably offered the opportunity to safeguard the historically-grown trade preferences for ACP countries, while at the same time increasing the European foothold in the region.

Among these options, the EU chose an overall strategic approach that aimed at significantly restructuring the trade regime with the ACP countries (and West Africa as one of the seven negotiating regions among this group). The major rationale behind such an approach was to conceive of EPAs as a ‘reform package’ that would offer mutual benefits to both sides, and in this way make cooperation attractive. The reforms it hoped to negotiate related to a significant restructuring of the trade regime, in particular a further liberalisation of ‘behind-the-border’ trade policy issues in the West African region. The benefits of such an ambitious trade partnership were assumed to be apparent to the other side, or at least not problematised. As argued by Orbie and Faber, the EU assumed that ‘the benefits of reforms would be sufficiently clear and attractive to the development partners ... to make them reform on their own initiative’³. The EU did not perceive the need to conduct a major information campaign because the benefits of the EPA compared to the outside options of the Everything But Arms (EBA) regime and the GSP were presumably obvious⁴.

To understand why the EU regarded this approach as the best possible strategy choice, it is insightful to return to the European interpretation of the rules of the game. Because EPA negotiations were primarily understood to be about trade regulation (rather than redistribution) it is unsurprising to see that the EU attempted to make cooperation attractive by promoting a particular set of trade policy changes. Within its perspectives on the ‘payoffs’ of the game, liberalising the macroeconomic trade policy environment within the West African region was seen to provide benefits to

³ Jan Orbie and Gerrit Faber, "The Struggle for EPAs: A Conflict between Old and New Regionalism," paper for the EUSA Twelfth Biennial International Conference, Boston, Massachusetts (March 3-5, 2011), 17.

⁴ Only when resistance to the proposed EPAs became manifest during the final year of the negotiations, did the EU include some attempts to disseminate information about the presumed benefits of reforms as part of its negotiating strategy. For instance, it issued an ‘*Urgent communication to West African Ministers on the importance of concluding Economic Partnership Agreement (EPA) negotiations*’ on the 24th of January 2007, in which it specified the costs of the GSP and EBA compared to the proposed EPA agreements.

both sides. It would enable European exporters to gain greater access to the regional market. At the same time, the West African side would face the opportunity to lock-in much needed reforms to overcome protectionist, and oftentimes, corrupt governance structures and attract foreign traders (and their capital)⁵.

Yet, this overall strategic approach adopted by the EU soon ran into trouble. It became apparent that the West African negotiating region was not only delaying the negotiating process, but moreover was fiercely opposed to the proposed EPA agreements. The 2007 deadline was fast approaching and reaching an agreement on EPAs in time seemed to become ever more difficult. It is against this background that we can observe a new, or modified, strategic approach taken by the EU. Again, several options were available to the EU. For instance, it could have simply continued to hope that the attractiveness of the proposed reform package would exert enough of a ‘pull’ for the EU and West Africa to get their act together and to conclude an agreement in time before the deadline. Alternatively, the EU could have proposed postponing the deadline by demanding a new waiver at the WTO to give the parties more time to overcome disagreement.

The strategy chosen by the EU instead can be best described as a ‘take-it-or-leave-it’ approach: it increased the pressure put on the West African side and confronted the region with the option to either accept the proposed EPA agreements or face the consequences of not meeting the deadline set by the expiry of the WTO waiver. It was based on the rationale that the region would ultimately accept the proposed deals because the ‘reform package’ it offered was seen to be more beneficial compared to existing outside options. This strategic approach was apparent in the positions taken by the EU and in various statements it made. When the West African side demanded an extension of the negotiating deadline by three years at the end of November 2006⁶, the EU rejected this as a possibility. Then Trade Commissioner Peter Mandelson clearly stated in the same year that

‘we have a responsibility to act just as we promised in the Cotonou agreement; we also have a WTO obligation to do so. This is unavoidable and everyone should be clear on this when they talk of alternatives or of making agreements

⁵ The EU’s assumption that the African side would simply sign on to the proposed ‘reform package’ was presumably also reinforced by the fact that in the long history of trade cooperation between the partners the African side never before dared to reject European offers, given the unequal power relationship between the partners.

⁶ ICTSD, Trade Negotiations Insight, Vol. 6 No. 1 (January/February 2007), http://acp-eu-trade.org/library/files/TNI_EN_6-1.pdf.

that are not rules based... Our deadline to negotiate EPAs is January when the Cotonou waiver expires... we have no magic alternatives to offer... Let us be very clear that there is no way back, no retreat from where we are now without harming the very interests of trade and development that we are seeking to champion⁷.

This 'take-it-or-leave-it' strategy was moreover reflected in statements made by the West African side who frequently complained about the rigid approach adopted by the EU⁸. The ACP Council of Ministers in December 2007 'deplore[ed] the enormous pressure that has been brought to bear on the ACP States by the European Commission to initial the interim trade arrangements, contrary to the spirit of the ACP–EU partnership'⁹. A West African negotiator recalled in one interview that

'already in September we had only three months to the deadline. It was becoming clear to almost everyone that the deadline will not be met. But the Commission said no, there is no plan B. They remained rigid on that position, either conclude by December 2007 or to face a worse trade regime in terms of business with the EU'¹⁰.

Secondary literature on the EPA process characterised the EU's negotiating strategy in similar terms. Bilal noted in October 2006, the only thing that seemed to matter at that stage to the EU was 'that ACP countries agree with the Commission template for an EPA deal before the end of the year'¹¹. In her assessment of the EU's strategy in the EPA negotiation process, Drieghe claims that '[t]he WTO deadline became the centre of its negotiating strategy: before 2008, a WTO compatible trade regime had to be in place, and no other trade deals but EPAs would meet that criterion'¹². Knowing in hindsight that the EU's strategic approach was rather 'sub-optimal' and led to the emergence of the impasse situation, one is left wondering why the EU failed to anticipate that its negotiating strategy would be utterly misplaced to achieve the goals it had set for itself: concluding an ambitious trade partnership.

⁷ Speech by Peter Mandelson (2006), quoted in: Lotte Drieghe, "The European Union's Trade Negotiations with the ACP: Entrapped by its Own Rhetorical Strategy," *Romanian Journal of European Affairs* 8, no. 4 (2008), 8.

⁸ Interview 57, phone-to-capital, ECOWAS official, October 2011; Interview 50, phone-to-capital, private sector representative, November 2011; see also C. Stevens and others, "The New EPAs: Comparative Analysis of their Content and the Challenges for 2008," *London/Maastricht: ODI & ECDPM* (2008), 2.

⁹ ACP Council of Ministers, 'Declaration of the ACP Council of Ministers at its 86th Session expressing serious concern on the status of the negotiations of the Economic Partnership Agreements', Brussels, 13 December 2007, ACP/25/013/07.

¹⁰ Interview 50, phone-to-capital, private sector representative, November 2011.

¹¹ San Bilal, 'EPAs: Vision, faith or blindness?', in ICTSD, *Trade Negotiations Insight*, Vol. 6 No. 6 (October 2007), http://www.acp-eu-trade.org/library/files/TNI_EN_6-6.pdf.

¹² Drieghe, *The European Union's Trade Negotiations with the ACP: Entrapped by its Own Rhetorical Strategy*, 3.

1.2 THE WEST AFRICAN NEGOTIATING STRATEGY: ‘WAIT AND ASK FOR MONEY – BUT DON’T GIVE IN!’

The West African side was driven by a different set of goals when entering EPA negotiations: on the one hand, the ECOWAS region saw an interest in using EPA negotiations to attract more financial aid to address existing supply-side capacity constraints. On the other hand, the region generally saw an interest in maintaining their preferential market access to the EU as much as possible¹³.

To pursue these interests the West African side had to make strategic choices among a range of different pathways upon which it could have embarked. The expiry of the WTO waiver of the Lomé/Cotonou system of trade preferences led to different strategic options on the West African side. Given its structural positions on the ‘receiving end’, the negotiating strategies it could adopt resided somewhere between either rejecting the European proposals or putting the region in a position where it demands particular concessions from the EU. One option would have been to refuse to negotiate a follow-up regime, and to simply fall back on the GSP or the ‘Everything But Arms’ (EBA) regime for Least Developed Countries, that was introduced shortly after EPA negotiations were initialled. Another option would have been to engage in EPA negotiations but to actively lobby for the maintenance of the Lomé/Cotonou system of preferences. Moreover, the region could have used EPA negotiations to pursue an offensive agenda to improve market access to the EU. This would have meant the region preparing its own technical proposals for a new trade regime. In all three cases, invoking pressure at the political level to take into account the region’s development concerns was an available strategy choice.

What kind of strategy did the West African region chose to pursue its interests in EPA negotiations? It adopted a relatively defensive negotiating strategy. It was, in essence, a ‘wait-and-see’ approach which was at the same time geared towards ‘lobbying’ for any financial resources it could get from the EU. The level of involvement in the EPA process was relatively low in the pre-2007 negotiating period (see chapter 3, section 1.2.1). Hence, part of this strategic approach was to lobby for more money and concessions.

Taking the region’s understandings of the rules into account helps us to understand why this option seemed the most rational choice. Given that the ‘moves’ and ‘payoffs’

¹³ See chapter 3, section 2.

of the game were associated primarily with redistribution, asking for aid was seen as an obvious strategic choice. The greater scepticism towards the economic benefits of trade liberalisation at the same time disincentivised a more active approach regarding the trade-related aspects of the negotiations. While this approach reflected its relatively low levels of ambition to carry out extensive and neo-liberal trade reforms, it was at the same time built on the strategic expectations that such an approach would be best suited to foster these interests in the EPA process.

To pursue its goals, the region relied on public appeals to the EU to take into consideration its development concerns. Paul Bunduku-Latha, Chairman of the ACP Ministerial, appealed to the EU to be more flexible on EPAs: '[w]e beg it to show a little flexibility and *humanity*'¹⁴ (emphasis added). Others called for the EU to be 'more understanding'¹⁵, to 'help us'¹⁶ or to 'think, not as technical experts, crunching figures and looking at issues, but as human beings trying to emphasise with one another'¹⁷. Asking for concessions, based on appeals to justice or 'humanity' was in this way part of the West African side's negotiating strategy. Another element of the West African side's strategy was to push for the inclusion of an 'accompanying programme' into the text of the agreement¹⁸. Such a programme was understood to secure the provision of additional financial resources as part of the trade agreement. It became later known as the 'EPA Programme for Development' (EPADP) or by its French acronym, PAPED. The idea behind pushing for such an 'accompanying programme' was to identify supply-side capacity constraints that the EU would need to address in the case of further trade liberalisation commitments.

When it became clear that it would be hardly possible anymore to conclude a regional free trade agreement by the end of the 2007 deadline, however, it was necessary for the region to adopt its overall strategic approach in the negotiating process. Not having prepared its own trade agenda as a consequence of the region's 'wait-and-see' approach, strategic choices had to be made. An ECOWAS official recalled in an interview that 'we had various options which you propose to the politics

¹⁴ Paul Bunduku-Latha, quoted in: ACORD *et al.*, 'The 3rd Africa-EU Summit in Tripoli, 29-30 November 2010: The long awaited high level meeting on EPAs?', EU NGO briefing paper on the current state of play of the EPA negotiations, 22 November 2010.

¹⁵ Interview 7, phone-to-capital, government official, January 2009.

¹⁶ Interview 3, phone interview, ECOWAS representative, September 2008.

¹⁷ Interview 30, Brussels, embassy official, November 2010.

¹⁸ MAIS, 'The EPADP: A "smokescreen" aid for trade pushing for free trade between the EU and West Africa?', Policy briefing, 18 October 2010, p.4-5.

which we have to handle until the end of the year knowing that we have not analysed the negotiations'¹⁹. At that stage, the key element of the West African side's negotiating strategy became the demand for an extension of the WTO waiver to allow for three more years of negotiations – and a continuation of the old system of Cotonou preferences. This strategic approach was at the same time built on the firm resolution not to give in to the European side's demands in the face of the negotiating deadline. As noted by the African Trade Policy Centre in February 2007, 'the region appears willing to respect and defend its solidarity in the face of an EPA that does not address all their concerns'²⁰.

The decision to demand an extension of the waiver was based on the strategic calculation that it would indeed be possible to get the EU to prolong the old system of preferences. Faced with the option of either having to risk the outright failure of the EPA negotiation process or to give it a second chance, key actors within the region assumed the EU would opt for the latter²¹. This decision-making rationale again reflected the particular interpretation of the rules of the game. It echoed the expectation that the EU could be pressured into making development-related concerns. The decision to insist on an extension of the waiver was moreover influenced by the nomination of Ablassé Ouedraogo, Deputy Director-General of the WTO from 1999-2002, as a special advisor to the President of ECOWAS for trade negotiations. I was told in one interview that his links to the WTO network were important in making West African actors believe that it would be possible to bring the WTO to support the region's push for an extension of the waiver: 'at the political level there was advice by different roots that we could obtain an extension through having a support from the WTO so therefore we would be in a position to take the EU to ask for an additional waiver'²². While not everybody in the EPA Unit within the ECOWAS Secretariat agreed on this plan, his idea to put pressure on the EU through the WTO, gaining two or three more years of negotiations, was endorsed by the ECOWAS Secretariat. This was not only because it was seen as a realistic but also as a relatively trouble-free strategy, thereby fitting well into the region's overall passive negotiation stance. As recalled by the ECOWAS official who was working on EPA

¹⁹ Interview 57, phone-to-capital, ECOWAS official, October 2011.

²⁰ African Trade Policy Centre, 'EPA Negotiations: African Countries Continental Review', 19 February 2007, 57.

²¹ Interview 57, phone-to-capital, ECOWAS official, October 2011.

²² Interview 57, phone-to-capital, ECOWAS official, October 2011.

negotiations at that time: ‘I guess this option seems easy and therefore to a certain extent the management sort of tried that out’²³.

Given that both the region’s ‘wait-and-see’ strategy and the waiver extension demand turned out to be counterproductive and led to the costly impasse at the end of 2007, we are left wondering why the West African side was unable to see that the EU would be neither willing to give in to its defensive demands for more aid, nor to accept an extension of the negotiating deadline.

This section has uncovered what the particular negotiating strategies were that the EU and the West African side adopted. I have, moreover, argued that contextualising the choices against the expectations of participants about the kind of ‘game’ they would play at the trade-development nexus helps us to better understand why this was regarded as the most rational approach. This alone does not, however, suffice to make the argument of how the emerging impasse depended on the implicit disagreement of those involved over the rules of the game. An alternative reading of the above analysis of the negotiating strategies is that the impasse situation could have been the result of bargaining problems in a classical ‘War of Attrition’. Both sides hoped that the other side would ultimately give in when it came to the negotiating deadline. Because they lacked information about the other side’s ‘real’ preferences, however, neither side’s negotiating strategy was conducive towards reaching an agreement. While such bargaining behaviour did play a role, as I will show in the following section, I argue that problems around cooperation were more fundamental.

2. The Outcome of Strategic Interaction: Emergence of the Impasse

This section examines why strategic interaction led to the emergence of the impasse situation prior to the 2007 deadline. I develop the argument that paying attention to the EU and West African’s subjectively divergent visions about the game they were effectively playing helps us to understand why they adopted seemingly ‘sub-optimal’ negotiating strategies. It thereby illustrates the obstacles to cooperation

²³ Interview 57, phone-to-capital, ECOWAS official, October 2011.

in an implicit ‘battle over games’, and why they differ from classical bargaining problems in a ‘War of Attrition’: the difficulty is not primarily that both sides engage in misguided bargaining behaviour because they lack information about an objectively given environment and the other side’s preferences and beliefs about the cooperation situation. Instead, what they lack is a shared understanding of the meaning and content of the rules that structure interaction. Reaching an agreement, however, depends on the availability of a shared reference frame for interaction (the rules of the game) around which their expectations about each other’s behaviour could converge.

A situation of implicit disagreement over the rules of the game potentially destabilises the actors’ expectations about each other’s behaviour in important ways. The actors interpreted the value and acceptability of the proposed deals and their negotiating behaviour in different ways. This made it hardly possible to accommodate conflicting interests, especially because the EU and West Africa were largely unaware of their different understandings. Resistance was intensified by strong feelings that the other side’s offer, and how it wanted to negotiate, was unacceptable in the particular context of EPA negotiations – which neither side was able to anticipate. Moreover, this section uncovers how the failure to anticipate that both sides relied on ill-conceived negotiating strategies was facilitated by the tensions and ambiguities that resulted from the linkage between trade and development cooperation, two games with very different sets of rules (see chapter 4, section 2 and 3). Rationalist approaches see the rules of the game primarily as reflections of the actors’ self-interests, and, therefore, do not offer the conceptual tools to examine how conflicting social norms and conventions might facilitate contestation and resistance.

The following empirical analysis is structured around the three major substantive and procedural issues of disagreement in the pre-2007 negotiating period: the question of market access commitments, the additionality of financial aid and the extension of the WTO waiver. While the insistence of far-reaching liberalisation commitments by the end of 2007 was a key aspect of the European negotiating strategy, the demand for binding commitments on aid and an extension of the negotiating deadline were central aspects of the West African strategy. In each sub-section, I examine (if applicable) whether and how divergent interpretations of the rules of the game complicated bargaining problems by destabilising expectations about 1) possible equilibrium outcomes; 2) the mode of interaction; 3) acceptable behaviour and outcomes.

2.1 NEGOTIATIONS OVER MARKET ACCESS COMMITMENTS

One of the major obstacles to reaching agreement prior to the 2007 negotiating deadline was the question of market access commitments. The EU offered to liberalise its own markets by 100% while the African side would liberalise only 80% of its trade volumes over a period of 15 years. The West African region, however, suggested a liberalisation of 60% over a 25 year period. Part of the EU's 'take-it-or-leave-it' strategy was to remain firm on its demand for substantial market opening commitments on the African side. It was based on the calculation that its counterpart would ultimately accept the 'reform package' proposed when faced with the threat of not reaching any deal at all. Given that the EU's 'take-it-or-leave-it' strategy regarding market opening commitments was highly detrimental to its own interest in securing a cooperative deal, why did it rely on the misguided expectation that taking a firm stance on market access commitments could be conducive towards reaching an agreement before the negotiating deadline?

Pointing at the conflicting interests pursued by the EU and West Africa provides us only with a partial answer to this question. While it is true that the EU regarded greater market opening commitments as part of the reforms it proposed as beneficial (even if economic concerns were presumably a minor driving factor), the EU's self-interest as such does not tell us why it mistakenly expected that the negotiating strategy it had chosen would be conducive towards achieving this goal. This reminds us that the outcomes of negotiations are not merely reflections of the actors' interests but depend on how and whether cooperation partners hold a shared understanding of what is at stake, and how to talk and negotiate about it.

Apparently, this was not the case in the EPA negotiations. Misguided expectations of possible equilibrium outcomes, how to interact, and what would be accepted in normative terms facilitated the emergence of the impasse on market access commitments. To understand where the mismatch of expectations came from, it is insightful to examine how the EU's understanding of the rules of the game was shaped by the institution's adherence to neo-liberal causal ideas about the trade-development linkage, and a self-understanding as an 'advisor' to Africa – neither of which was shared by the West African side, and neither of which can be sufficiently captured if we rely on the rationalist notion of incomplete information.

Misguided Expectations of Possible Equilibrium Outcomes

The cooperation problems behind the impasse on the issue of market access commitments was, first of all, related to the lack of a shared understanding of what would count as a mutually beneficial outcome in the negotiations of EPAs. In the following, I, firstly, substantiate the claim that the actors' particular negotiating strategies facilitated the emergence on the impasse before, secondly, further examining the reasons behind these misguided strategy choices.

An important trigger of the impasse on market access commitments was that the EU's negotiating strategy was based on the assumption that West Africa would prefer to sign the proposed EPA (with 80% market opening over 15 years) over the EBA and GSP²⁴. Yet, the EU's firm insistence on 80% market opening over 15 years turned out to be highly counterproductive. In contrast to the EU's expectation, the West African side remained firm on its demands and preferred to fall back on the EBA or GSP regime instead of signing the EPA. Olympio, Fifatin and Sacko, key officials at the EPA Unit of the ECOWAS Secretariat, quite plainly noted that 'the West African countries believed that the interim EPA proposed by the Commission was not feasible in the time-scale proposed and would not foster development'²⁵. The Deputy Governor of Sierra Leone similarly claimed that one of the obvious implications of signing the deal proposed by the EU is that the countries 'will be put in an impossible competitive position, having to expose their fragile economies to the incomparably great efficiency and might of the EU's industrial framework'²⁶. Only Ghana and the Cote d'Ivoire individually initialled interim agreements, which they later did not sign (Ghana) or have not started implementing yet (Cote d'Ivoire). This was because they wanted to avoid falling back on the GSP regime. Nigeria did not sign an interim agreement despite falling back on the GSP regime from 2008 onwards.

Moreover, the EU's approach backfired in the sense that it not only led to the impasse but also to a political outcry and resistance against what was perceived as

²⁴ On the decision-making rationale behind the negotiating strategy see section 1.1 of this chapter.

²⁵ John Olympio, Seydou Sacko, Dominique Fifatin, 'The challenges of the West Africa EPA', in Trade Negotiation Insights Vol. 6. No. 8, ICTSD, December 2007 & January 2008, [ictsd.org/downloads/tni/tni_en_6-8.pdf](http://www.ictsd.org/downloads/tni/tni_en_6-8.pdf).

²⁶ Alhaji Mohamed S. Fofana, 'Chairman's opening remarks', National Seminar on the Economic Partnership Agreement (EPA), Theme: Positioning Sierra Leone, 12-13 December 2007, <http://www.bsl.gov.sl/pdf/Seminar%20on%20Economic%20Partnership.pdf>.

undue ‘political and economic pressures’²⁷. While EPAs were envisaged as a mutually beneficial ‘tool for development’, disagreement over market access commitments led to the objection that the proposed agreements would be exploitative in economic terms. The strongest allegations came, as might be expected, from civil society actors, some of whom argued that the EPAs were an attempt at the ‘re-colonisation of Africa’ and had an ‘echo of colonial memories’²⁸.

Had the EU been able to anticipate the West African side’s firm resistance to the market access proposals it made, it would have been possible to pursue a more ‘optimal’ approach. Being more flexible on market access commitments, yet securing a deal by the end of 2007, would have arguably constituted a less costly option for the EU – which in the aftermaths of the failure to reach a timely agreement began considering the ‘downgrading’ of EPA agreements. In the words of Trade Commissioner De Gucht and Development Commissioner Piebalgs, ‘accept[ing] agreements with a lower level of ambition’²⁹ suddenly became an option given the failure to reach agreement on what was originally considered ‘an ambitious and innovative attempt to harness trade policy to development’³⁰. If the failure to anticipate to other side’s reaction to own proposals on market access commitments facilitated the impasse, however, it is important to better understand why the EU was apparently ‘blind’ to the way in which West Africa would conceive of the benefits (or rather the costs) of signing an EPA agreement.

According to the ‘Battle over Games’ framework, the lack of a shared understanding of what would count as a mutually beneficial outcome is one of the triggers of unstable and, therefore, potentially ill-conceived, expectations about the other side’s behaviour. As I argue in the following, divergent interpretations of the ‘payoffs’ (and the possible equilibrium outcomes they relate to) did indeed play a role in the negotiations over market access commitments. To understand where they came

²⁷ Assembly of the African Union, ‘Declaration on Economic Partnership Agreements (EPAs)’, Tenth Ordinary Session, 31 January – 2 February 2008, DOC. EX.CL/394 (XII), http://www.africa-union.org/root/au/Conferences/2008/january/summit/docs/decisions/Assembly_Decisions_171-191.pdf.

²⁸ European Parliament, ‘Europe’s trade with developing countries: Who really benefits?’, 30 March 2009, http://www.europarl.europa.eu/news/public/story_page/026-52827-089-03-14-903-20090326STO52725-2009-30-03-2009/default_en.htm.

²⁹ EC, Letter by Andris Piebalgs and Karel de Gucht to the Ministers of Trade, internal document, Brussels, 6 September 2010.

³⁰ EC, Statement by EU Trade Commissioner Peter Mandelson, October 2005, <http://trade.ec.europa.eu/doclib/html/125868.htm>.

from, it is important to uncover the particular causal ideas that the EU relied upon – which highlights that its ill-guided strategy choices cannot be reduced to a lack of information in their entirety, and demonstrates the value of a constructivist approach to strategic interaction.

Misconceiving the West African side's willingness to accept its market access offer was grounded in the institution's firm belief neo-liberal causal ideas about the trade-development linkage which, however, were not shared by its counterpart. In her analysis of the discourses of West African and European actors in EPA negotiations, Del Felice succinctly summarises the EU's view on the link free trade and development as follows: 'more trade = more economic growth = development'³¹. Or, in the words of the Trade Commissioner Peter Mandelson: '[m]y overall philosophy is simple: I believe in progressive trade liberalisation. I believe that the opening of markets can deliver growth and the reduction of poverty'³².

These causal ideas led to a particular interpretation of the 'payoffs' and possible equilibrium outcomes of EPA negotiations. Because trade liberalisation was seen as the best way to foster development, it was at the same time seen as contributing towards the goal of reducing poverty. First of all, this perspective on the cooperation game led to an association of 'payoffs' with trade regulation, rather than the provision of aid. Secondly, it fostered a frame of reference in which more liberalisation presumably meant more gains. This view was manifest in numerous statements made by EU officials: the reduced export rates under the Lomé trading scheme and the increasing preference erosion were repeatedly alluded to as a reason for negotiating reciprocal market opening³³. Hence, the 'payoffs' commonly associated with trade

³¹ Celina Del Felice, "Power in Discursive Practices, the Case of the Stop Epas Campaign," *European Journal of International Relations* (June 14, 2012).

³² Mandelson, Peter. Statement to the Development Committee of the European Parliament, 17 March 2005, available at http://ec.europa.eu/commission_barroso/ashton/speeches_articles/sppm019_en.htm (accessed 6 November 2009), 2005, quoted in: Silke Trommer, "Activists Beyond Brussels: Transnational NGO Strategies on EU–West African Trade Negotiations," *Globalizations* 8, no. 1 (2011).

³³ The proportion of EU imports from ACP countries dropped from 7% to 3% of EU imports over the last 30 years, DG Trade webpage, <http://ec.europa.eu/trade/wider-agenda/development/economic-partnerships/>; European Commission, "Green Paper on relations between the European Union and the ACP countries on the eve of the 21st century - Challenges and options for a new partnership", COM(96) 570, November 1996, 49; <http://www.euforic.org/greenpap/intro.htm>; Interview 12, Brussels, Commission official, February 2010; Interview 20, Brussels, Commission official, February 2010; Interview 28, Brussels, Commission official, November 2010; Interview 64, Abuja, EU official, December 2011.

cooperation (i.e. gains from trade liberalisation) were at the same time seen as ‘payoffs’ that could be beneficial in negotiations on development issues.

It is against this background that introducing reciprocal trade liberalisation through signing an EPA agreement was seen as a mutually beneficial outcome. It helps us to better understand why the EU mistakenly assumed that the GSP and the EBA would ultimately be regarded by the West African side as more costly compared to EPA. What these existing trade regimes have in common is that they offer unilateral market access preferences to developing countries. Given the lower payoffs associated with protectionist policies, it made little sense from the European perspective to acquiesce to the region’s demands to liberalise merely 60-70% of its trade with Europe as part of an EPA agreement. This means allowing developing countries to maintain higher levels of market protection which was seen as an obstacle to fostering economic growth.

Paying attention to the EU’s particular interpretation of the relationship between trade liberalisation and development in this way helps us to understand why it relied on the expectation that West Africa would eventually accept its proposal as a mutually beneficial outcome. Rejecting the proposed market access opening of 80% over 15 years in favour of relying on the EBA or GSP regime was underpinned by a particular assessment of the causal effects of trade liberalisation on economic development which was apparently not shared by the West African side. The manner in which the EU’s negotiating strategy led to the impasse on market access commitments was, moreover, related to the lack of stable expectations about how to play the cooperation game as I will argue in the following.

Misguided Expectations about the ‘Rules of Interaction’

The EU’s strategy of selling EPAs as a ‘reform package’ that introduces far-reaching market access commitments was, moreover, built on the presumption that part of the negotiations would discuss how to design such reform. Yet, this expectation facilitated the emergence of the impasse situation because it was detached from the way in which the West African side interpreted the rules of interaction in EPA negotiations. The EU expected that negotiations would be simultaneously about giving advice on trade reforms while at the same time providing an opportunity for it to bargain for trade concessions. The West African side, however, was highly suspicious of the EU’s attempts to lead a ‘dialogue’ on development while at the same

time negotiating a free trade agreement that potentially served the commercial interests of both sides (see chapter 4, section 4.2)³⁴.

This undermined the success of the EU's negotiating approach by leading to misguided expectations about each other's behaviour. Part of the EU's negotiating strategy to sell EPAs as a 'reform package' was the assumption that sharing information would be possible. For instance, the EU expected the West African side to share its impact assessments so as to jointly decide what kind of reforms would be best suited to foster economic development in the region. The West African side, however, did not expect the EU to engage in collaborative problem-solving but to pursue its own commercial interest. Trade officials on the West African side repeatedly stated without hesitation in the interviews that they presume that the EU is above all interested in negotiating improving its own market access³⁵.

The resulting high levels of mistrust in the EU's ability to give advice while conducting trade bargains undermined the success of its negotiating strategy. The region was reluctant to share information with the EU and it was difficult to establish an open dialogue at the negotiating table³⁶. A European trade consultant based in Nigeria, for instance, said that the trade directorate in the ECOWAS Secretariat is very cautious when it comes to revealing information or letting external consultants participate in internal meetings, while other directorates within the Secretariat are much more open³⁷. The West African side was at times even sceptical towards relying on the advice of the external consultants funded by the EU or its Member States³⁸. A trade consultant hired to give advice to the Sierra Leonean government in the EPA negotiations echoed these levels of mistrust towards the EU when stating that

'I went to Sierra Leone, but I was funded by the EU. But at least I was an ACP national. Can you imagine an EU national giving advice to ACP countries on

³⁴ Interview 67, Abuja, civil society representative, December 2011; Interview 8, Brussels, embassy official, July 2008; Interview 3, phone interview, ECOWAS representative, September 2008; Interview 9, phone-to-capital, trade policy analyst, January 2009; Interview 6, phone-to-capital, government official, January 2009.

³⁵ Interview 65, Abuja, ECOWAS representative, December 2011; Interview 67, Abuja, civil society representative, December 2011; Interview 57, phone-to-capital, ECOWAS official, October 2011; Interview 6, phone-to-capital, government official, January 2009; Interview 54, phone-to-capital, ECOWAS official, October 2011; Interview 30, Brussels, embassy official, November 2010; Interview 41, Brussels, embassy official, December 2010.

³⁶ Interview 13, Brussels, Commission official, February 2010.

³⁷ Interview 58, phone interview, trade consultant, December 2011.

³⁸ An interviewee who himself was initially funded by the EU recalled that this scepticism was seen to decrease over time, as it became clearer that the consultant did not intend to pursue an 'European', but a 'West African' agenda; Interview 68, Abuja, ECOWAS representative, December 2011.

negotiations with the EU? A lot of the countries have been pushed towards this'³⁹.

Had it been less ambiguous what how the trade-development linkage affected the particular 'mode of interaction' at the negotiating table, such misguided expectations could possibly have been averted. An EU official in hindsight acknowledged that the EU's conception of leading a dialogue on EPAs while also being a trade partner might have been problematic when stating that

'the difficult thing is that at the same time it is a negotiation, in any negotiation it is normal for the parties to keep some cards for yourself I suppose. I know for fact that the ACP [African, Caribbean and Pacific countries] do not want to put all the cards on the table. They do not necessarily want to share their impact assessments with us, because we are their party in the negotiation at the same time as we are a development partner for them and I think that this is part of the problem'⁴⁰.

Misguided Expectations about Acceptable Behaviour

To further understand why the EU was seemingly unable to anticipate to the misguided nature of its 'take-it-or-leave-it' approach on market access commitments we must pay attention to the way in which the trade-development linkage destabilised the actors' expectations about acceptable behaviour in EPA negotiations. While the EU expected its 'take-it-or-leave-it' strategy on market access conditions to be justifiable because it would in this way incentivise the locking-in of beneficial macroeconomic trade reforms through external pressure and provide accountability, the West Africans saw this as an illegitimate intrusion into domestic affairs. The resulting perception of the European negotiating strategy as unfair helps us to better understand not only that the EU's strategy was sub-optimal, but also why it elicited such a strong resistance on the West African side.

First of all, let us consider in what ways the European side's negotiating approach on market access commitments was seen as normatively unacceptable. Actors within the region interpreted the EU's attempts to lock in a particular set of trade policies as an unwanted and unacceptable intrusion in domestic affairs⁴¹. Professor Chibuzo N. Nwoke from the Nigerian Institute of International Affairs concluded at a regional

³⁹ Interview 18, phone-to-capital, technical advisor, October 2008.

⁴⁰ Interview 13, Brussels, Commission official, February 2010.

⁴¹ Note that while this view was prevalent within the region, and picked up by political leaders with in the region (as I will illustrate in the following), there were many of the technical level negotiators that did not necessarily share this interpretation of the EU's 'take-it-or-leave-it' strategy as an 'neo-colonial tool' of intrusion; because this interpretation resonated with feelings that were wide-spread within the region, however, it led to politicisation and resistance.

workshop on EPAs that the ‘EPA is a neo-colonial tool designed to enable EU have better access to ACP markets and further impoverish their economies’⁴². Another trade official involved in the EPA process echoed this fear of ‘neo-colonial’ intrusion, saying in an interview that the EU’s negotiating strategy was geared towards breaking up regional integration efforts in the region: ‘if ECOWAS breaks off it is because of EU – and that is what the EU is after. On paper the EU supports regional integration, in practice EU does things that waste integration’⁴³.

This led to resentment and resistance rather than agreement. Flint notes that there was a ‘growing feeling of resentment that EPAs are being forced upon ACP countries’⁴⁴. Senegal’s President Abdoulaye Wade prominently stood up against the EPAs, which it refused to sign, advocating instead a ‘partnership deprived of paternalism and without prejudice’⁴⁵.

Had the EU been aware of the West African side’s different perspective on what would be considered acceptable behaviour in the EPA process, and the perceived illegitimacy of the EU’s insistence of pushing for a binding reform lock-in prior to 2007, a different strategic approach might have averted the impasse. In hindsight, it was acknowledged that taking a more flexible approach could have avoided stalemate: ‘maybe we’re right, and maybe the rules will help countries to defend themselves, but countries saw it as an offensive – so the negotiations popped down many times for the fact that the commission pushed’⁴⁶. The official further stated that ‘we have been pushing, I think our homework was not properly done and the result is that there is now frustration on both sides, we’re getting nowhere, we’re getting the minimal thing’⁴⁷. Instead, as the representative further argued, ‘even several years ago it was clear that we should have kept open ... the options of a minimal EPA, a bit more of an extended EPA, and then the full-blown EPA’⁴⁸. Another commission

⁴² Manufacturers Association of Nigeria (MAN)/The Nigerian Economic Summit Group (NESG), ‘Report of MAN-NESG 2-day workshop in EU-ECOWAS Economic Partnership Agreement negotiations’, Lagos, 15-18 May 2008.

⁴³ Interview 47, phone-to-capital, government official, October 2011.

⁴⁴ Adrian Flint, *Trade, Poverty and the Environment: The EU, Cotonou and the African-Caribbean-Pacific Bloc* (Basingstoke England ; New York: Palgrave Macmillan, 2008), 23.

⁴⁵ AllAfrica.com, ‘Africa: Spare This EU Paternalism’, David Cronin, 11 January 2008, <http://allafrica.com/stories/200801120002.html>.

⁴⁶ Interview 29, Brussels, Commission official, November 2010.

⁴⁷ Interview 29, Brussels, Commission official, November 2010.

⁴⁸ Interview 29, Brussels, Commission official, November 2010.

official similarly recognised retrospectively that ‘pushing countries into this big scope of negotiations, we scare them off’⁴⁹.

Why did the EU and the West African side, however, interpret acceptable behaviour at the trade-development nexus in such different ways? To understand where the mismatch came from, it is insightful to contextualise the actors’ interpretations of the social norms applicable at the trade-development nexus against their different understandings of the identities and roles that the cooperation partners would take on. This illustrates that there was no objectively given definition of the rules of the game ‘out there’ that the actors merely needed to discover. Instead, the ‘game’ played in EPA negotiations depended partly on the EU and the West African side’s own understandings of what acceptable behaviour would look like in this particular context.

The EU defined its own role to be that of an ‘advisor’ who tries to convince the West African side to adopt policies that are presumed to foster economic development. In the interviews it was repeatedly emphasised that the EU saw its own role as ‘advising’⁵⁰ and ‘convincing’⁵¹ its counterparts of the benefits from locking-in neo-liberal trade reforms. Page summarises the European perspective as follows:

‘the relationship, as perceived by the EC: that the ACP countries need advice from developed country experts to design trade policies that are good for their interests, and therefore that any trade agreement has to be largely designed from outside, not negotiated’⁵².

This assessment was reflected in the interviews I conducted. One official from DG Trade, when I asked him what he could do to ensure that cooperation would be beneficial in terms of development, stated that ‘at my level, I can try to convey the messages about the benefits in terms of an economic mind-set’⁵³. Providing advice and offering an external reform lock-in was at the same time not seen as an illegitimate intrusion into the other side’s domestic affairs. I was repeatedly told in the interviews that the West African side at every time of the negotiations is free to leave,

⁴⁹ Interview 24, Brussels, Commission official, February 2010.

⁵⁰ Interview 40, Brussels, Commission official, December 2010.

⁵¹ Interview 29, Brussels, Commission official, November 2010; Interview 20, Brussels, Commission official, February 2010.

⁵² Sheila Page, Overseas Development Institute, ‘How to deepen the dialogue between the Andean Community and the EU, European Union Trade Policy Making Process: Implications for Andean Community – EU Bi-Regional Relations’, 2007, 8.

⁵³ Interview 22, Brussels, Commission official, February 2010; a similar view was expressed in Interview 29, Brussels, Commission official, November 2010.

and cannot be forced to accept a reform package⁵⁴. An EU official for instance stated in an interview that

‘this is a bi-lateral negotiation on trade and development, it is not a negotiation on their domestic political issues. Ultimately you cannot force anybody to go and implement such and such reform. You can say that in order to reap greatest benefits of such and such provisions it would be good if you also did this - but ultimately you cannot force them’⁵⁵.

Hence, the EU’s failure to anticipate the, partly emotionally-informed, resistance to signing the proposed deals stemmed from the way in which its own presumptions of acting as a benevolent ‘advisor’ made it blind to the sensitivities and potential for politicisation that its tough bargaining stance on securing greater market access commitments would give rise to on the West African side. While on the one hand advising the West African side on what kind of policies would be needed to foster economic growth, and providing an opportunity to lock them in, the necessary ‘bargains’ of trade negotiations were related to the ‘advice’ that the EU was giving: introducing and enforcing greater reciprocity were seen as part of the ambitious attempt to design a new trade partnership that would be necessary to foster development in Africa. The EU presumed that remaining firm on the deadline would facilitate a reform lock-in –something West Africa would ultimately recognise as beneficial.

The self-understanding of the EU as an ‘advisor’ who knows what ‘would be good’ to do relates not only to the problems of governance that exist in many West African countries⁵⁶ but also echoes a particular identity conception that underpins the rules of development cooperation⁵⁷. The idea of acting as an ‘advisor’ who knows what is good for West Africa reflects the self-understanding that Europe would be in a superior position in terms of expertise. According to Baaz, this is a dominant view of

⁵⁴ Interview 21, Brussels, Commission official, February 2010; Interview 21, Brussels, Commission official, February 2010; Interview 23, Brussels, Commission official, February 2010; Interview 13, Brussels, Commission official, February 2010.

⁵⁵ Interview 12, Brussels, Commission official, February 2010; a similar view was expressed in: Interview 40, Brussels, Commission official, December 2010.

⁵⁶ West African countries for instance feature traditionally very low on the Corruption Perception Index (CPI). Out of 178 countries, the majority of West Africa ranks in the bottom third. Notable exceptions are Cape Verde (rank 49), Ghana (rank 69), Senegal (rank 71). Data from 2007, http://www.transparency.org/policy_research/surveys_indices/cpi/2007

⁵⁷ Note that this is not to say that all EU negotiators necessarily adhere to such a view in which the EU brings good development models to the otherwise decapitated region of West Africa. Acknowledging this tradition of thought helps us, however, to better understand why the EU saw itself as an ‘advisor’ in EPA negotiations, promoting particular macroeconomic reforms that it deemed good for development in West Africa

the relationship in development cooperation in which the development actors are turned into an ‘omniscient being able to provide advice on a wide range of issues’⁵⁸. The flipside of this self-perception as ‘advisor’ is the denial of effective agency to the ‘advisee’ who must be told what to do. Again, this is a common identity pattern in the history of North-South cooperation on development issues. Doty, for instance, explained how ‘Third World’ countries were often seen as ‘blank spaces’ waiting to be willed with Western writing on ‘such things as civilization, progress, modernization, and democracy’⁵⁹. From the European perspective, moreover, combining the roles of trade and development partner at the negotiating table was seen as a relatively unproblematic exercise.

Yet, the West African side’s perspective on acceptable behaviour in EPA negotiations was based on divergent understandings of their identities. In contrast to the EU’s self-understanding, it did not primarily see EPA negotiations through the lens of an ‘advisor-advisee’ relationship. Instead, the relationship between the partners, and the game they were playing in the context of EPA negotiations, was influenced much more by the colonial and post-colonial experiences of the region. The history of colonialism and continuous external intervention during the Cold War and beyond makes African leaders particularly sensitive and concerned in defending their sovereignty and policy space. Ayoob speaks of a ‘feeling of deprivation’ in this regard, directed both at the past and the present system⁶⁰. It is against these historically-grown resentments towards external intervention that the EU’s role was unlikely to be seen as that of a neutral ‘advisor’ in EPA negotiations. Following from this divergent identity-based understanding of the roles the cooperation partners would play at the trade-development nexus, we can better understand why and how the EU’s eagerness to sign binding commitments on substantial trade policy changes was above all interpreted as unwanted intrusion in domestic affairs, and gave rise to opposition.

To sum up, the impasse that occurred around market access commitments, then, was not only a matter of conflicting interests and the EU’s failure to anticipate the

⁵⁸ Maria Eriksson Baaz, *The Paternalism of Partnership: A Postcolonial Reading of Identity in Development Aid* (New York: Zed Books, 2004), 111.

⁵⁹ Roxanne Lynn Doty, *Imperial Encounters: The Politics of Representation in North-South Relations* (Minneapolis: University of Minnesota Press, 1996), 11.

⁶⁰ On the quest for autonomy and status of ‘third world’ countries see Mohammed Ayoob, “The Third World in the System of States: Acute Schizophrenia Or Growing Pains?” *International Studies Quarterly* 33, no. 1 (1989), 67-79.

West African side's divergent assessment of the casual effects of proposed EPA agreements. Resistance to the EU's proposals was also based on the perception that the EU's 'take-it-or-leave-it' strategy was unacceptable in the sense that it represented an attempt to intrude into West African domestic politics for self-interested reasons. Not only was the proposed market access opening of 80% over 15 years seen as detrimental to the region's development interests, the EU's 'pushy' behaviour at the negotiating table was moreover perceived as illegitimate. This perception reinforced resistance to the EU's proposals, and, in this way, facilitated the emergence of the impasse situation. If focussing our analysis of strategic interaction primarily on the conflicting interests the parties held (and the level of information available to them), we might, therefore, miss an important part of the picture.

2.2 THE ADDITIONALITY OF FINANCIAL AID

The second major negotiating issue that divided the negotiating partners prior to the 2007 deadline was the question of financial aid. A major element of the West African side's 'wait-and-see' negotiating strategy was the demand for binding commitments on additional financial aid as part of an EPA agreement. Yet, not only was the region unable to get the EU to make such commitments, the issue of financial aid moreover became one of the major stumbling blocks towards reaching agreement. Apparently, the West African side's negotiating strategy was built on misguided expectations about the EU's readiness to make aid a part of the EPA deal. While the West Africans reiterated their demands, the EU did not seriously consider the option of making EPAs a deal about binding commitments on additional financial aid. The repeated demands for aid even led to a general fatigue on the European side which at times went hand-in-hand with discrediting the legitimacy of the West African side's demands altogether. It in this way increased resistance to the region's demands – an outcome certainly not intended by the West Africans. Why did the West African team rely on the mistaken assumption that the EU could give in to its demands for binding commitments on additional financial aid?

In this section I again argue that in order to understand why key actors in the region misconceived what the EU's preferences and beliefs were, it is insightful to examine how the lack of firmly institutionalised rules of the game destabilised expectations about the behaviour of the opposing side. It facilitated divergent

interpretations of possible equilibrium outcomes, the rules of interaction, and the limits of acceptable behaviour, all of which aggravated the bargaining problems faced by the cooperation partners. Of particular importance in this regard were the West African side's conception of the relationship with the EU as one between 'client' and 'patron', and the resulting normative expectation for the EU to provide help to Africa. Neither of these aspects can be reduced to a lack of information about each other's preferences or beliefs (level of second-order beliefs), as rationalists might suspect, but are related to a fundamental disagreement over how to interpret the game they were playing (level of first-order beliefs).

Divergent Expectations about Possible Equilibrium Outcomes

To better understand why the West African side insisted on the misguided strategy to demand binding commitments on additional financial aid it is, first of all, firstly, insightful to contextualise this strategy against the actors' subjectively divergent interpretations of what would 'count' as a mutually beneficial outcome in EPA negotiations in the first place.

The West African strategy to insist on additional financial aid facilitated the emergence of the impasse situation because it was built on the misguided expectation that the EU would be ready to give in to these demands. Yet, as argued in chapter 4, the EU expected EPA negotiations to be above all associated with trade regulation. Aid was only seen as a negligible by-product of cooperation that that focuses on putting in place trade-related reforms. De Gucht echoed this perspective that aid should not be a central part of EPAs when stating

'[a]s a former Development Commissioner I know enough about developing countries' economies to know that trade and aid must go hand in hand. I sincerely believe in the need for development friendly trade agreements backed up by aid for trade ... But there is a limit to this flexibility, and aid can never be an alternative to trade ... EPAs should not be hollowed out to become *non-trade agreements* (emphasis added)⁶¹.

Moreover, the EU expected that aid might even have detrimental effects on development – which explains its firm resistance to the West African side's demands. An official from DG Trade, for instance, complained in an interview that there is a habit of all ACP countries getting money for free for at least the past 50 years and that

⁶¹ Speech by Karel De Gucht, European Commissioner for Trade, 'A Partnership of Equals', 20th Session of the ACP-EU Joint Parliamentary Assembly, Kinshasa, 4 December 2010.

it ‘feeds in a continuous way all the bad habits they have’⁶². Clearly, given this very different interpretation of the necessity to include aid as part of an agreement on EPAs, the West African ‘lobbying’ strategy was unlikely to be successful and fell on deaf ears. Had the region been aware of the misguided nature of its strategy, it could have attempted to employ a more promising negotiating approach.

The West African expectation that aid would ultimately be accepted as part of the deal partly stemmed from the region’s particular interpretation of the ‘payoffs’ at the trade-development nexus (see chapter 4, section 4.2). It was much more sceptical towards the benefits associated with trade liberalisation and, hence, was primarily interested in increasing the aid it could negotiate as a concession. This more cautious approach to trade liberalisation was also echoed in another statement by a West African trade officer who said ‘I think free market is not always good for us’⁶³. The benefits of trade liberalisation were seen as contingent upon having well-functioning supply-side capacities, including infrastructure⁶⁴. This was reflected in the demands to provide for ‘adjustment measures and programmes’ targeted at

‘(i) measures linked to improving competitiveness and strengthening productive capacity (ii) adjustment measures to mitigate the short-term recessionary effects of adjustment costs, particularly on tax revenues in the countries of the region, the implementation of tax reforms and the social consequences; (iii) measures linked to the implementation of the rules and obligations contained’⁶⁵.

It is against the context of these causal ideas about the trade-development linkage that we can better understand the West African insistence on binding commitments on additional financial aid was regarded as rational approach. Not only did this demand reflect the region’s general interest to lobby for more resources from its European counterpart, it was at the same time based on the assessment that trade liberalisation between highly unequal partners without complementary provision of financial aid would indeed be detrimental to the region. It was far from clear from the West African perspective that trade and development goals would necessarily complement each other. In particular, the West African association of ‘payoffs’ with financial aid followed from the causal idea that in order to be able to push any kind of trade policy changes through it would be necessary to present ‘tangible’ short-term benefits. While

⁶² Interview 22, Brussels, Commission official, February 2010.

⁶³ Interview 67, Abuja, civil society representative, December 2011.

⁶⁴ Interview 2, phone-to-capital, government official, September 2008.

⁶⁵ John Olympio, Seydou Sacko, Dominique Fifatin, ‘The challenges of the West Africa EPA’, in: ICTSD, Trade Negotiations Insights, Vol. 6 No. 8 (December 2007 & January 2008).

it was acknowledged that trade liberalisation could provide gains in the long-run, there was an understanding that in order to trigger such reforms in developing countries it would be crucial to provide short-term incentives as well⁶⁶. As an ECOWAS official explained in an interview,

‘politically we need to ensure there are short-term, medium-term and long-term benefits, –not just the theoretical trade is good in the long-run - we all know that, as long as it has the complementary reforms - and that is a very big ‘as long as’ - reform is not easy’⁶⁷.

Moreover, it was pointed out that trade liberalisation leads to immediate adjustment costs because of the losses in tariff revenue⁶⁸.

This analysis helps us to understand how the impasse emerged and why it cannot be fully captured within a rationalist framework of strategic interaction. The problem was not only that the West African side lacked information about the EU’s willingness to accept aid as part of the deal, but, moreover, both sides were unaware that they interpreted the benefits and necessity of including aid into EPA agreements in different ways.

Divergent Expectations about the ‘Rules of Interaction’

Another problem in the negotiation on the issue of financial aid was that both side held different expectations about how to negotiate an agreement. Because trade and development cooperation ‘games’ are built on different ‘modes of interaction’, i.e. distributive bargaining and integrative problem-solving, was it left unclear to the EU and West Africa what they could expect in EPA negotiations. The West African side’s understanding of the ‘players’ primarily along the lines of ‘donors’ and ‘recipients’(see chapter 4, section 4.2) not only led to the expectation that lobbying for aid would be an acceptable, but also successful or conventional, negotiating strategy in the EPA process. Yet, as argued above, the EU expected negotiations to be much more about problem-solving.

This mismatch of understandings helps us to further uncover how the West African side’s negotiating strategy led to unanticipated resistance which facilitated the

⁶⁶ West African trade expert, Questionnaire response 1, January 2009; Interview 62, Abuja, government official, December 2011; Interview 57, phone-to-capital, ECOWAS official, October 2011; Interview 63, Abuja, government official, December 2011; Interview 68, Abuja, ECOWAS representative, December 2011.

⁶⁷ Interview 68, Abuja, ECOWAS representative, December 2011.

⁶⁸ West African trade expert, Questionnaire response 1, January 2009; Interview 62, Abuja, government official, December 2011.

emergence of the impasse. It was precisely this kind of ‘gambling’ behaviour to maximise gains that increased resistance to the West African side’s demands for additional financial aid (or other concessions) in the EPA process. Against the context of the West African expectation that EPA negotiations would be primarily an opportunity to maintain additional financial resources and concessions from the EU, however, adopting a passive –and demanding– negotiation stance made sense. In the past, negotiations with the EU that focussed on ‘development’ have mainly implied that the EU acts as the ‘donor’ who provides financial support to Africa (see chapter 4, section 4.2). Against this background, taking a firm stance on its passive demands for more concessions and financial aid could have been a successful strategy – had the EU seen the rules of the game in similar terms.

The EU, however, became increasingly annoyed by the region’s attempts to bargain for more aid which led to a general tendency to discredit the other side’s demands as illegitimate⁶⁹. I was told by an EU negotiator that the West African side uses aid as a ‘bargaining chip’ in exchange for other concessions⁷⁰. This counterproductive and unanticipated effect of the West African negotiating strategy was manifest in one of the statements made by an EU negotiator who was increasingly frustrated by what was portrayed as a general attempt by the West African side to maximise the concessions it could get – regardless of whether or not such an approach would be beneficial for development. The EU official complained that

‘they just see it as another silly thing that will probably cut them off from their comfort of living and it’s a game that they want to win. If we say 80% or 85%, they must say 60%. I know this sounds very cynical, but unfortunately this is it. It is not only frustrating for somebody like me but you can also see some people on their team getting extremely frustrated with some of their colleagues because ultimately they cannot do what could be a great opportunity’⁷¹.

Divergent Expectations about Acceptable Behaviour

The conceptual framework moreover points at the way in which divergent understandings of normatively acceptable behaviour and outcomes might lead to unanticipated resistance, if the actors implicitly play different games. Not only did the

⁶⁹ Interview 12, Brussels, Commission official, February 2010; Interview 28, Brussels, Commission official, November 2010; Interview 28, Brussels, Commission official, November 2010.

⁷⁰ Interview 12, Brussels, Commission official, February 2010.

⁷¹ Interview 12, Brussels, Commission official, February 2010; Interview 28, Brussels, Commission official, November 2010; Interview 28, Brussels, Commission official, November 2010.

West African region hold an interest in demanding more aid, it also expected that a strategy of lobbying could be successful in the particular case of EPA negotiations. There was, moreover, a strong expectation that it would only be normatively acceptable to demand for aid given the highly unequal economic relationship between the partners.

Yet, as this interpretation of the rules of the game was not shared by the European side, the West African side's demand led to resistance. Not being aware of the different 'game' the EU was playing meant that West Africa failed to understand that the EU was not prepared to accept its demand for binding commitments on additional financial aid. On the European side, neither was aid seen as a central part of EPAs nor was there the assumption that more aid would actually be needed and, therefore, legitimately called for (see chapter 4, section 4.1). This was because the EU expected trade rather than aid to be a driver of economic development. Seeing the relationship primarily through the lens of an 'advisor-advisee' relationship (see section 2.1) moreover implied that bargaining for additional financial aid was rejected as unacceptable behaviour in what was supposed to be a collaborative dialogue on development-oriented trade policy reforms. Financial aid was expected to help the West Africans to implement the agreement rather than to address general supply-side constraints⁷². Demands for aid were further discredited as illegitimate by pointing out that existing funds were not even fully spent because there were not enough projects identified on the African side⁷³. Seeing EPA negotiations primarily as an opportunity to increase financial resources prevented the region from pro-actively pushing forward its own proposals rather than demanding a prolongation of the status quo, which would have made it much more likely to overcome the impasse.

Why was the West African side seemingly blind to the likely rejection of its negotiating positions on the issue of financial aid? The 'Battle over Games' framework points at the way in which expectations of acceptable behaviour are related to the identity conceptions of actors, rather than merely to the information available about a given cooperation situation. These identity conceptions were related to the region's expectation that the 'players' in EPA negotiations at the trade-

⁷² Interview 13, Brussels, Commission official, February 2010; Interview 12, Brussels, Commission official, February 2010; Interview 22, Brussels, Commission official, February 2010.

⁷³ Interview 29, Brussels, Commission official, November 2010; Interview 40, Brussels, Commission official, December 2010.

development nexus would be above all defined in terms of ‘donors’ and ‘recipients’ (see chapter 4, section 4.2). More precisely, the EU was expected to act as a ‘patron’ who could be lobbied by the region as a ‘client’ to provide financial resources. This perspective was related to the particular and long history between the cooperation partners that dates back to colonialism⁷⁴. A West African trade policy analyst stated in an interview that, clearly, ‘given the colonial history, one expects the EU to be more responsive to the demands and development assistance of ECOWAS’⁷⁵. Others argued that the EU and West Africa ‘share the same common history and they are very close partners for many years’, while Europe is ‘the partner which we best know’⁷⁶. An African trade policy consultant said along more critical lines that because the West African Economic and Monetary Union has been aligned with the EU through funds for many years they are used to such a clientilistic relationship, but ‘they have never really changed their view that Cotonou brings a different thing’⁷⁷.

The content of such a ‘patron-client’ relationship was seen in the provision of concessions from the richer patron to the dependent client. This view was exemplified in the statement of a Nigerian trade official involved in the EPA process who compared the EU-West African relationship to that between Nigeria and the Republic of Benin, the latter being economically highly dependent on the Nigerian market. The representative stated in an interview that

‘Nigeria is 150 million, Republic of Benin is about 2 million. If we enter negotiations with them we have to recognise the fact that we are the big brother, and we have to concede a lot to them ... The EU is just like Nigeria with the Republic of Benin, they must be able to concede many things to us’⁷⁸.

I was repeatedly told in the interviews that EPAs will only be concluded if the EU provides financial support to the envisaged development programme⁷⁹. This normative expectation was manifest in the statement by one of the ECOWAS negotiators who said in an interview that:

⁷⁴ Interview 31, Brussels, ECOWAS representative, November 2010.

⁷⁵ Interview 9, phone-to-capital, government official, January 2009.

⁷⁶ Interview 41, Brussels, embassy official, December 2010; similar view expressed in: Interview 68, Abuja, ECOWAS representative, December 2011.

⁷⁷ Interview 18, phone-to-capital, technical advisor, October 2008.

⁷⁸ Interview 47, phone-to-capital, government official, October 2011.

⁷⁹ Interview 67, Abuja, civil society representative, December 2011; Interview 68, Abuja, ECOWAS representative, December 2011; Interview 47, phone-to-capital, government official, October 2011; Interview 18, Brussels, embassy official, November 2010; Interview 3, phone interview, ECOWAS representative, September 2008; Interview 46, phone-to-capital, government official, October 2011.

‘one aspect is to say that a signature of the EPA which would mean liberalising our markets faster than we do with any other partner, we *expect* there will be some consequences - so we request our key partner, the EU, to accelerate the support they provide to us to try and help us build our capacity so we can be more competitive and meet these consequences’⁸⁰ (emphasis added).

Without considering the existence of what Nicolaidis and Kleinfeld refer to as historically created ‘burden of responsibility which derives from its imperialist past’⁸¹, it is difficult to fully understand why the EU was expected to act as a ‘patron’ in EPA negotiations in the first place.

The West African side, moreover, generally saw itself in a very constrained position given the huge power asymmetries in the relationship with the EU. A Brussels-based West African trade representative complained, for instance, in an interview that ‘they are the ones giving the options. They are the ones giving us the duty free, quote free, they are the ones giving us everything’⁸². An ECOWAS representative complained along similar lines that ‘it is a “Rapport de force”. If you are weak you cannot fight someone who is stronger’⁸³. The representative further stated in the interview that

‘you cannot do anything against the EU, they are too strong. They put high levels of pressure on our governments, because they are the main providers of ODA [Official Development Assistance], especially in the Francophone countries. This means that they can exert a lot of pressure and that our scope for “marche de manoeuvre” is very slim’⁸⁴.

This made the region inclined to perceive its role vis-à-vis the EU in rather passive terms. Given the skewed power relationship, all there is left to do is to appeal to the EU on the grounds of solidarity and the region’s development concerns. I was repeatedly told in the interviews that the EU ought to take the unequal levels of development between the partners into account⁸⁵. It is against this background that the EU was expected to act as a ‘patron’ who could be pressured into providing benefits to the region in an unequal development partnership.

⁸⁰ Interview 68, Abuja, ECOWAS representative, December 2011.

⁸¹ Rachel Kleinfeld and Kalypso Nicolaidis, "Can a Post-Colonial Power Export the Rule of Law? Elements of a General Framework," in *Relocating the Rule of Law*, eds. Gianluigi Palombella and Neil Walker (Oxford ; Portland, Or.: Hart, 2009), 165.

⁸² Interview 8, Brussels, embassy official, July 2008.

⁸³ Interview 3, phone interview, ECOWAS representative, September 2008.

⁸⁴ Interview 3, phone interview, ECOWAS representative, September 2008.

⁸⁵ Interview 1, phone-to-capital, government official, September 2008; Interview 68, Abuja, ECOWAS representative, December 2011; Interview 9, phone-to-capital, government official, January 2009; Interview 3, phone interview, ECOWAS representative, September 2008.

In this way, reconstructing the West African side's understanding of whether or not it would be acceptable to demand aid as part of the EPA negotiations helps us to better understand why the impasse on the issue emerged. Not only did it reflect the different interests of both sides, but these conflicting interests were shaped by expectations about what acceptable behaviour would look like in the first place. Particular conceptions of roles that the EU and West Africa take on as 'players' at the trade-development nexus, rather than a lack of information as such, underpinned the mismatch of expectations about aid as part of an EPA deal. Contextualising the West African side's negotiating strategy against the particular set of causal and identity-based beliefs about the trade-development linkage in this way helped us to understand why they relied on the misguided assumption that demanding for additional financial aid would be the most 'rational' approach in the EPA process.

2.3 THE EXTENSION OF THE NEGOTIATING DEADLINE

A slightly different negotiating issue that underpinned the impasse was the question of whether or not the parties should apply for an extension of the WTO waiver. Similar to the impasse on the substantive issue of market access conditions and financial aid, the cooperation problem that the negotiators faced was the lack of stable expectations about the other side's behaviour. While this negotiating issue only related to the procedural aspects of negotiations, demanding an extension of the waiver became an important aspect of the West African side's negotiating strategy during 2007. Yet, this strategy turned out to be utterly misplaced: the EU rejected their demands and the region had to face the consequences of not having reached a regional agreement before the expiry of the WTO waiver. This left the region internally split, with Ghana and Cote d'Ivoire initialling so-called interim EPAs. The attempts at the last minute to agree on an 'interim' EPA to avoid facing the consequences of the expiry of the WTO waiver were unsuccessful. In both cases, misguided expectations about each other's behaviour and preferences can be related to the divergent interpretations of the rules of the game in the EPA process.

To fully understand the mismatch between the expectations of both sides regarding the waiver issue, it seems again helpful to contextualise the actors' perspectives against the kind of identity conceptions they held in the EPA case. For the ECOWAS region, asking for more time to negotiate was seen as the continuation of previous

patterns of cooperation with the EU: a continuation of the unilateral preferences granted by a 'patron' to the weaker 'clientelist' cooperation partner who in turn would refrain from publicly denouncing the EU as exploitative in an unequal relationship. Seeing the relationship much more in terms of its role as an 'advisor' rather than a 'patron', the EU, led by DG Trade, never seriously considered a renewal of the waiver as an option in the EPA process. An EU official recalled this position when saying that 'some in the region, notably Chambas [the ECOWAS President], believed that the negotiation could be extended despite the messages from the Commission that this would not be the case'⁸⁶.

In hindsight, some West African officials acknowledged that the decision to push for an extension of the negotiating deadline was a strategic mistake⁸⁷. Had the region been less focussed on its demand of extending the waiver, it might have been possible to avoid the impasse. A West African official admitted in an interview that

'I think that ECOWAS missed an opportunity by insisting on the waiver on which they knew from the beginning that they would not get. The Caribbeans [only ACP region that concluded a regional EPA by 2007] had difficulties with the EU, but they came to the table with the realisation that these people need us, but that we need them more and they found a way (they have agreements on services, goods on nearly everything) because they did their homework, gathered information, and on where they knew they were short of information they tried to get experts. And they were realistic at the end of the day. I am sure that they are not perfectly happy with the agreement, but I am sure that they are happier than any other region ... They told us from the start that they would not move in any way to extend the waiver. Then you should start to look for other options'⁸⁸.

Had the West African side been able to anticipate that the EU would ultimately reject its offer, it could have opted for a more optimal negotiating strategy. In hindsight, some West African officials acknowledged that the decision to push for an extension of the negotiating deadline was a strategic mistake⁸⁹. Had the region been less focussed on its demand of extending the waiver, it might have been possible to avoid the impasse. A West African official argued for instance that 'ECOWAS missed an opportunity ... They told us from the start that they would not move in any way to extend the waiver. Then you should start to look for other options'⁹⁰. Falling-

⁸⁶ Interview 12, Brussels, Commission official, February 2010.

⁸⁷ Interview 8, Brussels, embassy official, July 2008; Interview 8, Brussels, embassy official, July 2008.

⁸⁸ Interview 8, Brussels, embassy official, July 2008.

⁸⁹ Interview 57, phone-to-capital, ECOWAS official, October 2011; Interview 8, Brussels, embassy official, July 2008.

⁹⁰ Interview 8, Brussels, embassy official, July 2008.

back on GSP and setting up a fund to compensate the non-LDC countries was one such option, concluding a partial but regional agreement that would satisfy the WTO requirements another one⁹¹. While these ideas were discussed internally, both were dismissed in favour of the demand for an extension of the waiver – which turned out to be unacceptable to the European side.

What are the implications of the empirical analysis of the way in which misguided expectations facilitated the emergence of the impasse situation? In particular, what conclusions can we draw about the kind of cooperation problems the actors faced? At first sight disagreement over the issues of market access conditions, financial aid and the extension of the waiver suggest that the impasse was above all the manifestation of conflicting interests between the EU and West Africa. Yet, as this chapter has demonstrated, conflicting interests are usually the starting point but not necessarily the end-point of negotiations. How strategic interaction unfolds depends on the particular negotiating strategies that the actors choose, and how they react to each other's proposals and behaviour. Hence, reaching an agreement not only depends on the compatibility of the conflicting interests of negotiators but also on the existence of a mutually shared reference frame against which they can interpret the offers they make in an identical way. If actors disagree over the fundamental nature of the cooperation game, such divergent interpretations of the rules lead to misguided offers and behaviour, and ill-conceived expectations about the other side's reactions. It is against this background that this section has examined the effects of the negotiating strategies chosen by the EU and West Africa, and how they influenced the outcome of negotiations.

3. Discussion of the Findings

This chapter examines how the impasse situation resulted from the strategic choices made by the EU and West Africa. I suggest that the lack of a firm institutionalisation of the rules of the game in trade negotiations with a 'development dimension' was an important reason behind the cooperation problems they faced. As I

⁹¹ Interview 57, phone-to-capital, ECOWAS official, October 2011.

argue in the following section, while rationalist approaches can capture the core dynamics of the emergence impasse in EPA negotiations, they are not sufficient to understanding how that impasse emerged. Pointing at a lack of information is unlikely to capture the full reasons for the ‘implicit disagreement’ over the game the EU and West Africa were playing. Moreover, the reasons for sub-optimal strategy choices were not only related to misconceiving the other side’s preferences but also to what they expected to be ‘acceptable’ outcomes and ‘conventional’ bargaining behaviour in the first place. When discussing the explanatory value of a rationalist alternative explanation, I at the same time highlight why and where the ‘battle over games’ framework provides an added-value.

Starting from the assumption that the interests between the EU and West Africa were conflicting but not necessarily incompatible (see chapter 4, section 2.1), mainstream rationalist approaches may suggest that the impasse could be the outcome of bargaining problems between self-interested actors. Given the different preferences they pursue, both sides attempt to maximise individual gains even if they accept that cooperation could be mutually beneficial. While the West African side hopes to bargain for as much aid as possible and as little market opening as necessary, the European side holds the opposite priorities. While both agree that reaching a compromise over the level of market access commitments and the amount of aid could lead to a mutually beneficial cooperation agreement, neither side is willing to make more concessions as necessary to the other side. The impasse as a sub-optimal outcome in such a situation could simply be the result of the choice of sub-optimal negotiating strategies. Both sides misperceive what the other would be ready to accept and therefore remain firm on negotiating positions that ultimately prevent both sides from reaching a compromise agreement. Indeed, the EU and West Africa failed to anticipate that their rejection of offers would be detrimental once the 2007 deadline approached. Hence, this simplified depiction of a rationalist perspective on the cooperation problems provides us with a plausible explanation of part of the negotiation dynamics in the EPA process.

Rationalist explanations of the reasons behind the misconceptions of each other’s strategies, however, differ from the approach advocated by the ‘battle over games’ framework in important ways: it is not that primarily the actors lack a shared understanding of the meaning and content of the rules that structure interaction, but

they primarily lack information about an objectively-given environment and the other side's preferences and beliefs about the cooperation situation⁹². While there is only a fine line between these different approaches, the empirical evidence suggests that we miss part of the picture if we assume that actors were merely playing a 'game with incomplete information' rather than 'two different games'.

Where a rationalist perspective lacks in explanatory power is when it comes, firstly, to fully accounting for the reasons behind the actors' misconceptions of the other's strategies and, secondly, the particular way in which actors react to each other's (misguided) negotiating strategies. In other words, when does a misguided offer lead to a straight-forward exchange of new offers, and when does it lead to outright resistance and the politicisation of a negotiation process? Rationalist approaches do not offer us fully convincing answers to these questions in the case of EPA negotiations. These shortcomings relate to the lack of a problematisation of the social norms and conventions applicable in a given interaction situation (usually assumed to be already established and hence 'common knowledge'), and the difficulties capturing the substance and potentially contested nature of the actors' beliefs that inform the 'rational' choices they make (which are usually reduced to a set of unambiguous 'common prior beliefs' and the available information about a given interaction situation).

First of all, if the choice of seemingly sup-optimal negotiating strategies had been primarily related to a lack of information, we would expect to see indications that the actors held little information about each other's preferences and beliefs in the case of EPA negotiations. Yet, it was not as if the EU and the West African side did not provide information about their negotiating positions in the EPA process. While the EU's position might have initially been slightly ambiguous regarding the inclusion of financial aid, EU officials declared many times that they considered EDF resources as sufficient to cover the EU-related part of the 'aid for trade' promises. The EU equally declared a number of times that it did not consider extending the waiver as a viable option. Moreover, the EU's preference for neo-liberal trade policies is generally well-

⁹² See for instance Robert Jervis, *Perception and Misperception in International Politics* (Princeton, N.J.: Princeton University Press, 1976), 445; Frank C. Zagare, "The Geneva Conference of 1954: A Case of Tacit Deception," *International Studies Quarterly* 23, no. 3 (09/01, 1979).

known and was repeatedly proclaimed in its overall trade strategy⁹³. Similarly, the EOCWAS region signalled repeatedly during 2007 that it would need more time to conclude the agreements, that aid would be an essential component of EPAs and that most LDC countries saw the EBA regime as a better alternative to the EU's proposals. Neither was the tendency of West African countries to favour protectionist trade policies a well-kept secret.

We might, however, suggest that these declarations lacked credibility respectively in the eyes of the European and West African sides. While this would 'save' the explanatory value of a rationalist depiction of EPA negotiations as a 'game with incomplete information' it, at the same time, points at the limits of an exclusively rationalist approach. While it indeed seemed to have been the case that the EU and West Africa did not take their mutual attempts to signal their negotiating positions seriously, a rationalist approach gives us little indications about the criteria upon which the actors presumably relied when judging the information coming from the other side. This is because while rationalist approaches are able to incorporate causal or normative beliefs into their decision-making models⁹⁴, they do not tell us where they come from and why they might be contested in the first place. This is because the focus on information as the ultimate source of decision-making cannot capture and deconstruct the intersubjectively constructed nature of the beliefs that inform the actors' perceptions of their environment. Amin and Palan argue along similar lines that rationalist approaches downplay the influence of 'practices that are intersubjective, historicized, socially embedded, and non-cognitive'⁹⁵.

A rationalist explanation of the impasse, secondly, has difficulty in explaining why both side's negotiating strategies (and in particular the European approach) led to such strong resistance and high levels of politicisation. While they are to some extent able to incorporate considerations of fairness as part of the actors' utility functions, they cannot tell us under which conditions we can expect them to be more or less salient. This is because, as argued by Kratochwil, the 'criteria of traditional rationality

⁹³ See for instance the Global Europe strategy released in June 2006, <http://trade.ec.europa.eu/doclib/html/130376.htm>.

⁹⁴ On the role of 'frames' (which could be normative) for decision-making see for instance Amos Tversky and Daniel Kahneman, "The Framing of Decisions and the Psychology of Choice," *Science* 211, no. 4481 (January 30, 1981).

⁹⁵ Ash Amin and Ronen Palan, "Towards a Non-Rationalist International Political Economy," *Review of International Political Economy* 8, no. 4 (2001), 560.

presuppose the independent and fixed valuations of the actors⁹⁶. At what point identical negotiating behaviour is regarded as legitimate or unfair, therefore, remains unclear from a rationalist perspective on strategic interaction.

By linking assumptions about acceptable behaviour to the particular understandings the actors have of their identities in a given relationship, the 'battle over games' framework provided an added value in this regard. Subjectively divergent expectations about acceptable behaviour were related to the divergent understandings of their roles EPA negotiations: either as 'advisors' and 'advisees' (European perspective), or as 'patron' and 'client' (West African perspective). Because the EU and West Africa held these divergent conceptions of the roles they would play and were unaware thereof did the impasse partly follow from unanticipated resistance to what was perceived as illegitimate by one side though intended as norm-conforming behaviour by the other side. The 'Battle over Games' framework also emphasised how ambiguity and contestation at the level of the rules of the game was facilitated by the linkage of trade and development cooperation.

Moreover, placing the expectations of the actors about each other's behaviour against the context of their particular identities and the causal ideas shaping them helped us to better understand upon what kind of values and beliefs they relied when calculating each other's preferences and behaviour. For instance, was it indeed such an unreasonable position on the West African side to ask for financial aid given the highly unequal relationship between the partners? The problem was that the actors lacked 'common knowledge' and a set of 'common prior beliefs' according to which they could assess the information they received. They interpreted the value of the proposed agreement and the outside options in different ways because one side expected trade liberalisation to have generally positive effects on economic development, while the other was much more cautious about the extent to which reforms could trigger economic growth in developing countries.

At the same time, this is not to say that a lack of information about the other side's preferences and beliefs did not play a role at all. Had the EU known with certainty that the West African side would prefer the EBA offer over the proposed interim or comprehensive EPA, it would surely have adopted a less self-destructive negotiating

⁹⁶ Friedrich V. Kratochwil, *Rules, Norms, and Decisions : On the Conditions of Practical and Legal Reasoning in International Relations and Domestic Affairs* (Cambridge Cambridgehire ; New York: Cambridge University Press, 1989), 12.

strategy. Similarly, had the West African side known that its demand for an extension of the waiver or binding commitments on additional financial aid would ultimately be rejected, it could have attempted to pursue a different negotiating strategy which might or might not have helped to avoid the impasse situation.

Yet, underneath this mismatch of ‘second-order’ beliefs about the other side’s perception of the cooperation game lay a fundamental disagreement at the level of ‘first-order’ beliefs that can only be understood if we pay attention to the actors’ interpretations of the rules at the trade-development nexus. The EU’s proposal of an EPA did not only meet resistance because it was not seen as beneficial, but also because the European ‘take-it-or-leave-it’ strategy was seen as unacceptable. At times, the EU’s approach was even discredited as ‘neo-colonial’ intrusion – an interpretation strongly rejected by the Europeans. Since rationalist approaches usually assume that the rules of the game are ‘common knowledge’ among the actors, they do not offer the conceptual tools to capture how disagreement over the social norms that delimit the range of acceptable behaviour destabilises expectations and might elicit unanticipated resistance.

In this way, this chapter has shown that a rationalist framework would mislead us in thinking that the problem in negotiations that could be approached as a positive sum game is primarily about lack of information. It could explain the outcome as the result of bargaining problems between self-interested cooperation partners in a ‘War of Attrition’ but would not help us to better understand what happened in the process. Any rationalist explanation of the misperception of the EU and West Africa regarding their counterparts’ preferences and the cooperation issues they faced is based on the assumption that there is a true perception of the costs and benefits of the cooperation situation independent of the actors’ misguided assessment. If only the actors were provided with more information, their assessments of the cooperation issues would be likely to converge.

From a constructivist perspective, however, the cooperation situation itself is partly constituted by the actors’ beliefs. As a consequence, the games played by states are inherently unstable and creating shared expectations does not simply follow from providing more information about an ‘objectively’ given reality ‘out there’. For instance, there is no ‘true’ perception of what constituted the ‘payoffs’ in EPA negotiations but they depend on changing and inherently unstable conceptions of the

causal effects of particular outcomes. Moreover, in order to fully understand what the cooperation partners regard as a rational (and therefore ‘optimal’) negotiating strategy it might not be sufficient to take into account the level of information they hold about an unambiguously given environment. Instead, in those cases in which the socially constructed rules of the game that structure strategic interaction are not unambiguously given to the actors, it might become necessary to pay greater attention to the actors’ subjective interpretations thereof. As argued by Hall, the ‘structures constituted by these social meanings re-create and reconstitute the present and future conditions for strategic action’⁹⁷. In this way this chapter has reminded us of the socially contingent origins of the cooperation problems states face.

4. Conclusion

The impasse faced by the EU and West Africa in the run-up to the 2007 deadline was not the inevitable outcome of five years of negotiations but followed from the particular choices both sides made and the (misguided) negotiation strategies they adopted. Both sides’ firm resistance on conflicting negotiating positions culminated in the costly impasse when approaching the 2007 deadline – an outcome detrimental to both, and desired by none. The EU and West Africa pursued conflicting, yet potentially complementary, interests in negotiating a trade agreement and attempted to bargain to maximise the gains they could get. In doing so, however, they misconceived what kind of deal the other side would be ready to accept, and, therefore, chose negotiating strategies that were detrimental to the goals they had hoped to achieve.

This chapter has sought to demonstrate that in order to understand why both sides relied on misguided strategies we needed to go beyond conventional rationalist approaches of strategic interaction. I developed the argument that the cooperation problems that underpinned the impasse can be best characterised as a situation of implicit disagreement over the game they were playing. It was not merely that the cooperation partners misperceived what the other side’s preferences were, but they interpreted the linkage between trade and development cooperation in different ways.

⁹⁷ Rodney Bruce Hall, "The Discursive Demolition of the Asian Development Model," *International Studies Quarterly* 47, no. 1 (2003), 71.

As a consequence thereof, both sides based their (sub-optimal) negotiating strategies on misguided assumptions about the other side's behaviour which rendered them unsuccessful and at times even counterproductive. The mismatch of perspectives was related to the actors' divergent causal ideas about the effects of trade liberalisation and different understandings of their identities. Neither can be deductively inferred, reduced to a lack of information, nor placed outside of the context of historically re-created patterns of trade and development cooperation between the 'North' and the 'South'.

Hence, the added-value of a constructivist-informed approach towards strategic interaction lies in the way in which it uncovers how the lack of shared attributions of meaning (rather than merely the lack of information) destabilises expectations about each other's behaviour. It sheds light on the reasons for which particular strategies were chosen as the most 'rational' course of action, and why they led to outright resistance and politicisation rather than to cooperation.

The next chapter examines the negotiating period 2007 to 2010. It will be argued that the persistence of the impasse situation can be linked to the explicit disagreement over what set of rules to adopt in the case of EPA negotiations. While it applies the same conceptual framework to a different period of time, it emphasises the different types of cooperation problems we expect to see once the lack of shared understandings of the meaning and content of the rules of the game becomes openly acknowledged.

6 The Persistence of Conflicting Visions: EPA Negotiations 2008-2010

When the negotiations ended in the impasse situation at the end of the 2007 deadline, it dawned upon the EU and West Africa that they might have misconceived what kind of agreement the other side would be ready to accept. Ultimately, both sides preferred not to cooperate at all instead of accepting the other side's proposals of an EPA agreement. The fiasco of the failure to reach an agreement by the end of the originally envisaged negotiating deadline left both partners to 'pick up the broken pieces'¹, as one EU official recalled in hindsight. When West Africa and the EU eventually agreed to continue the negotiating process, this seemed to indicate a renewed hope that reaching a mutually beneficial agreement could be possible. Yet, in the three years after the passing of the 2007 deadline, neither did the parties make substantial progress, nor did they decide to bury the EPA process once and for all. In particular, it was surprising to see that both the EU and West Africa were unwilling to substantially adjust their negotiating positions – despite the fact that these very same positions were already previously rejected as less favourable than existing outside options. Unsurprisingly, the impasse situation continued, an unsatisfactory outcome for both.

It is against this context of the seemingly sub-optimal strategy choices on both sides that this chapter explores the negotiation process of the Economic Partnership Agreements (EPAs) between the EU and West Africa in the period from 2008 until 2010². The main argument I make in this chapter is that the conflicting interests both sides pursued became firmly entrenched because they were grounding in strong, yet incommensurable, normative convictions about how to cooperate at the trade-development nexus. Both sides disagreed over how to best negotiate a development-oriented trade agreement. While the EU wanted to play a game characterised by greater procedural equality and the textbook logic of neo-liberal trade liberalisation, West Africa pushed for more substantive equality and trade policies that took into account the local political economy of the region. These perspectives were partly

¹ Interview 29, Brussels, Commission official, November 2010.

² The negotiations continue until the day of writing this thesis (December 2012), with the impasse unresolved. On 2010 as a cut-of point see the introduction of this thesis, section 4.2.3.

influenced by the different post-colonial legacies on both sides. Because the cooperation partners were convinced that their perspectives were 'right' and, hence, more legitimate, they became unwilling to make concessions to each other. Normative convictions in this way led to a hardening of the negotiating positions that the EU and West Africa adopted, which made it difficult to overcome the impasse situation.

Within the larger context of the argument of this thesis, this chapter exemplifies the cooperation problems in a 'Battle over Games' with explicit disagreement. Instead of analysing strategic interaction with a given context of interaction, this chapter understands bargaining processes as a space in which the rules of the game that structure interaction need to be established in the first place. It sees identity-based conflicts around values and beliefs rather than merely functional collective action problems as important obstacles to cooperation. If divergent negotiating positions are built on strong normative convictions, and the actors are determined to defend them as 'right', it is unlikely that they will be able to reach a compromise agreement. Such a perspective differs from rationalist models of strategic interaction because it shifts the focus from the orientation on the actors' utility functions to the historically created value and belief systems that underpin them. Paying attention to the actors' normative convictions in this way helps us to better understand at what point of time they are willing to adjust their perspective, and under which conditions different beliefs lead to outright resistance and politicisation of a negotiation process.

In the following, this chapter firstly argues that recognising their divergent perspectives on the EPA process after the fiasco of the 2007 deadline did not induce the actors to challenge their own understandings of the rules of the game. Both sides continued to hold different understanding of the rules they ought to adopt in EPA negotiations. Secondly, I reconstruct the actors' negotiating strategies and the decision-making rationale that underpinned them. This assessment serves, thirdly, as the basis for the analysis of strategic interaction and the cooperation problems that underpinned the persistence of the impasse situation. The analysis in this section is structured around the three major contentious negotiating issues in the post-2007 negotiating period: market access conditions, financial aid, and the Most Favoured Nations clause. Finally, I discuss the findings of this chapter as well as the relation to rationalist explanations of strategic interaction.

1. Becoming Aware of Playing Different Games

The EU and West Africa started with subjectively divergent expectations about the implications of the ‘development dimension’ in EPA negotiations. The discrepancy between both sides’ perspectives became ever more apparent the longer negotiations continued. In particular, the outright resistance to each other’s demands at the end of 2007 made clear that both sides had to adjust their expectations about the other side’s behaviour. Yet, as I will further argue in this section, both sides also held conflicting interests in the games they wanted to play.

1.1 EU: GREATER AWARENESS OF THE WEST AFRICAN SIDE’S EXPECTATIONS

After the failure to ‘sell’ EPAs to West Africa by the 2007 deadline, the European side carried out a review process to evaluate what the reasons were, and how to move the EPA process forward. As recalled by a member of the Commission, there was ‘first a sort of period of complete frozen negotiations after the final heating up of 2007. So in the first three, four, five months of 2008 nothing happened, it was a bit of a reflection period on our side’³. This reflection process on the past experiences increased the EU’s awareness of the ‘mutual detachment’ between their own perspective on the rules of the game at the trade-development nexus, and the other side’s perspective on the rules of the game.

Following up on the reflection period, the EU composed an internal memorandum on the challenges encountered in the negotiation process, which was eventually presented to the EU development ministers at their informal meeting on the 22nd of October 2010. The so-called ‘reflection paper’ on the EPAs reveals an increasing awareness that West Africa saw a trade regime that would allow for greater restrictions of market opening commitments as more beneficial compared to the EU’s neo-liberal approach. The memorandum clearly acknowledged that the West African side associated reciprocal market opening with adjustment costs, rather than an opportunity to lock in beneficial reforms:

‘[a]n important perception on the ACP side is that the trade part of EPAs will bring only adjustment costs, reduce policy space and hinder enhanced regional integration and South-South trade. The development potential offered by reciprocal market access in goods and services, new trade rules fostering

³ Interview 23, Brussels, Commission official, February 2010.

enhanced governance, domestic and foreign investment, jobs and growth, is discounted'.⁴

Similarly, the EU admitted that pushing for an ambitious trade reform did not match the other side's expectations of negotiating rather minimal commitments to further trade liberalisation. Trade Commissioner De Gucht and Development Commissioner Piebalgs for the first time officially mentioned the option of 'accept[ing] agreements with a lower level of ambition' in a letter to the EU member states on the 6th of November 2010⁵.

Not only did it become clearer to the EU that West Africa did not necessarily wait to be advised on trade policy reforms (but was looking for aid instead), it also dawned upon the EU that it might be more problematic than expected to combine trade bargaining with problem-solving attempts. A considerable number of EU officials acknowledged that the apparent lack of trust in the EU's role, which saw itself as a neutral advisor on development reforms, was a problem in the EPA process⁶. The lack of 'two-way' trust was also mentioned as obstacle in the internal reflection paper on EPAs⁷. A commission official, moreover, acknowledged that it might have been problematic to assume that it was possible to establish a problem-solving atmosphere while at the same time negotiating a trade deal because

'the difficult thing is that at the same time it is a negotiation, in any negotiation it is normal for the parties to keep some cards for yourself I suppose. I know for a fact that the ACP [African, Caribbean and Pacific countries] do not want to put all the cards on the table. They do not necessarily want to share their impact assessments with us, because we are their party in the negotiation at the same time as we are a development partner for them and I think that this is part of the problem. It means that information is not flowing as, you know, smooth'⁸.

Being a trade and development partner at the same time was increasingly seen to undermine the EU's expectation that it could negotiate a trade deal while at the same time providing advice on development-oriented reforms. These findings suggest that the EU became much more aware of the West African side's divergent perspective on the EPA 'game' the longer negotiations continued.

⁴ European Commission, 'EPA Reflection paper', internal document, October 2010.

⁵ EC, Letter by Andris Piebalgs and Karel de Gucht to the Ministers of Trade, internal document, Brussels, 6 September 2010.

⁶ Interview 29, Brussels, Commission official, November 2010; Interview 13, Brussels, Commission official, February 2010; Interview 40, Brussels, Commission official, December 2010; Interview 23, Brussels, Commission official, February 2010.

⁷ European Commission, 'EPA Reflection paper', internal document, October 2010.

⁸ Interview 13, Brussels, Commission official, February 2010.

1.2 WEST AFRICA: GREATER AWARENESS OF THE EU'S EXPECTATIONS

After the passing of the 2007 negotiating deadline, negotiators on the West African side similarly came to see more clearly that the EU did rely on different expectations about the rules of the game. The trade representatives realised that the EU did not consider binding commitments on additional financial aid to be an integral part of EPA negotiations, and was much more interested in negotiating a lock-in of neo-liberal trade reforms. It was unclear at the beginning of the negotiation process what the EU meant when it promised to make EPAs serve above all as 'tools for development'. Over time, it became more and more apparent that this implied primarily macroeconomic reforms on trade policies from the European perspective. As recalled by a member of a national negotiating team: 'the EU was not open or receptive to our idea of a development dimension. The thinking in the EU was that trade will bring development'⁹. This view was linked to the EU's firm belief in the neo-liberal model. Recalling the negotiating process in 2011, a West African trade official working on EPAs recognised that 'actually for now, there have been different schools of thought with the EPA'¹⁰. It was seen more and more that the EU's interpretation of the 'development dimension' was primarily that 'opening market is something good for you, free market itself is good for you'¹¹.

During the negotiating process, moreover, it became much clearer to the West African side that the expectation of using EPA negotiations to maximise their own resources fell on deaf ears. In contrast to the West African side's expectation that EPA negotiations would provide an opportunity to lobby the EU as a 'patron' for more aid at the negotiating table, interaction was experienced as being much more about tough trade talks¹². Internal constraints regarding the EU's negotiating mandate in the EPA process – which did not specifically cover financial aid – were also picked up upon¹³. This constituted a shift from earlier expectations that EPAs would of course be about additional financial resources. An EU official for instance told me that 'still after four or five years of negotiations countries [on the African side]

⁹ Interview 50, phone-to-capital, private sector representative, November 2011.

¹⁰ Interview 44, phone-to-capital, government official, October 2011.

¹¹ Interview 65, Abuja, ECOWAS representative, December 2011.

¹² Interview 31, Brussels, ECOWAS representative, November 2010; Interview 50, phone-to-capital, private sector representative, November 2011; Interview 6, phone-to-capital, government official, January 2009.

¹³ Interview 68, Abuja, ECOWAS representative, December 2011; Interview 57, phone-to-capital, ECOWAS official, October 2011.

thought there will be extra money'¹⁴. Elgström and Pilegaard argue that the EU's focus on trade-related reforms and reciprocal market-opening was 'shocking' to many ACP countries, which 'had expected a continuation of the softer Lomé approach'¹⁵.

At the same time, however, there was an acknowledgement of the EU's attempts to use EPAs to advance a development-oriented agreement. Another negotiator said, for instance, that 'the institution [the EU] strongly believes that it [the proposed EPA] is development-oriented'¹⁶. Others argued that 'they have a firm belief that what they are doing and how they are negotiating is really for our interest'¹⁷ or that 'bad intentions are not the problem'¹⁸. Hence, it is plausible to suggest that there the West African side became much more aware of the EU's different perspective on EPA negotiations over time.

1.3 CONFLICTING INTERESTS OVER WHICH GAME TO PLAY

Becoming aware of the different games the EU and West Africa expected to be playing, however, did not necessarily lead to agreement over the one game they wanted to play. Even though West Africa expected the EU to act as a 'patron' rather than an 'advisor' this did not necessarily mean that the EU challenged its self-perception as an 'advisor', or that it was willing to play the role of a 'patron' in trade negotiations with a 'development dimension'. Similarly, even though the EU expected West Africa to see EPA negotiations as an opportunity to negotiate an ambitious trade reform package, this did not imply that the West African side suddenly developed an interest in the EU's approach of focusing on trade regulation rather than the redistribution of resources. Neither did the acknowledgement of different causal beliefs about the effects of trade liberalisation on economic development –and the resulting differing assessments of the payoffs of possible agreements– automatically lead to the adoption of shared understandings of the costs and benefits of EPAs.

It is important to keep in mind that selecting the rules of the game is a highly political affair, as they affect who gets how much from cooperation. This is because

¹⁴ Interview 29, Brussels, Commission official, November 2010.

¹⁵ Ole Elgstrom and Jess Pilegaard, "Imposed Coherence: Negotiating Economic Partnership Agreements," *Journal of European Integration* 30, no. 3 (2008), 374.

¹⁶ Interview 57, phone-to-capital, ECOWAS official, October 2011.

¹⁷ Interview 68, Abuja, ECOWAS representative, December 2011.

¹⁸ Interview 7, phone-to-capital, government official, January 2009.

what set of rules they agree to adhere to shapes the structural power relationship between the actors, including who holds which privileges and advantages – or disadvantages. As previously emphasised, the EU and West Africa pursued conflicting interests (see for instance chapter 3, section 2.2). The EU intended to introduce greater market opening commitments and far-reaching macroeconomic reforms. The West African side, to the contrary, was primarily interested in maximising its gains by addition financial aid to the agreement, while maintaining the status quo in terms of asymmetrical market opening commitments. Whether or not (and in what ways) the ‘development dimension’ was defined primarily in terms of trade regulation or the redistribution of financial resources, therefore, affected who gets to pursue its interests in a more satisfactory way in the negotiations.

Yet, what set of rules to adhere to is not merely a question of the self-interests that states want to pursue. As the conceptual framework of this chapter reminds us, the ‘games’ states play are also partly structured by social norms and conventions that define and delimit what normatively acceptable and effective negotiating behaviour and outcomes look like in a particular setting. Negotiations are not only determined by the interests the actors pursue, but also by the collective recognition of appropriate terms of exchange. Hence, the outcome of such an explicit ‘battle over games’ depends partly on processes of argumentation that are necessary for the actors to arrive at such a shared understanding of the rules that define cooperation in a given situation. It is in this context that the next section examines the negotiating strategies chosen by both sides.

2. The Choices of Negotiating Strategies

To understand why the impasse persisted, it is crucial to reconstruct the actors’ negotiating strategies and the decision-making rationale that underpinned them. In this section, I develop the argument that to the EU’s and the West African side’s negotiating strategies can be best understood as attempts to (re)negotiate the rules of the game in the EPA process. Instead of adjusting their negotiating positions to accommodate their conflicting interests in a mutually beneficial way, they decided to defend their opposing positions by providing more information and political support

or by raising public awareness. Hence, they attempted to change the way in which the other side would conceive of its interests and the set of choices it faced in trade negotiations with a ‘development dimension’. A rationalist approach that focuses the analysis on strategic action on the functional collective action problems that emerge in cooperation situation with firmly institutionalised rules has difficulties to capture these driving forces of strategic behaviour. In the following, I describe the negotiating strategies chosen by the EU and West Africa, which are arguably best understood as attempts to (re)negotiate the rules of the game.

2.1 THE EU’S NEGOTIATION STRATEGY: ‘IT’S THE EPA, STUPID!’

When faced with the persistence of opposition to its negotiating positions at the 2007 deadline, there were several different ways in which the EU could have changed its negotiating strategy to reach a more favourable outcome. The most straightforward approach would have been to consider adding negotiating issues or becoming more flexible in order to make the EPA offer more attractive compared to the outside option of the EBA. Yet, the EU seemed to choose a different strategy to overcome the impasse situation: the provision of more information on EPAs. In the face of different interpretations of what would count as a beneficial outcome, the EU was convinced that it could change the other side’s conception of how to assess the payoffs of the game. If only West Africa were to realise that locking in neo-liberal reforms would lead to economic development, it would eventually accept the proposed EPAs. Hence, there was no need to make substantial adjustments to the EU’s negotiating positions regarding the contentious issues of the negotiations.

This choice of a negotiation strategy was evident in the statements made and the actions undertaken by the European side after the passing of the 2007 deadline. The failure to reach an agreement was seen as a problem of a lack of information on the African side. Klaus Rudischhauser, director of ACP relations in the European Commission, prominently stated in 2008 that EPA negotiations have been ‘a huge communications failure’¹⁹. The Commission saw itself even forced to publish a leaflet on common misperceptions about the EPAs in which it reasserted that ‘the suggestion

¹⁹ Inter Press Service, “Deals with Africa a 'PR Disaster'”, 26 February 2008, <http://ipsnews.net/news.asp?idnews=41358> (last accessed 18 August 2010).

that the EU was motivated by commercial self interest in the EPAs is wrong'.²⁰ The internal reflection paper on the obstacles in EPA negotiations consequently pushed for a new negotiation strategy that would focus on better communicating the benefits of EPAs. A consortium of NGOs read this new strategy as aiming primarily at 'step[ping] up information and communication efforts to convince ACP actors of this [EPA] approach'²¹ – rather than modifying its own negotiating positions on the contentious issues. As noted by a West African trade policy expert: 'so the EU is looking frantically at ways to help ECOWAS see the potential benefits of the EPA'²².

One of the first reactions to persistent rejection of the EPA proposals was indeed the creation of the post of a 'communications officer' within DG Trade. The rationale behind it was that the EU merely needed to improve its communication strategy in order to better 'sell' the EPAs to West Africa²³. Besides updating the DG Trade webpage on EPA negotiations, one of the main tasks of the new communication officer was to organise so-called 'information seminars' in a systematic way across ACP countries. During the seminars, the EC provided the introductory part, which was then usually followed by working groups on trade in goods and on trade in services, led either by the desk officers from DG Trade or by external experts. The EU's lead in the organisation and implementation of the information seminars ensured that they could be used as a forum to convince the African side of the benefits of EPAs.

According to the EU's official declaration, the seminars' aim was to create 'a forum in which to inform all key decision-makers and stakeholders about this complex and sometimes misunderstood area of the negotiations', while also gathering the parties' positions and concerns²⁴. As an EU official indicated in one of the interviews, these information seminars did not have the purpose of enabling a discussion with an open outcome on the costs and benefits of EPAs. Instead, they were designed as discussion rounds that served the purpose of convincing the West

²⁰ "Six Common Misconceptions About Economic Partnership Agreements", *European Commission – External Trade*, 11 January 2008,

http://trade.ec.europa.eu/doclib/docs/2008/january/tradoc_137484.pdf (accessed 18 August 2010).

²¹ ACORD et al, 'The 3rd Africa-EU Summit in Tripoli, 29-30 November 2010: The long awaited high level meeting on EPAs?', EU NGO briefing paper on the current state of play of the EPA negotiations, 22 November 2010.

²² West African trade expert, Questionnaire response 1, January 2009.

²³ Interview 15, Brussels, Commission official, February 2010.

²⁴ EC, Report, Information Seminar on Services and Investment in the context of the EU-West Africa EPA, Dakar, 22-23 January 2009.

African side of the EU's (pre-conceived) vision of the EPAs as beneficial. The targeted audiences of these information seminars were primarily private sector representatives, but they were also open to civil society. The idea behind inviting the private sector was that they act as intermediary organisations or multipliers, helping to steer a positive public debate on EPAs, while they might be more able to influence government positions compared to the 'normal' official channels²⁵. In this way, the EU hoped to address structural opposition at the domestic-level as well.

In general, the EU did not tire of publicly highlighting the benefits of EPAs – and the accuracy of the European side's assessment thereof, whether in seminars with African counterparts, public speeches, or press releases. DG Trade published on its webpage a presentation by Mr. Wunenburger, Head of Unit Trade.D.3 at the Commission, entitled '*Everything you wanted to know about EPAs...*' which emphasised the view that the benefits of cooperation are associated with the proposed market opening reforms²⁶. Catherine Ashton, Trade Commissioner from October 2008 until December 2009, also defended the EU's positions in a public speech on Economic Partnership Agreements, stating that 'these are good agreements that support economic development' which 'harness trade as the motor of development' and 'provide opportunities for economic development'²⁷. DG Trade published on its webpage a list of reasons for why the EPA had more to offer than the EBA. The arguments made related to different aspects about the benefits of trade liberalisation and regulatory reforms, such as that 'EPAs enhance trade', 'EPAs tackle co-operation on trade-related issues' or 'EPAs boost regional markets and rules'²⁸. In a press release, the EU similarly defended the benefits of the proposed liberalisation model because 'EPAs can also help countries become more business-friendly and competitive, and export more, by covering other issues affecting trade, like customs rules, standards, trade in services, and investment'²⁹.

²⁵ Interview 15, Brussels, Commission official, February 2010.

²⁶ EC, Presentation by Mr. Wunenburger, Head of Unit TRADE.D.3, '*Everything you wanted to know about EPAs...*', March 2010, <http://trade.ec.europa.eu/doclib/html/145932.htm>.

²⁷ Speech by Catherine Ashton, European Commissioner for Trade, 'Economic Partnership Agreements - remarks to European Parliament', EP plenary joint debate on Economic Partnership Agreements, Strasbourg, 23 March 2009.

²⁸ European Commission, DG Trade webpage, 'Development - Economic partnerships', <http://ec.europa.eu/trade/wider-agenda/development/economic-partnerships/> (last accessed 16 May 2012).

²⁹ EC Press release, 'Trade for development: EU fully opens its market to African, Caribbean and Pacific countries', Brussels, 27 January 2010.

The EU's assumption that it could win a 'battle over games' by providing more information to support its own vision of EPAs was, moreover, evident in the reaction to the apparent discrepancy of causal ideas about the effects of trade liberalisation on development. Trade Commissioner De Gucht acknowledged that '[w]e very much need to achieve a common understanding about the very tangible benefits that trade can bring to development'³⁰. In a letter to the member states trade commissioner De Gucht and development commissioner Piebalgs referred to a number of steps needed to move the negotiation process forward. Among them was the need 'to develop a shared discourse that trade is a primary lever of economic prosperity'³¹. The EU's belief in free trade as a lever of development was seen as the indisputable basis of this 'shared' discourse. Hence, the negotiating strategy adopted after 2007 arguably reflected an attempt to reshape the rules of the game according to its own perspective on trade negotiations with a 'development dimension'.

2.2 WEST AFRICA'S NEGOTIATION STRATEGY: 'IF YOU TRULY WANT DEVELOPMENT, BE MORE FLEXIBLE!'

Similar to the European side, West Africa did not react to the rejection of its demands at the end of 2007 by adjusting its negotiation positions on the substance of the agreements. Two elements were of particular importance regarding the West African side's new negotiating strategy. Firstly, it conducted more studies and technical background work to support own assessments of the costs and benefits of EPA agreements – which were believed to be more accurate than the European perspective. Secondly, it increased political support for its line of argumentation about the costs and benefits of the proposed agreements. Similar to the European approach, this strategic choice can be best understood as an attempt to pursue its own interests by (re)negotiating the rules of the game of EPA negotiations.

Increasing the knowledge basis for assessing the costs and benefits of the EPAs was an important element of the West African side's reaction to the failure to reach agreement by the 2007 deadline. There was an acknowledgement that more studies needed to be conducted. Inye Briggs, former member of the Nigerian trade department, conducted a '*Trade-related capacity building needs assessment for*

³⁰ ICTSD, 'An interview with EU Trade Commissioner Karel De Gucht', Trade Negotiations Insights, Vol. 9 No. 10 (December 2010).

³¹ EC, Letter by Andris Piebalgs and Karel de Gucht to the Ministers of Trade, internal document, Brussels, 6 September 2010.

ECOWAS towards the end of 2008. He noted ‘the general lack of research and analytical base and skills necessary to assess the impact of different proposals and agreements on the Member-States economies’³². Yet, the lack of adequate studies – and the uncertainty associated with it– did not make West African states more prone to adopting their assessment of EPAs according to the EU’s interpretation. Briggs noted that, to the contrary, the lack of information at the level of ECOWAS had generated ‘more scepticism about the risks and opportunities of the EPA’³³.

While a shortage of studies of effects of EPAs at the member state level persisted, the members of the ECOWAS Secretariat were confident in their position and increasingly used their own studies to challenge the European side. A West African official, for instance, stated in one of the interviews that in order to counter the European perspective on EPAs, ‘we did the modelling with them, we showed that everything they put on the table will not provide more than 0.1% GDP [Gross Domestic Product] growth to the region – so they are economically meaningless’³⁴. John Olympio, Seydou Sacko and Dominique Fifatin, members of the EPA Support Unit set up at the ECOWAS Secretariat, claimed at the beginning of 2008 that they refuted the European argument about the attractiveness of existing outside options. They stated that there was a misguided assessment of the costs of replacing the Cotonou Agreement system of preferences with the Generalised System of Preferences (GSP). To refute this argument, they carried out another study: ‘a more objective and in-depth study carried out by the West African region shows that the loss of these preferential terms [Cotonou Agreement] amounts to €126 million and affects essentially bananas, cacao- based products, aluminium, tinned tuna, vegetables, pineapples and prawns’³⁵. Using information to challenge the validity of the European side’s arguments about the trade-development linkage was hence an important part of the West African negotiating strategy in the negotiating period after the passing of the 2007 deadline.

³² Inye N. Briggs, ‘Trade-related capacity building needs assessment for ECOWAS’, paper commissioned by the United Nations Economic Commission for Africa (UNECA), 30 September 2007, 26.

³³ Inye N. Briggs, ‘Trade-related capacity building needs assessment for ECOWAS’, paper commissioned by the United Nations Economic Commission for Africa (UNECA), 30 September 2007, 28.

³⁴ Interview 57, phone-to-capital, ECOWAS official, October 2011.

³⁵ John Olympio, Seydou Sacko, Dominique Fifatin, ‘The challenges of the West Africa EPA’, in: ICTSD, *Trade Negotiations Insights*, Vol. 6 No. 8 (December 2007 & January 2008).

A second element of the West African response to the explicit divergences over the basic framework of EPA negotiations was the attempt to gather more political support for its own argumentation of what counts as a development-oriented outcome. This strategy was reflected in a statement by a West African trade official, who exclaimed that ‘if they don’t have a deal on development, the negotiation is as good as not being concluded’³⁶. The idea was to put more pressure on the European side to change its negotiating positions in light of presumably objective and well-founded arguments about the lack of development benefits of the proposed agreements. Again, adjusting their own preferences and positions in the light of the EU’s divergent perspective was not considered as a feasible option. As one West African official recalled:

‘At one time we had a strategy within ECOWAS, but I must admit we did not push it that hard: we started –knowing the difficulties that the EU commission at the technical side we are assessing, the people we deal with– we thought ... a reorientation needed to come from the political side. So we wanted at that time to bring on board some of our political guys, heavy guys, to leverage some of the EU member states themselves on the issue. We stated that the EU has not been dedicated on some of the issues, we met DG Agriculture, some people in the EU at that time, Germany, who had the EU Presidency, the French, the EU Parliament, to try and share our concern to them so that they could have pressure within the Commission if possible’³⁷.

This strategy was part of a wider process, with the African Union Trade Ministers urging ‘African political leaders, at the highest level, to bring their influence to bear on the negotiations process with a view to unlock current lockjam [sic!]’³⁸. Paul Bunduku-Latha, Chairman of the ACP Ministerial, similarly appealed to the ‘the legitimacy of the demands of the ACP States which stem from development objectives defined in the framework of the ACP-EU Partnership Agreement’³⁹. Civil society actors were also used to increase the pressure on the European Commission. Senegalese President Wade, who was highly critical of the proposed agreements, was for instance instrumental in organising a political demonstration against EPAs in front of the European Commission. Out of the 3000 people who gathered to protest with slogans such as ‘No to EPAs, Yes to DPAs [Development Partnership Agreements]’,

³⁶ Interview 46, phone-to-capital, government official, October 2011.

³⁷ Interview 57, phone-to-capital, ECOWAS official, October 2011.

³⁸ African Union, ‘Report of the meeting of senior officials’, Conference of Ministers of Trade, 6th ordinary session, Kigali 29 October – 2 November 2010, AU/TD/EXP/Rpt(VI).

³⁹ Paul Bunduku-Latha, quoted in: ACORD et al, ‘The 3rd Africa-EU Summit in Tripoli, 29-30 November 2010: The long awaited high level meeting on EPAs?’, EU NGO briefing paper on the current state of play of the EPA negotiations, 22 November 2010.

a large number came from Senegal⁴⁰. President Wade allegedly provided money for a number of the Senegalese protesters to be flown into Brussels⁴¹.

More generally, raising public awareness of the perceived detrimental effects of the proposed EPAs was another part of this strategy to increase political support for its negotiating positions. The Kigali Declaration (November 2010) was a prominent effort by all African Trade Ministers to jointly declare their criticism regarding the EU's approach, while appealing to the EU to be more flexible so as to achieve the declared development objectives⁴². Members of the ECOWAS Commission moreover used publications in the 'Trade Negotiations Insights', a popular monthly newsletter provided by the Geneva-based International Centre for Trade and Development, to advocate their views⁴³. Cheikh Tidiane Dieye, civil society representative on the West African negotiating team, also publicly voiced criticism of the EU's proposed scheme of liberalisation⁴⁴. These examples illustrate that the West African side's negotiating strategy in this period of the EPA process was characterised by the region's attempts to reshape the rules that define the 'game' of trade negotiations with a 'development dimension' according to its own vision thereof.

2.3 NEGOTIATING STRATEGIES AND THE 'BATTLE OVER GAMES'

This section has traced the changes in the EU's and the West African side's negotiating strategies after the failure to reach an agreement by the end of the 2007 deadline. I have argued that the particular strategies chosen made sense if we understand bargaining processes as a space to (re)negotiate the rules of the game (explicit 'battle over games'). This does not, however, tell us why neither side's negotiating strategy was successful and, to the contrary, led to the reiteration of the impasse situation. To further uncover how an explicit 'battle over games' structured

⁴⁰ European External Policy Advisors, 'Eurostep Weekly - Africans protest against EPAs in Brussels', Brussels, 29 January 2008, <http://www.eepa.be/wcm/media/press-articles/495-eurostep-weekly-africans-protest-against-epas-in-brussels-29-january-2008.html> (last accessed: 15 June 2012).

⁴¹ Interview 19, Brussels, NGO representative, February 2010.

⁴² African Union, 'Kigali Declaration on the Economic Partnership Agreements', AU conference of Ministers of Trade, 29 October – 2 November 2010, Kigali, Rwanda, AU/ EXP/TD/Decln/2 (VI), http://www.acp-eu-trade.org/library/files/AU_EN_15112010_AU_Kigali%20declaration%20EPAs.pdf (last accessed 14 June 2012).

⁴³ John Olympio, Seydou Sacko, Dominique Fifatin, 'The challenges of the West African EPA', in: ICTSD, Trade Negotiations Insights, Vol. 6 No. 8 (December 2007 & January 2008); Hon. Alhaji Mohamed Daramy, ECOWAS Commissioner for Trade, interviewed in ICTSD, Trade Negotiation Insights Vol 9, No 5, June 2010.

⁴⁴ Quoted in: AllAfrica.com, Isolda Agazzi, 'Africa: Civil Society Ensuring Development Stays On EPA Agenda', 15 February 2011, <http://allafrica.com/stories/201102151560.html>.

the way in which strategic interaction unfolded, it is important to uncover the particular normative convictions in which both sides' negotiating positions were grounded.

To further substantiate the claim that establishing the rules of the game shaped the bargaining processes in the case of EPA negotiations, I will show how the reluctance to compromise was related to the actors' normative convictions about the rules that ought to guide interaction. As argued in the conceptual framework chapter, incommensurable normative convictions can prolong the conflicts of interests because they might lead to stubbornness and a hardening of negotiating positions.

3. The Outcome of Strategic Interaction: Moving the Impasse to the Political Level

This section examines why and how strategic interaction led to the perpetuation of the impasse situation in the three years following the fiasco of the 2007 deadline. I argue that the impasse persisted because the actors' incommensurable normative convictions about how to negotiate an EPA agreement led to a hardening of opposing positions and a further politicisation of the negotiation process. Identity-based conflicts around values and beliefs in this way underpinned the cooperation problems faced by the EU and West Africa.

The disagreements in negotiations concerned a number of issues. The following section examines the negotiations on market access commitments, the question of financial aid, and the Most Favoured Nation (MFN) clause. While the former two issues constituted the major substantive stumbling blocks in the negotiations, the MFN clause was one of the other trade-related contentious issues that became prominent in the post-2007 negotiating phase (see chapter 4, section 1.1.3). In analysing the negotiations on these issues, I primarily focus on the way in which opposing positions were embedded in, and reiterated by, both sides' strategic attempts to establish the dominant understanding of the rules of the game at the trade-development nexus – and why they were unlikely to succeed.

Finally, I examine how the persistence of divergent visions of how to negotiate an EPA agreement meant that the impasse was slowly but surely moved to the political level. In this way, I demonstrate how understanding this period of the negotiations as

an explicit ‘battle over games’ helps us to uncover some of the deep-seated reasons for the persistence of the impasse situation. A rationalist framework of strategic interaction that presumes that the rules of the game are already firmly established and common knowledge among the actors, therefore, would miss an important part of the picture.

3.1 NEGOTIATIONS OVER MARKET ACCESS COMMITMENTS

One of the major substantive issues of disagreement prior to the 2007 negotiating deadline was the question of market access commitments. The EU offered that it would liberalise its own markets by 100%, while the African side would be required only to liberalise 80% of its trade volumes over a period of 15 years. The West African region, however, suggested a liberalisation of 60% over a period of 25 years. After the passing of the 2007 deadline, neither side was willing to substantially change their initial negotiating positions regarding the scope of market access commitments. While West Africa gradually improved its market access offer to imply 70% of market opening over a period of 25 years, the EU was not prepared to abandon its position.

Apparently, neither side’s strategy to change the other side’s willingness to accept its offer succeeded. To the contrary, these strategic approaches reinforced the impasse situation. The provision of more information or greater public awareness did little to change either side’s perspective on the essence of EPA negotiations. This was manifest in the unchanged assessments of the other side’s proposals as detrimental to own interests. Despite the EU’s strategic attempts to provide more information about the benefits of the EPAs it offered, for instance, West African representatives repeatedly stated that opening its market up to 80% over a period of only 15 years would be detrimental to the region⁴⁵. The greater scope of market opening commitments demanded by the EU was publicly discredited because, as argued by the Deputy Governor of Sierra Leone in the opening remarks to a national seminar on EPAs, West African countries ‘will be put in an impossible competitive position, having to expose their fragile economies to the incomparably great efficiency and

⁴⁵ Alhaji Mohamed S. Fofana, ‘Chairman’s opening remarks’, National Seminar on the Economic Partnership Agreement (EPA), Theme: Positioning Sierra Leone, 12-13 December 2007, <http://www.bsl.gov.sl/pdf/Seminar%20on%20Economic%20Partnership.pdf>; Interview 63, Abuja, government official, December 2011; Interview 33, Brussels, embassy official, November 2010.

might of the EU's industrial framework⁴⁶. Similarly, accepting 15 years as the length of the transition period was rejected on the grounds that this would be detrimental to the region. An ECOWAS official who was a member of the 'EPA unit' said that

'whereas I do agree that the EPA in particular could be a good encouragement to make some necessary changes, these necessary changes have to be managed correctly. That is one of our reasons for wanting a longer liberalisation period. It is to allow a convenient and appropriate rate of change - too quickly it will cause damage'⁴⁷.

The West African side's strategy to put political pressure on the EU and to defend its own negotiating positions with reference to impact assessments of the presumed costs and benefits of the proposed deal was successful in the sense that it facilitated resistance to signing a deal that was not regarded as beneficial⁴⁸. It was equally unsuccessful, however, in challenging the European position on market access commitments. The European assessment of the costs and benefits of EPAs as related to reciprocal trade liberalisation was genuinely regarded as more accurate. Karel de Gucht, Trade Commissioner since 2010, for instance publicly declared in a speech on the EU's trade policy towards developing countries that

'[t]he mistrust of, and downright opposition to our Economic Partnership Agreements makes clear that many people, often but not always with the best intentions, think two-way trade will undermine rather than strengthen developing countries and should therefore be tempered rather than promoted. That is just not what economic history tells us, it is not what my experience has taught me'⁴⁹.

If the reiteration of the impasse situation was related to the persistence of both sides' divergent assessments of the costs and benefits of the agreements under negotiation, we are left wondering why both side's incommensurable perspectives were so resistant despite the exchange of information and arguments. Merely pointing at the conflicting interests both sides held in playing different games (see section 1.3) does not provide us with a satisfactory explanation. As I argue in the following, incommensurable beliefs about how development works played an important role in reinforcing the opposing negotiating positions. Both sides were convinced that their assessment was not only in accordance with their self-interests, but also more accurate or normatively 'right' than the other side's perspective. Such convictions

⁴⁶ Alhaji Mohamed S. Fofana, 'Chairman's opening remarks', National Seminar on the Economic Partnership Agreement (EPA), 12-13 December 2007.

⁴⁷ Interview 68, Abuja, ECOWAS representative, December 2011.

⁴⁸ See Stephen R. Hurt, Donna Lee and Ulrike Lorenz, 'The Argumentative Dimension to the EPAs', paper prepared for the IPEG Conference, September 2012 (forthcoming in *International Negotiation*).

⁴⁹ Speech by Karel de Gucht, Trade Commissioner, 'Aid 2 Trade', "EU Trade Policy Towards Developing Countries" Conference, Brussels, 16 March 2010.

played a powerful role in the negotiations, as indicated by the fact that the parties defended their positions although it was detrimental to their self-interest in reaching an agreement.

European Negotiating Positions and the Role of Normative Convictions

The EU's strategic interests in advancing neo-liberal trade policies certainly help us to understand the reluctance to make compromises regarding the negotiation of market access commitments. The EU's own neo-liberal economic orientation underpins its global trade agenda, which generally aims to achieve greater market openings for EU firms and import benefits for EU producers and consumers⁵⁰. Yet, it cannot fully explain the stubbornness with which negotiators clung to their positions, while at the same time engaging in the futile, and ultimately costly, attempts to persuade the West African side to change their own assessments of the costs and benefits of EPAs.

First of all, normative convictions played an important role regarding the EU's particular negotiating positions on market access opening. In particular, the EU was unwilling to challenge its approach because the EU as an institution and key actors representing it presumed that it would be in a better position to judge what a good concept of development looks like because of the scientific-rational grounding upon which it relied. Let us consider the two following statements made by a key representative of DG Trade in the EPA negotiations⁵¹. The official stated in an interview that

'I am utterly convinced that the concept [behind EPAs] is right, and that it is *economically thought through*. And I do not see how Africa could successfully embark on a part of economic growth if it does not start to implement these things' (emphasis added)⁵².

The representative moreover stated explicitly that

'I think that the concept [of EPAs] is *right* and that the concept will take hold in the long run. I'm very convinced of this, just because it is economically thought through and in the long run you cannot ignore economics and *it makes sense and*

⁵⁰ See for instance the Global Europe strategy released in June 2006, <http://trade.ec.europa.eu/doclib/html/130376.htm>.

⁵¹ It is, however, important to note that the EU's perspectives were not always homogenous, and divergent assessments of the costs and benefits of EPAs existed (Interview 24, Brussels, Commission official, February 2010; Interview 29, Brussels, Commission official, November 2010). These dissenting views at the individual level were, however, hardly able to influence the vision the EU endorsed as a political institution – which was apparent in the negotiating positions and neo-liberal approach adopted by the EU in the EPA negotiations

⁵² Interview 20, Brussels, Commission official, February 2010 (own translation).

is right. Trying to curb economic growth while *ignoring economics* does not work in the long run'⁵³ (emphases added).

With time and information, West Africa would come to share the European interpretation of the costs and benefits of EPAs, which was 'economically thought through', and hence did not need to be modified. The DG Trade official similarly stated several times that the European concept of EPAs has a 'technical-scientific foundation', 'makes sense', is 'reasonable', and is based on 'facts and basic economic issues'⁵⁴.

The firm belief in the accuracy of its perspective of the trade-development nexus was in this way grounded in the assumption of the superiority of its scientific-rational foundation, which was 'objectively' true. The inversion of this line of argument implies that not seeing the benefits of greater market opening commitments is an 'irrational' position – and hence opposed to the scientific-rational grounding of the European concept of EPAs. Not accepting the concept of EPAs was hence portrayed as something that was not only wrong and did not make sense, but also meant 'ignoring economics'.

To understand where these ideas come from it is important to bear in mind the historical development of the relationship between European and African countries, and in particular the history of colonialism and its echoes in the present. Colonialism was deeply infused with presumptions of the superiority of Western modernity⁵⁵, and the 'white man' was represented as the civilised, rational and benevolent, as opposed to the irrational and non-white 'natives'⁵⁶. While such overt racism has fortunately disappeared, contemporary discourses of development continue to construct an unequal relationship between 'developed' and 'developing' countries, with a tendency to construct all 'third world' countries 'are all poor, illiterate, primitive and so forth'⁵⁷. While this is not to say that all European negotiators necessarily continue to hold such views, it helps us to better understand where the historical origins of the strong convictions that EPAs represent a 'rational-scientific' solution, which its counterparts in the negotiations simply fail to see.

⁵³ Interview 20, Brussels, Commission official, February 2010, (own translation).

⁵⁴ Interview 20, Brussels, Commission official, February 2010, (own translation).

⁵⁵ {{199 Baaz 2004/s111;}}.

⁵⁶ {{387 Doty 1996/s47;}}.

⁵⁷ {{477 Abrahamsen 2000/s17;}}.

Paying attention to these particular normative convictions, secondly, helps us to better understand why the EU was so reluctant to abandon its negotiating positions on market access commitments. Making compromises in order to accommodate their opposing positions after the passing of the 2007 deadline was not only seen as detrimental to own interests, but also as misguided – which led to a hardening of the EU’s negotiating positions. The European side assumed that it knew better than the West African side how to foster economic development because the EPA concept was based on a scientific-rational perspective based on the logic of economics. Subsequently, the West African side was oftentimes seen as the ‘irrational’ counterpart in the negotiations. Mr Fabbi, communications officer at a DG Trade unit working on EPAs, was reported to have stated that the complaints by the African side were of an emotional nature, rather than being supported by facts⁵⁸. Mr Wundenburger, Head of Unit Trade.D.3 at the Commission, was equally reported to have discredited opposition to EPAs on the basis that negative sentiments came from ignorance⁵⁹. Another official from DG Trade, for instance, stated in an interview that LDC countries are hostile because ‘they do not get the incentive’ because they are ‘not reasoning in terms of cash’⁶⁰.

While other trade representatives acknowledged that their West African counterparts were very knowledgeable as well⁶¹, the accuracy of their positions was still discredited. The West African side’s perspective was, moreover, easily discredited as a reflection of rampant corruption. This was because even competent trade officials were seen to be acting in an environment of political constraints⁶². All representatives from DG Trade that I spoke to about the West African case in some way suggested that the African side’s rejection of greater market access opening commitments was a the reflection of vested interests⁶³ that concerned the local

⁵⁸ Reported in: Businessdaily, ‘NGOs oppose EPAs’, Hopewell Radebe, 2 March 2010, <http://www.businessday.co.za/articles/Content.aspx?id=95078>.

⁵⁹ Reported in: Businessdaily, ‘NGOs oppose EPAs’, Hopewell Radebe, 2 March 2010, <http://www.businessday.co.za/articles/Content.aspx?id=95078>.

⁶⁰ Interview 22, Brussels, Commission official, February 2010.

⁶¹ Interview 12, Brussels, Commission official, February 2010.

⁶² Interview 12, Brussels, Commission official, February 2010; Interview 13, Brussels, Commission official, February 2010; Interview 23, Brussels, Commission official, February 2010; Interview 24, Brussels, Commission official, February 2010.

⁶³ Interview 15, Brussels, Commission official, February 2010; Interview 64, Abuja, EU official, December 2011; Interview 22, Brussels, Commission official, February 2010; Interview 22, Brussels, Commission official, February 2010; Interview 28, Brussels, Commission official, November 2010;

political economy rather than a ‘true’ assessment of the costs and benefits of EPAs. A DG Trade official, for instance, discredited the other side’s demands by stating that ‘the current system which allows for incredible corruption in the customs and the trade-related assistance directly benefits them so they have no interest in getting rid of it’⁶⁴. I was also given the example that the West African side at some point during the negotiating process randomly proposed to split some of the product categorisation that the tariff lines used to calculate the necessary market opening commitments. This move would have allowed the West African side to maintain greater levels of protectionism – and increased scepticism regarding the motives pursued by the other side⁶⁵.

In this way, making compromises to the West African side became a hardly conceivable option. Not only would giving in to some of the other side’s demands potentially undermine own interests, it was also seen to give rise to a misguided (and illegitimate) understanding of the trade-development nexus: it would threaten to replace the scientific-rational concept that underpins EPA agreements with an emotional assessments of the costs and benefits of trade liberalisation, while strengthening vested interests that hamper economic growth. Preventing such a misguided (re)definition of the cooperation ‘game’ at the trade-development nexus, therefore, increased the EU’s stubbornness in defending its negotiating position. Yet, why was the West African side so resistant to change its negotiating position on market access commitments, and the assessment of the costs and benefits of EPAs that underpinned it?

West African Negotiating Positions and the Role of Normative Convictions

As to the persistence of the West African side’s positions, strategic interests in maintaining protectionist policies provide only part of the answer. Resistance to changing their position was also grounded in a deep conviction that the European assessment of the trade-development nexus was based on misguided assumptions, and that the EU was not in a position to make authoritative claims about how Africa should develop.

Interview 12, Brussels, Commission official, February 2010; Interview 20, Brussels, Commission official, February 2010.

⁶⁴ Interview 12, Brussels, Commission official, February 2010.

⁶⁵ Email conversation with official from DG Trade, 12 November 2012.

To understand what the basis of these normative convictions was it, firstly, becomes necessary to mention the particular challenges related to fostering economic growth in the context of so-called developing countries. The political economy in African countries is commonly regarded to differ from the way in which European markets work because of the specific historical and geographical conditions under which it developed. In particular, colonialism and the establishment of the post-colonial state continue to influence how the economies work in present day conditions in many African countries. While it is not possible to draw a generalisation about the economies of all West African countries (let alone all African countries), there are certain broad characteristics that are likely to be part of the regional political economy in West Africa. Hyden prominently argues that in many African states, politics and economics are embedded in an 'economy of affection', where political and economic actors are bound to social obligations vis-à-vis their relatives and friends. Economic deals, licenses, projects, jobs etc. tend to be negotiated on the basis of personal connections rather than with respect to the legal-rational frameworks of a Weberian bureaucracy. This might not necessarily serve the principles of national development, but according to Hyden, it constitutes the very logic of the political economy⁶⁶. In terms of pushing for macroeconomic reforms, this implies that the preconditions for success of market liberalisation might not necessarily exist, or that reforms, which were calculated on the basis of economic models that assume Western contexts, might not have the same outcomes in West Africa.

It is against this background that we can, secondly, understand the West African side's assertion that its divergent position on the cost and benefits was grounded on a more accurate assessment of how development works. The superiority of their causal beliefs about the effects of EPAs was grounded primarily in taking into account knowledge about the political economy in the region, rather than the scientific-rational logic of how 'economics' in general play out. West African officials presumed that they held better knowledge of the way in which EPAs would affect the

⁶⁶ Göran Hyden, *No Shortcuts to Progress: African Development Management in Perspective* (Berkeley: University of California Press, 1983); on the effects of colonialism on government structures see also Peter P. Ekeh, "Colonialism and the Two Publics in Africa: A Theoretical Statement," *Comparative Studies in Society and History* 17, no. 01 (1975); for a more recent assessment of the political economy of African states see George B. N. Ayittey, *Africa Unchained: The Blueprint for Africa's Future* (New York, N.Y.: Palgrave Macmillan, 2005).

regional economy as compared to their European counterparts⁶⁷. It was against the background of existing obstacles at the regional level that the region believed, contrary to the EU's perspective, that far-reaching liberalisation commitments would lead to detrimental consequences. One EOCWAS official working in the EPA Unit for instance succinctly summarised this perspective when stating in an interview that

‘we tend to believe that we perhaps know our interests better than they may do. So although we acknowledge that they believe they have sound technical arguments, we believe having lived here and living here on a permanent basis perhaps we may have a bit more information which they do not. So they mean well, but perhaps they should also take time to listen to the people who have lived in the region for a longer period of time⁶⁸’.

Another trade official from the ECOWAS Secretariat claimed along similar lines that

the trade mechanism as described in the EPA sounds good and ... I have never said something that the EPA necessarily is a bad thing ... you take it for granted as a concept. But what is important and that is where I disagree with Falkenberg [former chief negotiator of the EU], when we met several times, was that you can't just stop at that and say at the moment you have it, it will happen - in some countries it can happen, but given the specifics of West Africa, the trade dynamics, it only happens if certain elements were done - and that is not just trade⁶⁹.

Clearly, West African representatives regarded themselves to be in a better position to judge what was good for them. This scepticism needs to be seen against the history of EU-Africa relations, in which outside interventions were often carried out with own exploitative economic interests in mind – despite long-winded declarations of benevolent intentions. For instance, the concept of *Eurafrique* was devised in the 1920s by the French. It was strongly infused with ideas of the ‘mission civilisatrice’⁷⁰ and was seen as a tactical move to strengthen the firm association of the between the continents, and in particular between France and its colonies. It was later used by Nazi

⁶⁷ Interview 57, phone-to-capital, West African official, October 2011; Interview 68, Abuja, ECOWAS representative, December 2011; Interview 54, phone-to-capital, ECOWAS official, October 2011.

⁶⁸ Interview 68, Abuja, ECOWAS representative, December 2011. Note, however, that some West African representatives seemed to echo the European ‘post-colonial’ definition of the relationship in terms of the EU's superiority. One representative compared the EU to a PhD student, while West Africa was seen as the high school student. Another representative used the metaphor of a ‘father and son’ when referring to the EU-West Africa relationship. They were, however, not dominant and more prevalent among officials in lower ranking positions, especially from countries with very severe economic challenges; Interview 33, Brussels, embassy official, November 2010; Interview 67, Abuja, civil society representative, December 2011; Interview 8, Brussels, embassy official, July 2008.

⁶⁹ Interview 57, phone-to-capital, West African official, October 2011.

⁷⁰ Koichiro Horie, “French Presence in Africa”, *Keio Economic Studies* 19, no. 1 (1982), 84.

Germany and Fascist Italy with the intention to create a ‘pan-European strategy for exploiting Africa’s resources and markets’⁷¹.

The West African side’s strong normative convictions about how to best foster development, thirdly, contributed to a hardening of the region’s bargaining positions on market access commitments. Even if the reluctance to make compromises was detrimental to own interests in the sense that it prolonged the costly impasse situation, giving in to the European side’s demands was strongly rejected as a viable option because it was seen to be based on misguided assessments of the costs and benefits of EPAs. Similar to the EU, the West African side was firmly convinced that its assessment of the effects of the proposed EPA agreements was simply more ‘true’. To the contrary, the European side’s perspective could not be ‘further from the truth’, as for instance proclaimed by Cheikh Tidiane Dieye, civil society representative of the West African negotiating team: ‘they keep saying that “the more you liberalise, the more you create growth and development” Nothing could be further from the truth’⁷². Another high-ranking ECOWAS representative closely involved in the negotiation process rejected the demands for greater market opening commitments with reference to the particularities of the political economy of the region, stating that

‘if for example you liberalise your markets you have to have a competitive business environment because, for example, your power sector does not work, which increases your cost of production and which makes your produce uncompetitive. If we don’t address some of these supply-side capacities then trade liberalisation would effectively just mean flooding the markets with products with which we cannot compete with, which will lead to unemployment, civil unrest. Our region has inclinations of political instability in some areas. We cannot add to it by intentionally signing an agreement that will bring more unrest to the society’⁷³.

Moreover, being convinced that the EU’s was in a misplaced position to judge what was needed to foster economic growth in West Africa increased opposition to EPAs more generally, and contributed to the politicisation of the negotiation process. It was regarded as illegitimate for the EU to make proposals about how to reform its own economies. The reluctance on the West African side to listen to the European side’s arguments about how to develop was manifest in the statement made by a Nigerian civil society representative who was officially involved in the negotiation

⁷¹ {{654 Adebajo,Adekeye 2012/s2;}}.

⁷² Statement by Cheikh Tidiane Dieye, quoted in: AllAfrica.com, Isolda Agazzi, ‘Africa: Civil Society Ensuring Development Stays On EPA Agenda’, 15 February 2011, <http://allafrica.com/stories/201102151560.html>.

⁷³ Interview 54, phone-to-capital, ECOWAS official, October 2011.

process. When asked whether the EU's role in EPA negotiations could be seen as some kind of external reform agent, the representative shouted out furiously:

‘Who is reforming who? Must they reform West Africa? Are they saying that all the people in West Africa are fools that they cannot reform themselves? I don't want to hear that kind of trash - that you are coming to reform us ... come on, this is insulting - first of all, solve your own problem there, leave us here’⁷⁴.

It is only when taking into account these deep-seated yet incommensurable normative convictions about what kind of policies would be needed to foster development (and the causal beliefs in which they were grounded) that we can fully understand why the impasse situation persisted. Both sides were convinced that they were in a better position to assess the trade-development linkage in a more accurate way which, hence, reinforced their unwillingness to make compromises to the other side. As argued by a Brussels-based trade officer from West Africa: ‘they are doing facts and figures to us, we are doing ours for them, there's deadlock – they think they know better than us, we think they don't understand what they are talking about’⁷⁵. Needless to say, both sides' perspectives might contain a grain of truth. Yet, the unwillingness to take the other sides' arguments seriously prevented them from overcoming the impasse situation. Defending what they regarded as ‘right’ led to a hardening of negotiating positions.

3.2 NEGOTIATIONS ON THE ISSUE OF ADDITIONAL FINANCIAL AID

The second major negotiating issue on which both sides persistently failed to reach agreement was –similar to the negotiations prior to the 2007 deadline– the question of additional financial resources. Initially, some progress was made on the negotiating issue of financial aid at the technical level. When the negotiating parties held a regional workshop on EPAs in Accra from the 2nd to the 4th of February 2009, both parties agreed upon the development-related aspects of the agreement⁷⁶. Likewise, the greater technical detail and preparatory work done on the West African side to devise a framework and national operational programs for the EPA Development Programme (PAPED) was received positively by the European side⁷⁷.

⁷⁴ Interview 67, Abuja, civil society representative, December 2011.

⁷⁵ Interview 30, Brussels, embassy official, November 2010.

⁷⁶ Agritrade.cta.int, ‘EPA negotiation issues between West Africa and the EU’, Executive brief: Update, February 2010, <http://agritrade.cta.int/Agriculture/Topics/EPAs/EPA-negotiation-issues-between-West-Africa-and-the-EU>.

⁷⁷ Council of the European Union, Draft Council Conclusions - EPA Development Programme (PAPED) - Adoption, Brussels, 26 April 2010, Document No. 8950/10.

However, neither side's negotiating strategies were successful in settling the parties' conflicting interests over the issue of additional financial aid. Opposing negotiating positions on the issue of financial aid soon became apparent again. The West African side insisted on its request for binding commitments on additional financial resources. The European side, however, continued to insist that there would be no additional financial resources provided by the EU that would go beyond the existing EDF fund. The Council of the European Union reiterated in April 2010 that the EU did not intend to provide additional financing for the implementation of the agreements. Instead, it was made clear that funding 'will be provided through the Cotonou Agreement instruments, in particular the EDF's regional and national envelopes, and through relevant instruments financed by the general budget of the EU'⁷⁸. In November 2010, the Council of the ACP countries, comprising West Africa and the other six ACP negotiating regions in the EPA process, nonetheless stated in opposition to the EU's position that

ACP States would need significant *additional* resources to cover the adjustment costs from EPAs, such as declining revenues and job losses, and to build their production systems and competitiveness in order to benefit from access to EU markets (emphasis added)⁷⁹.

Apparently, neither side was willing to challenge its perspective on whether or not (and how) aid should be part of EPA agreements.

Why were these opposing negotiating positions so firmly entrenched, despite the apparent reluctance of the other side to consider their demands? The cooperation partners held conflicting interests when it came to the issue of aid: the West African side was interested in maximising its gains by adding financial aid to the agreements, while the European side wanted to avoid the related costs. But again, there was more to it. As I argue in the following, the persistence of disagreement over the issue of additional financial aid was reinforced by the actors' different understandings of what normatively right behaviour in trade negotiations between the EU and West Africa would look like. More generally, then, negotiations are not only determined by the

⁷⁸ Council of the European Union, Draft Council Conclusions - EPA Development Programme (PAPED)

- Adoption, Brussels, 26 April 2010, Document No. 8950/10, Annex, Par. 11.

⁷⁹ ACP, Resolution of the 92nd Session of the ACP Council of Ministers held in Brussels (Belgium) from 8th to 10th November 2010 on 'Economic Partnership Agreements', Brussels, 10 November 2010, Parr (j).

interests the actors pursue, but also by the perspectives that define what actors regard as appropriate terms of exchange in a given situation.

European Negotiating Positions and the Role of Normative Convictions

The EU's repeated rejection of the demands for additional financial resources stemmed not only from its presumed strategic interest to reduce aid spending, reinforced by the external shock of the financial crisis. It followed quite substantially from the firm conviction that it would only be appropriate to place the EU-Africa relationship on a more equal footing – understood in terms of equal obligations rather than the unilateral provision of financial resources.

To understand where this normative conviction came from, and how it fostered opposition to the West African side's demands for aid, it is, first of all, helpful to consider the way in which the EU's own understanding of its identity shapes the interests it wants to pursue. Regarding cooperation with Africa, the colonial and post-colonial past continues to play an important role in defining what is considered as appropriate behaviour and outcomes. Yet, the EU as an institution faced the difficulty of integrating conflicting positions among its growing number of member states that stemmed from heterogeneous historical experiences within the EU. In particular the new member states from Eastern Europe in the EU-27 could hardly associate themselves with an identity as a 'patron' whose obligation to provide help mainly follows from its colonial past. These newer member states do not have a colonial past, and to the contrary were under the auspices of a foreign regime –the Soviet Union– themselves. As an EU official from one of the new member states said in an interview:

'I don't understand why I should feel guilty, we have absolutely no history with Africa, we have no colonial history ... And I do think that if you look at the donor relations from the old colonial powers they are trying to make up for something... And there is still something left over from colonialism, but I don't really understand it, it is really difficult for me to relate to that'⁸⁰.

It is against this background that the EU's position on aid emerged. On the one hand, the EU regarded it as important to continue with its tradition of setting up 'special' trade regimes that are limited in scope to seven sub-groups among the ACP countries (one of which was the West African region). On the other hand, it was less and less regarded as appropriate to focus the relationship on the redistribution of

⁸⁰ Interview 12, Brussels, Commission official, February 2010.

resources. The EU clearly presumed that it would be time to move the EU-Africa relationship beyond the clientelistic donor-recipient relationship of the (post-colonial) past. In its Green Paper on *The relations between the European Union and the ACP countries on the eve of the 21st century* (1996), the European Commission openly stated this desire when claiming that ‘the colonial and post-colonial period are behind us and a more politically open international environment enables us to lay down the responsibilities of each partner less ambiguously’⁸¹. This view implied a particular understanding of the structural power relationship between the EU and ACP countries that should be reflected in the rules of the game at the trade-development nexus.

More precisely, EPA negotiations were seen as an opportunity to introduce the long overdue idea of greater *procedural equality* between the EU and Africa in terms of the obligations they hold. The EU thought that it would be an outdated understanding for the EU to hold the one-sided obligation to provide help to Africa without being able to demand something in return. Development Commissioner Piebalgs reinforced this idea in a speech in 2010, when claiming that ‘Europe and Africa have moved away from the traditional donor/beneficiary relationship. We are now equal partners who need each other, who share responsibilities and opportunities’⁸². Wright critically remarked that EPA negotiations ‘apparently serve to cleanse trade relations from disliked historical obligations’⁸³.

This particular understanding of the actors’ identities resulted in a normative conviction that the ‘development dimension’ in trade negotiations should be seen as an obligation to provide advice rather than financial resources. This view was for instance manifest in the statement of a Commission official from DG Trade, who complained in an interview that

‘most Africans would see Europe as a milk cow. In every negotiation with Africa it’s about how to milk more money out of Europe. This is something that many African governments have internalised to a large extent’⁸⁴.

⁸¹ Green Paper on relations between the European Union and the ACP countries on the eve of the 21st century - Challenges and options for a new partnership COM(96) 570, November 1996.

⁸² Speech by Andris Piebalgs European Commissioner responsible for development, High-level Conference on "Africa: 53 countries, One Union" Bologna, 21 May 2010, SPEECH/10/252.

⁸³ Stephen Wright, "Negotiating Economic Partnership Agreements: Context and Strategies," in *The European Union and the Developing Countries: The Cotonou Agreement*, eds. Olufemi A. Babarinde and G. J. Faber (Leiden ; Boston: Martinus Nijhoff Publishers, 2005), 69.

⁸⁴ Interview 10, Brussels, Commission official, February 2010, (own translation).

The way in which the representative depicted the relationship between the actors – depicting Europe as a ‘milk cow’ and Africa as a greedy rent-seeker– clearly suggested that this kind of behaviour was not regarded as acceptable in the EPA process anymore. Instead, the acceptability of moving beyond asymmetrical obligations of the rich towards the poor was frequently alluded to by representatives from DG Trade⁸⁵. One Commission official, for instance, explained to me that EPAs were designed on the basis of a fundamentally new concept, which explicitly aimed to introduce greater reciprocity in commitments. The concept was new because ‘until now the developmental thinking was that we cannot demand anything from developing countries, special and differential treatment, take a “carte blanche” and you can do what you want’⁸⁶. This reasoning was reflected in a statement by a trade negotiator who complained that

‘there are people who think that development simply consists of the rich people giving money to the poor people without the poor people ever having to do anything for themselves’⁸⁷.

Clearly, ‘doing what you want’ or ‘not ever having to do anything for themselves’ were not regarded as acceptable behaviour in the context of EPA negotiations. Another DG Trade official similarly justified the EU’s negotiating positions because

‘the trading relationship changes dramatically because you get away from being just a beneficiary of a unilateral decision to being a partner to bilateral agreement where you are a partner and you have your say. And that brings both opportunities and responsibilities and that is something new’⁸⁸.

The normative conviction that underpinned the EU’s reluctance to make concessions on the issue of additional financial aid was, moreover, reflected in a statement made by Trade Commissioner De Gucht who declared in a speech in March 2010 that ‘aid without trade is not helping and that a mature, tailor-made and mutually agreed economic partnership is the right thing to do’⁸⁹.

Hence, this particular normative view of what appropriate behaviour in EU-Africa relations would look like helps us to understand why the EU was so reluctant to make binding commitments on financial aid as part of EPAs. It led to a hardening of

⁸⁵ Interview 12, Brussels, Commission official, February 2010; Interview 22, Brussels, Commission official, February 2010; Interview 20, Brussels, Commission official, February 2010.

⁸⁶ Interview 20, Brussels, Commission official, February 2010 (own translation).

⁸⁷ Interview 12, Brussels, Commission official, February 2010.

⁸⁸ Interview 12, Brussels, Commission official, February 2010.

⁸⁹ Speech by Karel de Gucht, Trade Commissioner, ‘Aid 2 Trade’, “EU Trade Policy Towards Developing Countries” Conference, Brussels, 16 March 2010.

bargaining positions because the West African side's demands were not only seen to go against own interests, but were, moreover, clearly discredited as illegitimate and, therefore, unacceptable. In particular, demands for additional financial aid to address general supply-side capacity constraints were regarded as unacceptable in the context of bilateral trade negotiations. As an official from DG Trade said:

‘the Tanzanian Trade Minister was asking about help for infrastructure, saying if these issues are not resolved, there won't be a signature. But what are these issues? Building roads? This is totally out of reality!’⁹⁰

The representative added that ‘there is a mix-up of things in their [the West African representatives'] mind’, and that he was ‘not sure whether they understand the difference between lack of capacity and constraints to implement, and lack of infrastructure to develop oneself’⁹¹. Clearly, it was not regarded as legitimate to ask for infrastructure support in the context of trade negotiations with a development dimension.

Moreover, the West African side's demands for binding commitments on additional financial aid were fiercely rejected because they were seen as a misplaced continuation of old patterns of interaction that the EU specifically intended to overcome. For instance, an official from the Commission stated that agreements should be ‘about rules, about binding commitments, about establishing economic structures in Africa, but not about issuing more cheques’⁹². Hence, the West African side's demands were rejected as unacceptable, and were repeatedly discredited as part of a ‘wish list’⁹³. One Commission official for instance stated that

‘at first sight, by definition, if you are a poor country, your needs are potentially huge, limitless. You draw whatever list you want. You can draw the list of everything a rich country has and you don't have, but where does this drawing of a list get you? Nowhere!’⁹⁴

Clearly, the EU did not see itself as holding a responsibility to address these general wishes related to improving the level of trade-related supply-side capacities in developing countries in the EPA process. If we take into account the EU's vision of the social norm of greater procedural equality as a benchmark for good cooperation at the trade-development nexus, we can understand why the EU expected it to be ‘right’

⁹⁰ Interview 22, Brussels, Commission official, February 2010.

⁹¹ Interview 22, Brussels, Commission official, February 2010.

⁹² Interview 20, Brussels, Commission official, February 2010, (own translation).

⁹³ For instance, mentioned in Interview 40, Brussels, Commission official, December 2010; Interview 23, Brussels, Commission official, February 2010.

⁹⁴ Interview 23, Brussels, Commission official, February 2010.

to focus on trade regulation rather than the redistribution of resources. Strong normative convictions about the rules of the game at the trade-development nexus, therefore, increased the EU's stubbornness in defending its negotiating position, even if this meant prolonging the costly impasse.

West African Negotiating Positions and the Role of Normative Convictions

The West African side's firm insistence on its demands for additional financial aid—despite the EU's repeated declarations that it was not willing to make binding commitments—becomes more understandable if we take into account the underlying normative view about the kind of rules that ought to apply at the trade-development nexus. The predominant view within the region about what would count as appropriate behaviour contrasted starkly with the EU's emphasis on procedural equality.

An influential normative idea that underpinned the West African side's expectations about the 'development dimension' was the need to establish greater *substantive equality* between the partners. The desire to become more equal (and not just on a procedural level) needs to be seen against the colonial legacies that continue to shape Africa's international relations⁹⁵. As Crawford Young reminds us, 'in innumerable ways, colonial subjugation in Africa brought not only political oppression and economic exploitation but also profound psychological humiliation', giving rise to a 'dependency syndrome'⁹⁶. This is unsurprising, given the way in which the social relationship between the continents was socially constructed over the colonial and post-colonial era. It was and is represented primarily through a series of unequal binary oppositions: Master/Slave; First/Third World; Advisor/Advisee; Patron/Client; Developed/Underdeveloped; Donor/Recipient. Becoming more equal hence reflects a desire to break with the past relations of structural (rather than merely procedural) inequality.

At the same time, however, the West African side's perspective on what would be normatively right continues to be influenced by the way in which the latest donor-recipient framing gave rise to a sense of entitlement to receiving financial aid. This is because the EU's willingness to make concessions was essential to the paternalistic relationship between the partners. Clapham portrays the EU and African countries

⁹⁵ See {{591 Crawford 2009;}}.

⁹⁶ {{591 Crawford 2009/s32;}}.

during the Lomé partnership during the 70s, 80s and 90s as ‘subordinate partners in a supplicant relationship, which ultimately depended on what the EC was willing to concede, and on the conditions which the EC sought to impose’⁹⁷. Over time, the institutionalisation of donor-recipient relations gave rise to what resembles a sense of entitlement to receive financial aid among many developing countries⁹⁸.

Hence, in the context of EPA negotiations demanding financial support for the far-reaching supply-side capacity programmes envisaged in the PAPED programme were seen as normatively justified, rather than an unacceptable ‘wishlist’. Hon. Alhaji Mohamed Daramy, ECOWAS Commissioner for Trade, emphasised that addressing supply-side constraints is understood to be a ‘key’ aspect of EPA negotiations:

‘Once we get money for the EPADP/PAPED, we will be able to develop areas such as trade-related infrastructure, production capacities, intra-regional trade and other trade-related needs. EPADP/PAPED – this is key. If we get sufficient funds for this programme, we will be able to address supply-side constraints’⁹⁹.

While moving beyond the ‘donor-recipient’ relationship of the past was equally desired, the West African region did not see it as appropriate to move straight to a relationship of (more) equal obligations. Similar to the EU’s (divergent) justification of its approach, this perspective was grounded in a particular understanding of the actors’ identities in the context of the colonial and post-colonial past. While oftentimes only implicitly referred to, it seems that past practices of colonialism were still seen as a reference frame for justifying a moral responsibility of the EU to provide help to Africa in present times, which continue to be characterised by structurally unequal positions in the global trading system. Hon. Alhaji Mohamed Daramy, ECOWAS Commissioner for Trade, stated in an interview given in June 2010 that the EU holds a responsibility to provide help to Africa in the EPA negotiations because the reforms they envisaged

‘will not come without an upfront cost, and for this reason we will need to create an EPA regional fund to support this process. Because the EU is partly responsible for the fact that we have to move forward on these reforms, it will have to financially contribute to this fund’¹⁰⁰.

Moreover, the normative expectation that the EU ought to act as a ‘patron’ was based on the region’s historically grown self-understanding as dependent partner in a

⁹⁷ {{655 Clapham, Christopher S. 1996/s100;}}.

⁹⁸ {{656 Eyben, Rosalind 2008/s18;}}.

⁹⁹ ICTSD, Trade Negotiation Insights Vol 9, No 5, June 2010.

¹⁰⁰ Hon. Alhaji Mohamed Daramy, ECOWAS Commissioner for Trade, interviewed in ICTSD, Trade Negotiation Insights Vol 9, No 5, June 2010.

structurally unequal relationship. Huge structural inequalities were seen to persist between the partners¹⁰¹, which required a continuation of redistribution from the rich to the poor to address historically created injustices in the EU-Africa trading regime. This view was repeatedly stated in the interviews¹⁰². A Brussels-based trade officer from a West African country pointedly summarised the underlying rationale when arguing that

‘I’m not saying the EU should come and spoon-feed us, I’m not saying that they should do everything for us. What I’m saying is that they should realise that they have to help us to reach a certain level for us to start thinking that we are partners - because for now as far as I am concerned it is still a donor-recipient relationship’¹⁰³.

Another Brussels-based trade official said that even though the change in the EU-Africa relationship in a global environment leaning towards free market policies is a trend that cannot be avoided, ‘we need to try to preserve what can be considered as solidarity between Europe and Africa’¹⁰⁴. Clearly, the West African side’s demands for additional financial aid were based on the strong normative conviction that EPA negotiations should be directed towards achieving greater substantive equality and equal rights – rather than (merely) mutual obligations.

Paying attention to these normative convictions, moreover, helps us to better understand why the West African side remained so reluctant to abandon its demands. Not including aid as part of the deals was not only detrimental to the goals the regions wanted to achieve, it was, moreover, considered as morally wrong – which led to a hardening of the opposition to the EU’s approach. For instance, the EU’s claims that it did not have the mandate or resources to provide additional financial aid were not regarded as acceptable. If the EU did not consider itself to be in a position to provide help, it should not engage in negotiations that should be geared towards helping

¹⁰¹ As for instance voiced in a statement by Ken Ukahoa (member of the Nigerian negotiating team on EPAs) quoted in: Daily Trust, ‘West Africa: Traders reject EPA’, 17 August 2009, http://www.bilaterals.org/article.php3?id_article=15750&lang=en; see also Interview 33, Brussels, embassy official, November 2010.

¹⁰² Interview 44, phone-to-capital, government official, October 2011; Interview 63, Abuja, government official, December 2011; Interview 41, Brussels, embassy official, December 2010; Interview 33, Brussels, embassy official, November 2010.

¹⁰³ Interview 30, Brussels, embassy official, November 2010; this view echoed the deep-seated desire to be more equal to the former colonial masters – a mirror image of the European feelings of superiority towards African nations which at times resurfaces in the ‘post’-colonial relationship between the partners; on the psychological effects of colonialism on the relationship of Africans towards their (former) colonial masters see Frantz Fanon, *Black Skin, White Masks* [Peau noire, masques blancs.] (New York: Grove Press, 1982), 232.

¹⁰⁴ Interview 41, Brussels, embassy official, December 2010.

Africa to foster its economic development in the first place. As one of the interviewees stated: ‘Yes, they have their problems [referring to the financial crisis], yes, then when you have your problems then why don’t you stay in your house and solve your problem and leave the EPA for now?’¹⁰⁵

To fully understand why neither side substantially changed its negotiating position on the issue of additional financial aid despite the other side’s determination not to make concessions, it was important to analyse the incommensurable normative convictions shaped both sides’ negotiating strategies (and the identity conceptions of the EU-Africa relationship upon which they were based). While the West African side saw it as normatively right to demand a redistribution of financial resources in the face of persistent structural inequalities, the EU regarded it to be time to move beyond such a relationship – moving from its role as a ‘milk cow’ towards greater mutuality of obligations in a time when ‘the colonial and post-colonial period are behind us’. The resulting value conflict over substantive vs. procedural equality thereby helps us to better understand why the EU and West Africa were unable to overcome the impasse on aid. Since both sides were willing to defend what they regarded as more appropriate conception of the rules of the game in negotiations between unequal partners, they were unwilling to make the compromises that would have been necessary to reach an agreement. Normative convictions in this way led to the reiteration of the impasse situation, despite the fact that it was costly to both sides.

3.3 THE MOST FAVOURED NATION CLAUSE

Among the other trade-related issues that were part of the impasse situation the MFN clause became another one of the major stumbling blocks in the negotiation process – apart from the major issues of market access and financial aid discussed above. The MFN clause states that any more favourable market access conditions that West Africa would in the future grant to other major economic players would need to be extended to the EU as well. While the European side was in favour of including the clause, West Africa rejected the clause as part of an agreement.

Despite both sides’ attempts to convince the other side to change their mind and to accept their respective positions, opposing perspectives persisted. The EU attempted to resolve the opposing negotiating positions on the MFN clause at the technical level.

¹⁰⁵ Interview 67, Abuja, civil society representative, December 2011.

At a technical and senior official level meeting in late October 2008, the EU put forward a new proposal on the MFN clause¹⁰⁶. The idea was to formulate the clause in a way that would reflect the principle of reciprocity and allow for the application of the clause on a case by case basis¹⁰⁷. The EU proposed to limit the application of the MFN clause to ‘major trading partners’. A ‘major trading partner’ was defined as ‘any developed country which accounts for more than 1% of world merchandise exports’¹⁰⁸. Yet, this technical solution was rejected by the West Africa side.

The meeting in late October 2008 was unable to resolve the different positions¹⁰⁹. At a meeting of the West Africa Common External Tariff Management Committee held from the 2nd to the 6th of February 2009, a ‘fundamental divergence of views’ was noted regarding the MFN issue¹¹⁰. The following negotiating meetings were equally unsuccessful in reaching a compromise position on the MFN clause¹¹¹. Hence, at a meeting of West African EPA experts and the EPA Ministerial Monitoring Committee held in Bamako from the 3rd to the 7th of May 2010, the West African ministers reiterated their rejection of the EU’s proposal on the MFN clause¹¹². At a technical and senior-level meeting on EPA negotiations in Brussels from the 13th to the 17th of September 2010, the EU however reinforced its divergent position¹¹³.

To understand the persistence of these opposing perspectives on whether or not (and how) the MFN clause should be part of an EPA agreement, it is helpful once more to take into account the actors’ convictions of whether or not this would be normatively right behaviour. The persistence of conflicting interests, in particular,

¹⁰⁶ ICTSD, ‘EPA negotiations update’, Trade Negotiations Insight, Vol. 7 No. 10 (December 2008), <http://ictsd.org/i/news/tni/36855/>.

¹⁰⁷ ICTSD, ‘EPA update’, Trade Negotiations Insight, Vol. 8 No. 7 (September 2009), <http://ictsd.org/i/news/tni/54800/>.

¹⁰⁸ ICTSD, Cheikh Tidiane Dièye and Victoria Hanson, ‘MFN provisions in EPAs: a threat to South-South trade?’, Trade Negotiation Insights Vol 7, No 2, March 2008, 1.

¹⁰⁹ ICTSD, ‘EPA negotiations update’, Trade Negotiations Insight, Vol. 7 No. 10 (December 2008), <http://ictsd.org/i/news/tni/36855/>.

¹¹⁰ ICTSD, ‘EPA update’, Trade Negotiations Insight, Vol. 8 No. 3 (March 2009), <http://ictsd.org/i/news/tni/44027/>.

¹¹¹ Disagreement on the MFN clause was reported from the following subsequent negotiating meetings: European and West African senior officials meeting in Brussels from the 25-26 March 2010; meeting of West African EPA experts and the EPA Ministerial Monitoring Committee held in Bamako from 3-7 May 2010; EU-ECOWAS ministerial-level meeting on 15 June 2010; technical and senior-level EPA negotiators from West Africa and the EU in Brussels from 13 to 17 September 2010. ICTSD, ‘EPA update’, Trade Negotiations Insights from May 2010, June 2010, July/August 2010, October 2010.

¹¹² ICTSD, ‘EPA update’, Trade Negotiation Insights, Vol.9 No.5 (June 2010), <http://ictsd.org/i/news/tni/76844/>.

¹¹³ ICTSD, ‘EPA update’, Trade Negotiation Insights, Vol.9 No.8 (October 2010), <http://ictsd.org/i/news/tni/87673/>.

again exemplifies the importance of the parties' different normative concepts of equality (procedural vs. substantive). Both sides' reliance on incommensurable normative convictions made reaching a compromise on the clause unlikely. The EU's association of acceptable behaviour with greater procedural equality contradicted the West African side's emphasis on achieving greater substantive equality of developing countries in a North-South relationship.

The European side's insistence on the MFN clause reflected the idea that EPA negotiations should be about establishing greater procedural equality between the partners, including 'give-and-take' at the negotiating table. It would imply an obligation on behalf of the West African side to pass on market access opening concession to the EU (if particular conditions were met) and hence was seen as acceptable demand at the negotiating table. An EU official explained the rationale behind this view:

'What it means that if you do an agreement with the EU, and the EU gives you the best it gives to anybody because we offer 100 duty free quota free access, which is the best we have offered to anyone and really you cannot do any better than that, you would consider it as fair. And at the same time we accept that on the West African side - and this goes for all regions - they have different levels of development, hence there is a cause for asymmetry, hence we do not ask that they do the same, as they open 100 duty free quota free. Now if you take these two factors together, we give the best and we recognise that at the same time you give much less, we would see it as only fair if you then turn around and go and make a deal with ourselves and you feel that you can give them better than you have given to the EU you match it, and give the EU the same treatment'¹¹⁴.

Hence, the inclusion of the MFN clause was defended on normative grounds because it would 'give the EU the same treatment'. Another official from DG Trade similarly claimed that if Africa were, for instance, to make greater market opening commitments to Japan, it would only be appropriate for the EU to expect to receive the same treatment:

'if you would tomorrow negotiate with Japan and you would open your automobile market to Japan, then it would be downright unfair... and then we said, if you do that, MFN kicks in, then you also open the market towards Europe'¹¹⁵.

This view was further justified with reference to the duty free, quota free market access the EU already offers to the region.

¹¹⁴ Interview 12, Brussels, Commission official, February 2010.

¹¹⁵ Interview 20, Brussels, Commission official, February 2010, (own translation).

The West African side's firm rejection of the MFN clause was, however, equally based on normative grounds, arguing that the 'rich' need to address persistent structural inequalities in their relations with the 'poor'. The proposed clause would work against this social norm because it would potentially undermine South-South cooperation. This was because the definition of a 'major trading partner' would include a number of countries traditionally associated with the 'South', such as China, Brazil and India. Undermining South-South trade was not regarded as acceptable¹¹⁶, with the MFN clause being 'unfair'¹¹⁷. A capital-based trade officer argued along these lines that 'the agreement should be such that it gives us some policy space to promote trade with other trading partners such as South-South countries within the framework of the MFN clause'¹¹⁸. Hence, the region stated that it would only accept the clause if its application were restricted to developed countries rather than 'major trading nations'.

Therefore, the reluctance of either side to challenge its positions about whether or not the MFN clause should be part of the EPA agreement was reinforced by the parties' incompatible convictions about normatively right behaviour in EU-Africa relations. The persistence of the impasse situation in this way led to a hardening of bargaining positions. As recalled by a West African private sector representative closely involved in the EPA negotiation process: 'if both sides hold to their strong positions, then what you have on the ground is the obvious outcome, which implies that both sides are not willing to make a change'¹¹⁹.

3.4 MOVING THE IMPASSE TO THE POLITICAL LEVEL

As a consequence of the persistence of the normatively grounded, yet divergent visions of how to play the EPA 'game', the EU and West Africa were unable to negotiate a compromise to accommodate their conflicting interests on the major 'contentious issues'. This meant that the impasse situation was slowly but surely moved to the political level – reflecting the fact that disagreement was less of a technical problem but inherently related to the actors' divergent conceptions of cooperation in trade negotiations with a 'development dimension'.

¹¹⁶ ICTSD, 'EPA update', Trade Negotiations Insight, Vol. 8 No. 8 (October 2009), <http://ictsd.org/i/news/tni/57497/>.

¹¹⁷ Interview 62, Abuja, government official, December 2011.

¹¹⁸ Interview 44, phone-to-capital, government official, October 2011.

¹¹⁹ Interview 50, phone-to-capital, private sector representative, November 2011.

The persistence of conflicting visions was manifest in public declarations made by both sides. When the EU internally set out the elements for an EU line on EPAs for the EU-Africa Summit in Tripoli (Libya) in 2010, it again expressed its firm belief in the development benefits of the proposed EPAs:

‘EPAs remain the best way to put trade at the service of development by allowing ACP countries to reap more benefits from their integration into the global economy. Even after eight years of negotiations, there is no better alternative to achieve a lasting, uniform and WTO-compatible trade regime for African regions, taking due account of different levels of development between the EU and Africa’¹²⁰.

Similarly, the African Trade Ministers prominently declared in November 2010 in the Kigali Declaration that they reiterated their ‘commitment to conclude development-friendly EPAs that will contribute meaningfully to reducing and ultimately eradicating poverty in our countries’, while at the same time calling the EU to ‘to display more sense of understanding and flexibility in the EPA negotiations so that EPAs can achieve the development objectives’¹²¹. The 2010 ACP Council resolution on EPAs that preceded the EU-Africa summit in Tripoli equally noted the fundamental discrepancy in visions between the partners. It claimed that ‘the ACP States welcomed the EPAs in anticipation of a strong trade and development package that would build the competitiveness of their industries and diversify their economies’, while ‘the European Union has continued to stress that the development dimension of the EPAs lies in the outcome of the extensive economic and trade liberalization and reforms’¹²².

These strong normative convictions about the basic rules of EPA negotiations that underpinned these divergent visions were not epiphenomenal, but were an important part of the conflict between the EU and West Africa. Amin similarly makes the argument that ‘[t]he root cause of the controversies is different perspectives on how EPAs are to become tools for Development’¹²³. If we do not consider why both sides

¹²⁰ EC, Note for the attention of the ACP working party, Subject: ‘Economic Partnership Agreements – Hymn Sheet’, internal document, 19 November 2010.

¹²¹ African Union, ‘Kigali Declaration on the Economic Partnership Agreements’, AU conference of Ministers of Trade, 29 October – 2 November 2010, Kigali, Rwanda, AU/ EXP/TD/Decln/2 (VI), http://www.acp-eu-trade.org/library/files/AU_EN_15112010_AU_Kigali%20declaration%20EPAs.pdf (last accessed 14 June 2012).

¹²² ACP, Resolution of the 92nd Session of the ACP Council of Ministers held in Brussels (Belgium) from 8th to 10th November 2010 on ‘Economic Partnership Agreements’, Brussels, 10 November 2010, Par. (D).

¹²³ Amin Alavi, Peter Gibbon and Niels J. Mortensen, "EU-ACP Economic Partnership Agreements (EPAs): Institutional and Substantive Issues," (2007), 88.

regarded their negotiating positions as more ‘accurate’ and ‘normatively right’ than the other side’s perspective, we cannot fully understand why it was so difficult to accommodate their conflicting interests in a mutually beneficial way.

The divergence between the normative convictions upon which both sides negotiating positions were built, moreover, politicised the negotiating process. Given the lack of progress, there was nothing much left except to reiterate what more and more seemed like desperate calls for an intervention at the highest political level. In 2010, Trade Commissioner De Gucht for instance made the appeal to the negotiating parties that ‘[o]nly a clear, forward-looking political engagement can help unblock the situation’¹²⁴. The West African side similarly claimed that ‘from the highest level there has to be a political commitment ... to overcome some of these outstanding issues which have been outstanding for a number of years’¹²⁵. The Trade Ministers of the African Union, for instance, declared in the run-up to the EU-Africa summit in 2010: ‘noting that not much progress has been made in the negotiations, especially on the contentious issues that have so far stalled negotiations.... It has therefore become imperative for the highest level of political intervention, to move the negotiations forward’¹²⁶.

Applying the ‘Battle over Games’ framework has helped us to better understand why the negotiating process after the passing of the 2007 deadline reinforced politicisation, and did not lead to an agreement. Because both sides were driven by their normative convictions, they regarded it as more important to defend their view as ‘true’ and normatively ‘right’, rather than to pursue their interests in reaching an agreement. While the EU saw economic inequality as a ‘mindset’ problem that could be solved by greater procedural equality, the West African side saw it as a structural problem that needed to be solved by substantive equality and redistribution. While the firm entrenchment of the impasse situation was unsatisfactory for both sides, it reflected a deep-seated conflict over how to understand economic development in Africa, and what concepts of equality should be pursued in EU-Africa relations.

¹²⁴ ICTSD, ‘An interview with EU Trade Commissioner Karel De Gucht’, Trade Negotiations Insights, Vol. 9 No. 10 (December 2010).

¹²⁵ Interview 54, phone-to-capital, ECOWAS official, October 2011.

¹²⁶ African Union, ‘Report of the meeting of senior officials’, Conference of Ministers of Trade, 6th ordinary session, Kigali 29 October – 2 November 2010, AU/TD/EXP/Rpt(VI).

4. Discussion of the Findings

This chapter related the persistence of the impasse situation to the actors' unsuccessful attempts to (re)negotiate the rules of the game, and the divergent normative convictions that these approaches were based upon. Why does it make a difference to pay closer attention to this conceptual approach? Or, in other words, what does the 'Battle over Games' approach add that cannot already be captured by rationalist explanations of strategic interaction? In the following, I briefly discuss how far a rationalist game-theoretically informed explanation would take us in explaining the case of EPA negotiations. Moreover, I show why and where the 'Battle over Games' framework provides an added value to rationalist explanations of strategic interaction, and what rationalist approaches cannot explain.

One might suggest that the persistence of the impasse situation can be reduced to a structurally given conflict of interests between the EU and West Africa. We could argue that the EU preferred to introduce far-reaching liberalisation commitments while only providing minimal financial aid, and that West Africa held a strong interest in concluding a trade regime with less extensive liberalisation commitments, but more financial aid. The actors' self-interests would thereby be understood to be determined by the materially given economic structures as well as by more ideational factors such as causal beliefs about how the world works. Hence, in the case of EPA negotiations, the impasse could have persisted because both the EU and West Africa attempted to push their interests through. This simplified version of a rationalist perspective on the cooperation problems provides us with an important part of the story of the impasse situation. It is plausible to suggest that the EU and West Africa attempted to maximise the gains they could get from signing an EPA agreement, which gave rise to distributional conflicts over the precise terms of the agreement.

What such a perspective has more difficulty explaining, however, relates to the way in which such a bargaining problem unfolds. Firstly, at what point do the actors become willing to make a compromise? And why is this the case (or not)? More precisely, why did the EU and West Africa regard it as more 'rational' to reiterate the costly impasse situation as compared to making concessions to overcome it? Secondly, what kind of bargaining strategies do the actors choose to win distributive conflicts and why? In the case of EPA negotiations, why did the EU and West Africa expect their negotiating strategies to be successful in the first place? Regarding both

aspects, rationalist approaches do not offer a fully convincing account of the way in which EPA negotiations unfolded. These shortcomings relate to the strong analytical focus on functional collective action problems and the elusive notions of ‘self-interest’ and ‘rationality’ that rationalist approaches rely upon. While the parsimonious reliance on these categories makes rational choice theory very appealing, it carries the danger of losing sight of the highly complex aspects that determine what actors regard as their self-interest, why they do so, and which trade-offs they face between pursuing different interests they value.

Rationalist approaches offer one main explanation for the point of time when we expect cooperation partners to become more conciliatory. Bargaining conflicts are only sustained as long as the actors hold incomplete information about each other’s preferences. This is because the danger of bargaining processes is that both sides attempt to hold out longer than the other side which might prevent them from actually settling on an agreement, while at the same time facing the costs associated with delay. As soon as both sides are fully aware of each others’ preferences regarding outcomes, their resistance points, and their bargaining strengths, the weaker partner realises that it is less costly to agree on the terms suggested by the other side or to simply reject the deal. This situation allows them to ‘bluff’ and ‘lie’ in their attempts to convince the other side that they have already reached their redlines at the negotiating table.

Yet, in the case of EPA negotiations, the opposite of what a rationalist approach would have expected happened: after the fiasco of the 2007 deadline, the EU and West Africa became painstakingly aware of their very divergent preferences. Moreover, it became apparent that neither side was sufficiently strong to enforce its position on the other side. In particular, the EU had to realise that the West African side preferred the EBA as an existing outside option to signing the proposed EPA agreement. Yet, precisely because each became aware of the other’s ‘real’ preferences, the question of why they were still unwilling to make substantial concessions to each other seems puzzling. We would have expected both parties to adjust their negotiating positions to the other side’s real preferences, or to abandon the negotiating process altogether. Yet, both sides largely insisted on their previous, knowing that they had been previously rejected as unfavourable relative to existing outside options. A rationalist approach that relies on the category of ‘self-interest’

without specifying how this might be driven by normative convictions (and where they come from), and in this way overlooks important aspects of the motivations by which rational actors are driven.

Moreover, rationalist approaches have difficulties fully capturing the kind of bargaining strategies the actors chose to win distributive conflict, and why they might lead to ‘sub-optimal’ outcomes. As argued before, a major driving force behind the EU’s and the West African side’s reluctance to make concessions was that both sides attempted to (re)negotiate the ‘game’ they were playing. Mainstream rationalist approaches usually assume that the actors’ attempts to change the rules of the game can be adequately captured as either changes of the material incentive structures, or cheap talk to manipulate the framing of the game in a way that maximises their own gains.

Yet, neither approach seems to adequately explain the particular negotiating strategies chosen by the EU and the West African side in EPA negotiations. While in particular the EU held ample opportunities to change the material incentive structure of the game they were playing, it did not do so. For instance, the EU could have changed the legal parameters of the negotiation by taking away the Everything But Arms regime as a fall-back option for the West African side. This trade regime does not have a firm contractual basis and can be renounced by the EU at any time. Moreover, the EU could have used either the promise of additional aid or the threat of losing existing development assistance much more forcefully to overcome the impasse situation. Instead, the EU decided to rely on the (ultimately unsuccessful, or ‘sub-optimal’) negotiating strategy of providing information to convince the other side of the benefits of signing an EPA. It seems puzzling from a rationalist perspective that the EU assumed that it would be most rational to pursue this strategy as compared to the other approaches that were available (and seemed to be more promising).

Finally, rationalist approaches do not offer a convincing explanation of why the EU’s and the West African side’s strategic attempts to (re)define the rules of the game in order to pursue their interests were unsuccessful, other than pointing at the conflicting interests in playing different games – a slightly tautological argument. Hence, rationalist approaches ultimately fail to provide us with a convincing account of the conditions under which negotiating strategies that are directed at changing the

other side's conception of a particular 'game', and the interests they pursue in such a situation, are likely to be successful or unsuccessful.

Against this background, the 'Battle over Games' framework offers a more comprehensive account of the cooperation problems the EU and West Africa faced when attempting to gain acceptance for a particular set of rules as part of the negotiations. What actors regarded as 'rational' negotiating behaviour is partly informed by the normative convictions actors hold. It was precisely because both the EU and the West African side were deeply convinced that their understanding of the rules of the game were more correct and appropriate that they decided to pursue a negotiating approach that focussed on (re)negotiating the rules of the game. In such an explicit 'battle over game', actors faced a trade-off between either defending their normative convictions, or making concessions to each other in order to facilitate reaching an agreement. This perspective suggests that to understand the persistence of the impasse situation, it is crucial to examine the substance and compatibility of the actors' conceptions of 'true' and 'right' behaviour, which cannot be reduced to self-interests. It provides us with a conceptual starting point to assess why it was so difficult to (re)negotiate the rules of the game in the EPA process. In particular, it emphasises how conflicting identity conceptions and belief systems might lead to conflicts over values and knowledge that could prevent the actors from reaching an agreement in what could be considered a 'positive sum' game.

Moreover, bringing in the 'Battle over Games' framework helps us to better understand why neither side was willing to substantially adjust their negotiating positions. This framework relates the willingness to make compromises in a bargaining situation to the compatibility and strength of the actors' normative convictions, and the trade-off between different interests states want to pursue. In these ways, it contrasts with a rationalist approach. The willingness to compromise is not only influenced by the functional interests states want to pursue, but also by the extent to which they value being 'right' more than reaching an agreement. In the case of EPA negotiations, both the EU's and the West African side's convictions that the agreement should either consist of a 'reform package' or an 'aid package' were sufficiently strong for them to risk the breakdown of the negotiations to defend their convictions. It is against this background that we can understand why both the EU and

West Africa attempted to change the game they were playing, and were unwilling to adjust their positions in line with new information about the other side's preferences.

This does not imply that all interaction situations necessarily need to be seen as a 'Battle over Games' – in many cases the rules of interaction are firmly institutionalised and not subject to contestation. Nor does it suggest that there are no collective action problems that we could expect to arise in bargaining situations between self-interested actors. What I claim, however, is that in situations in which the rules of the game are subject to interaction, we need to supplement conventional rationalist approaches with an approach that pays greater attention to the actors' normative convictions about 'true' and 'right' behaviour. This implies an embedding of the actors' decision-making rationales in the context of existing (and potentially contested) knowledge structures about a given issue-area and the historically created social norms that structure their identities and the relationship between them.

5. Conclusion

Almost a decade after the beginning of EPA negotiations, the EU and West Africa continued to face an impasse. After the passing of the 2007 deadline, the cooperation partners became aware that they held different expectations about the rules of EPA negotiations. Yet, this acknowledgement did not help the negotiating parties to overcome the impasse situation in the three years of negotiations that followed. I have argued in this chapter that the persistence of the impasse related to the parties' divergent normative convictions about how to negotiate EPA agreements, and 'development' more generally. The persistence of opposing negotiating positions was linked to the actors' incompatible normative convictions, and their unwillingness to challenge their own beliefs about how development works and what they would see as a more equal relationship between the EU and Africa. The EU regarded inequality as a 'mindset' problem to be solved by procedural equality, while the West African side saw it as a structural problem to be solved by redistribution. Defending their perspectives ultimately led to a hardening of opposing negotiating positions, which cannot be fully captured if we merely pay attention to the actors' conflicting interests as such.

In this way, the empirical analysis sheds light on the under-studied cooperation problems associated with the actors' attempts to establish a particular shared understanding of the rules of the game as part of the bargaining processes they undertake. By doing so, this chapter has reminded us that the rules of the games states play are not unambiguously given to actors, but need to be established in the process of negotiations. They inevitably affect the structural power relationship between the cooperation partners: they shape the actors' self-understandings, their perceived interests and the rights and obligations they hold towards each other in international politics. If they are not accepted as legitimate by both sides, strong normative convictions might increase resistance to cooperation. The difficulties related to attempts to (re)negotiate these rules might at times constitute a greater obstacle to cooperation than the functional collective action problems depicted by rationalist models of strategic interaction (and at least complicates them). It helps to refocus our attention on the highly political nature of international cooperation – and of the games that are played under its name.

The next chapter concludes this thesis by summarising and contextualising its findings, as well as discussing its implications for policy-making.

7 Conclusion

The negotiation of so-called ‘Economic Partnership Agreements’ (EPAs) represented a watershed moment for relations between the EU and the group of African, Caribbean and Pacific (ACP) countries, since it was geared towards fundamentally restructuring the trade regime between the partners. Yet, after almost ten years of negotiations, the partners found themselves continuously stuck in an impasse situation. Disagreement was particularly fierce in the negotiations between the EU and West Africa. At first sight the impasse seemed to merely reflect the conflicting interests of both partners: the EU primarily wanted to introduce greater trade liberalisation, while the African was above all interested in financial aid and in maintaining the status quo of preferential market access. Upon closer examination of the strategy choices made by both sides, however, the impasse turned out to be puzzling. On the one hand, we were left wondering why it was so difficult to accommodate the parties’ conflicting interests in a mutually beneficial way. Trade negotiations are usually assumed to be positive sum games that promise complementary gains. On the other hand, not reaching an agreement became increasingly costly to both sides. The impasse seriously damaged EU’s self-image as a ‘friend’ of the developing world¹ and left the West African region internally split. Yet, why did the EU and West Africa insist on negotiating positions that reiterated a (preliminary) outcome that was highly costly to both? Against this background, the aim of this thesis was to better understand the cooperation problems and strategy choices behind the impasse.

I have argued that in order to fully understand the failure to reach an agreement during more than eight years of negotiations it is necessary to go beyond conventional rationalist approaches that rely on game theoretical insights. Instead of presuming that the so-called ‘rules of the game’ are common knowledge among the actors, as rationalist approaches tend to do, I have sought to demonstrate how disagreement over which ‘game’ to play facilitated the emergence and persistence of the impasse situation. This implied relating the choices of negotiating strategies to the actors’

¹ Lotte Drieghe, "The European Union's Trade Negotiations with the ACP: Entrapped by its Own Rhetorical Strategy," *Romanian Journal of European Affairs* 8, no. 4 (2008), 1.

subjective interpretations of the cooperation situation, as well as to their attempts to (re)negotiate the rules of the game. Specifically, I have concentrated on the choices of negotiating strategies and the outcomes of strategic interaction in two different negotiating periods: prior to and after the originally envisaged 2007 deadline. This approach added significantly to existing theoretical and empirical accounts of the case of EPA negotiations, which so far have not focussed on the analysis of strategic interaction. More generally, this thesis provided a more systematic assessment of how the lack of firmly institutionalised rules of the games affects strategic interaction. While rationalist approaches tend to assume that they are exogenously given, constructivists rarely engage with the effects of unstable rules (such as norms) on strategic behaviour.

This final chapter, firstly, summarises and compares the findings of the empirical analysis in the light of the conceptual framework of a ‘Battle over Games’ developed in this thesis. Secondly, I address the implications for theories of international cooperation within the discipline of International Relations and direction for further research. Thirdly, I develop tentative policy implications both for ongoing negotiations of Economic Partnership Agreements, as well as the broader context of external interventions in international politics.

1. Summary and Comparison of the Findings: On Playing Different Games

This dissertation has developed a systematic understanding of the impasse in EPA negotiations between the EU and West Africa. This was achieved by analysing the decision-making rationales and negotiating strategies that underpinned the persistence of opposing positions. Chapter two developed the analytical framework of a ‘Battle over Games’ which drove the empirical analysis. The framework relied upon a conceptual distinction between the interests that actors want to pursue in a given interaction situation, and the set of rules that structure strategic interaction. This distinction allowed for an examination of how the actors’ interpretations of the games they play (or wanted to play) shaped the negotiating strategies they chose with which to pursue their interests.

The cooperation problems that states face were related to the absence of a firmly institutionalised set of the so-called ‘rules of the game’ that define the cooperation situation. Two different mechanisms were pointed at: firstly, if it is ambiguous what kind of ‘game’ states play, they may interpret the situation differently (situation of implicit disagreement). This complicates bargaining problems because it undermines the emergence of stable expectations about each other’s behaviour, and could lead to ‘sub-optimal’, i.e. non-utility-maximising, strategy choices. Secondly, even if states become aware of their divergent interpretations of the cooperation situation, they may openly disagree over which set of rules to adopt (situation of explicit disagreement). In such a situation, conflicting normative convictions can lead to a hardening of opposing negotiating positions.

Implicitly Playing Different Games: EPA Negotiations 2002-2007

The empirical analysis of the negotiating process prior to the originally envisaged deadline of December 2007 was guided by the application of the ‘Battle over Games’ framework. I have argued that this negotiating period could be characterised as a situation of implicit disagreement over the rules of the game between the EU and West Africa. This particular conceptual lens has helped us to better understand how the impasse situation emerged. In particular, I argued that the choice of sub-optimal negotiating strategies could best be understood by pointing at the actors’ divergent interpretations of the implications of the ‘development dimension’ on the rules of the game in the EPA process.

The empirical analysis started with the examination of the actors’ conflicting interest, and the negotiating strategies chosen to pursue them. The EU’s approach towards EPA negotiations was driven by a twofold goal: to negotiate a reciprocal trade regime with West Africa that served its long-term economic considerations and its own political interests in strengthening its role as a partner of the developing world. It chose an overall strategic approach that aimed at negotiating a substantial ‘reform package’ that would introduce further liberalisation of ‘behind-the-border’ trade policy issues in the West African region, significantly restructuring the trade regime with West Africa. Moreover, the EU adopted a ‘take-it-or-leave-it’ approach as the originally envisaged deadline of 2007 approached: it increased the pressure put on the West African side and confronted the region with the option to either accept the proposed EPA agreements or face the consequences of not meeting the deadline

set by the expiry of the WTO waiver. The West African side, on the contrary, was driven by an interest in using EPA negotiations to attract more financial aid to address existing supply-side capacity constraints while maintaining their preferential market access to the EU. In terms of the negotiating strategies chosen to pursue these goals, the region adopted a relatively defensive ‘wait-and-see’ approach.

Yet, as the empirical analysis further demonstrated, the negotiating strategies of both sides were ill-conceived to reaching an agreement. The EU’s strategy to remain firm on its market access offer was based on the misguided expectation that the West African side would ultimately prefer the proposed deal over given outside options. Contrary to the EU’s expectation, however, most countries preferred the existing fall-back options over the proposed interim EPAs. The West African side’s negotiating strategy to ask for more financial aid and an extension of the waiver was similarly based on unrealistic assumptions about the EU’s readiness and willingness to make such concessions.

It was an important finding that in order to understand why both sides’ made such ‘sub-optimal’ strategy choices we needed to examine the different ‘games’ the EU and West Africa presumed to be playing. It was left unclear by the legal framework what the implications of framing the trade negotiations in terms of a ‘development dimension’ implied. The lack of firmly institutionalised rules, in turn, gave rise to subjectively divergent interpretations of what was at stake and how to negotiate about it. This facilitated the emergence of the impasse situation in three major ways, all of which contributed to both sides’ misguided expectations about each other’s behaviour in the negotiations.

Firstly, the misguided strategy choices were shaped by the actors’ divergent interpretations of the ‘payoffs’ of the proposed deals. The EU expected trade negotiations with a ‘development dimension’ to be above all about trade regulation rather than the redistribution of resources. Its ‘take-it-or-leave’ approach was based on the assumption that introducing far-reaching trade liberalisation would be considered as mutually beneficial. The West African side, however, interpreted the ‘payoffs’ primarily in terms of financial aid and, on the contrary, regarded the proposal to liberalise 80% of its trade volumes over a period of 15 years as detrimental to development. The lack of mutual awareness of these divergent understanding of what would count as mutually beneficial (so-called ‘equilibrium outcomes’), however,

made them seemingly blind to the possibility that what they demanded would be rejected as less beneficial compared to existing outside options.

Secondly, misguided expectations about how to interact at the negotiating table underpinned the sub-optimal negotiating strategies they chose. The EU's strategy of selling EPAs as a 'reform package' was built on the presumption that part of the negotiations would discuss how to design such reform. Yet, this expectation facilitated the emergence of the impasse situation because it was detached from the way in which the West African side interpreted the rules of interaction in EPA negotiations. Instead of expecting the EU to engage in collaborative problem-solving (usually part of development cooperation), it presumed that the negotiation process would be characterised by 'tough bargains', including its own attempts to lobby for aid and other concessions. The West African side's unwillingness to engage in problem-solving with the EU constituted a fundamental obstacle to the EU's presumption that it could jointly negotiate EPAs as a 'trigger of reforms' for the West African region.

Thirdly, the lack of firmly institutionalised rules facilitated the choice of misguided negotiating strategies because it destabilised the actors' expectations about acceptable behaviour and outcomes. While it seemed to be a legitimate attempt to push for reforms from the European perspective, such a 'take-it-or-leave-it' approach was rejected as an illegitimate 'neo-colonial intrusion' into domestic affairs in the negotiations. The EU's insistence on not extending the negotiating deadline was, therefore, detrimental to reaching an agreement. Similarly, the West African side's strategy of lobbying was based on the expectation that it would only be normatively acceptable to demand for aid given the highly unequal economic relationship between the partners. Yet, as this interpretation of the rules of the game was not shared by the European side, it became increasingly annoyed by the West African side's attempts to bargain for more aid and unwilling to make compromises. In this way, negotiations over additional financial aid became one of the major elements of the impasse in the negotiating period prior to the 2007 deadline.

The 'Battle over Games' framework, moreover, directed our attention to the way in which both sides' interpretations about the kind of 'game' they were playing were, firstly, underpinned by particular sets of causal beliefs about the effects of trade liberalisation on economic development. In the EU's opinion, trade liberalisation was

seen to have a positive effect on economic development. As prominently argued by then Trade Commissioner Peter Mandelson: '[m]y overall philosophy is simple: I believe in progressive trade liberalisation. I believe that the opening of markets can deliver growth and the reduction of poverty'². Because the West African side was much more cautious about the extent to which reforms could trigger economic growth in developing countries, however, they interpreted the value of the proposed agreement and the outside options in different ways. The benefits of trade liberalisation were seen as contingent upon having well-functioning supply-side capacities, including infrastructure in the first place³.

Secondly, different understandings of the relationship between the actors at the trade-development nexus shaped their divergent interpretations of the rules of the game. While the EU saw the relationship in terms of an 'advisor-advisee' relationship, the West African side understood itself as a 'client' and its counterpart as a 'patron'. These different self-understandings were influenced by the imperialist past particular to EU-Africa relations, and how the different experiences made by both sides continue to reverberate in present times. For instance, the history of colonialism and continuous external intervention during the Cold War and beyond made African leaders particularly sensitive and concerned in defending their sovereignty and policy space against the EU's 'take-it-or-leave-it' approach.

In this way, the 'Battle over Games' framework helped to better understand why and how the lack of a firmly institutionalised set of rules of the game in the case of EPA negotiations facilitated the emergence of the impasse. The EU and West Africa were effectively playing different games, without being fully aware thereof. To understand why they misconceived each other's preferences it was necessary to uncover how causal beliefs about the trade-development linkage and the actors' self-understandings in contemporary EU-Africa relations shaped their interpretations of the cooperation situation. The mismatch between both sides' perspectives complicated the bargaining problems usually associated with international negotiations because it

² Mandelson, Peter. Statement to the Development Committee of the European Parliament, 17 March 2005, available at http://ec.europa.eu/commission_barroso/ashton/speeches_articles/sppm019_en.htm (accessed 6 November 2009), 2005, quoted in: Silke Trommer, "Activists Beyond Brussels: Transnational NGO Strategies on EU–West African Trade Negotiations," *Globalizations* 8, no. 1 (2011).

³ Interview 2, phone-to-capital, government official, September 2008.

prevented the emergence of stable expectations – encouraging the choice of misguided negotiating strategies.

Explicitly Playing Different Games: EPA Negotiations 2008-2010

The conceptual framework of this thesis, moreover, illustrated how explicit disagreement over which ‘game’ to play affects strategic interaction. I have argued that once the European and the West African sides’ divergent perspective on the rules of the game became apparent, renegotiating these rules became part of the bargaining process. In such an explicit ‘battle over game’, incommensurable normative convictions over which ‘game’ to play may lead to a hardening of opposing negotiating positions, thereby prolonging bargaining problems. This perspective helped us to understand the persistence of the costly impasse situation.

Again, the empirical analysis started with the examination of the actors’ conflicting interest, and the negotiating strategies chosen to pursue them. Becoming aware of each other’s different interpretations of the game being played did not necessarily imply that the EU and West Africa wanted to play the same game. Strategic interaction was hence driven by desire on both sides to renegotiate the rules of the game according to their own vision of the ‘development dimension’ in EPA negotiations. Instead of adjusting their negotiating positions to accommodate their conflicting interests in a mutually beneficial way, they decided to defend their opposing positions by providing more information or by raising public awareness. The EU for instance decided to create the new post of a communication officer, who was supposed to organise so-called ‘information seminars’ on the presumed benefits of EPAs. The West African side above all attempted to increasing political support for its line of argument and perspective on EPAs. Yet, neither side’s negotiating strategy was successful in overcoming the impasse. The EU remained firm in its rejection of greater flexibility and financial aid as part of a trade agreement. The West African side, on the contrary, was unwilling to sign on to the proposed EPA agreements unless further concessions were made. The persistence of disagreement, however, was costly and desired by none.

To better understand why this was the case the ‘Battle over Games’ helped us to direct our attention to the role of normative convictions in (re)negotiations of the rules of the game. The cooperation partners were convinced that their negotiating strategies were more legitimate and based on a more accurate understanding of development.

The EU was ‘utterly convinced that the concept [behind EPAs] is right’⁴ because it was purportedly ‘scientific-rational’ as opposed to the African side’s perspective which was believed to be emotional. Actors on the West African side, to the contrary, claimed that they were in a better position to judge the effects of EPAs because of their greater knowledge of how the political economy of the region works, ‘tend[ing] to believe that we perhaps know our interests better than they may do’⁵. Moreover, the EU regarded inequality as a ‘mindset’ problem to be solved by procedural equality, while the West African side saw it is a structural problem to be solved by redistribution.

Paying attention to the role of normative convictions, moreover, helped us to better understand why the impasse was so persistent despite the exchange of information and arguments. This is because how to settle conflicting interests is always to some extent a normative matter – yet, incommensurable values and beliefs might lead to a hardening of bargaining positions. Indeed, strong normative convictions increased both sides’ stubbornness in defending their negotiating position, even if this meant prolonging the costly impasse. As argued by a Brussels-based trade officer from West Africa: ‘they are doing facts and figures to us, we are doing ours for them, there’s deadlock – they think they know better than us, we think they don’t understand what they are talking about’⁶. Hence, the impasse persisted partly because neither party was willing to make a compromise that was regarded as normatively unacceptable, and allegedly based on incorrect assumptions about the effects of trade liberalisation. Given the lack of progress, there was nothing much left except to reiterate what more and more seemed like desperate calls for an intervention at the highest political level.

Comparing the Pre- and Post-2007 Negotiating Periods

Comparing the cooperation problem in the pre- and post-2007 negotiating period, moreover, allows us to further differentiate how a lack of common knowledge about the rules of the game affected strategic interaction during the EPA process. First of all, the findings of this thesis suggest several scope conditions that make it more or less likely to achieve a convergence at the level of first-order beliefs in a ‘battle over game’. If subjectively divergent understandings of the cooperative situation are based

⁴ Interview 20, Brussels, Commission official, February 2010 (own translation).

⁵ Interview 68, Abuja, ECOWAS representative, December 2011.

⁶ Interview 30, Brussels, embassy official, November 2010.

on compatible normative convictions, a convergence is more likely. The prioritisation of similar values of beliefs, in turn, may be more difficult to reach an agreement on the rules of the game. These scope conditions for reaching an agreement differ notably from those pointed out in rationalist accounts of cooperation games which primarily point at an exogenously-given material environment of strategic interaction. They point at identity-based conflicts around values and beliefs rather than merely functional collective action problems as important obstacles to cooperation.

Moreover, comparing the findings of empirical analyses of the negotiating periods 2002-2007 and 2008-2010 allows us to further differentiate how the actors' perspectives on the rules of the game affected strategic interaction during the EPA process. Empirical analysis suggests that they played different roles depending on whether or not disagreement is explicit or implicit. When the EU and West Africa were unaware of the different 'games' they presumed to be playing, they primarily lacked a shared reference frame against which expectations about rational behaviour could converge. As a consequence, the strategic choices they made were based on misguided assumptions about the opposing side's behaviour. Once disagreement over the rules of the game became explicit, however, (re)negotiating the rules became part of the bargaining process. In such a situation, the actors' normative convictions about what set of rules to adhere to shape the outcome of strategic interaction by providing motives and justifications for the negotiating positions each side wished to pursue.

This reminds us that the method by which to settle conflicts of interests that are underpinned by divergent value and belief systems is inevitably related to questions of structural power. For instance, the EU's attempts to refocus the rules of cooperation on greater procedural, as opposed to structural, equality served its interests to reduce its historical obligations towards developing countries. It would put the EU in a structural position in which it can legitimately demand for greater reciprocity in cooperation with Africa. The kinds of rules settled on by states are hence not only dependent on the particular interests of the individual cooperation partners. They are, moreover, reflections of the dominant normative understandings of the rules that structure power relationships in a given period of time. The recent return to 'realpolitik' thinking implies that the EU might be able to shift the rules of EU-Africa cooperation away from unilateral obligations to redistribute resources from the rich to the poor. Neo-liberalism is likely to remain the core paradigm in global economic

relations, which makes it unlikely for the West African side to be successful in its demands for greater flexibility in terms of market opening concessions. The recent financial and economic crisis might, however, have disturbed the belief in free trade as a driver for growth, on which the West African side could potentially capitalise to push for their conception of the rules of the game.

2. Theoretical Implications

In making the argument on how ‘playing different games’ affected the (preliminary) outcome of EPA negotiations, I have also sought to advance a broader theoretical critique of mainstream rationalist theories in international cooperation that engage with strategic interaction: namely the tendency to assume that the rules of the game are common knowledge. While this assumption might be justified in many cases, the analysis of EPA negotiations demonstrated that we need to complement rationalist approaches with a ‘Battle over Games’ framework in situations in which the rules of the game are either ambiguous or contested. Moreover, empirical findings provide a more fundamental challenge to rationalist approaches by questioning the ontological assumptions upon which they are based. While these points of criticism were built on constructivist arguments, this thesis went beyond the existing literature by providing a systematic assessment of the effects of unstable norms (and the rules of the game more generally) on strategic behaviour. Moreover, shedding light on the social norms and conventions applicable at the trade-development nexus contributed to filling an empirical gap in the constructivist literature. In the following, I firstly discuss where and when applying the ‘Battle over Games’ framework has pointed at the need to go beyond a conventional rationalist analysis of strategic interaction. Secondly, I address theoretical implications for existing constructivist approaches. Finally, I point at potential avenues for further research.

Paying Greater Attention to Different Interpretations of the Rules of the Game

An initial shortcoming of conventional rationalist approaches was apparent in the way in which they explain subjectively divergent understandings of the cooperation situation. The mismatch between the EU and West African perspectives was important because it facilitated the choice of ‘sub-optimal’ negotiating strategies –

both sides relied on miscalculations about the kind of deal the other party would be willing and ready to accept. Rationalist approaches made the important point that misperceptions of the other side's preferences could lead to sub-optimal strategy choices (and impasse situations) in a 'War of Attrition'⁷. Yet, they were less convincing in telling us where these misconceptions came from. Rationalist scholars emphasise how the level of information available to the actors could lead to such misperceptions of the cooperation situation⁸. This perspective is grounded in the ontological assumption that the characteristics of the cooperation situation itself exists 'out there' and could be recognised in an identical way if identical pieces of information were provided. Yet, simply pointing at a lack of information to explain the subjectively divergent assessments of the cooperation situation was insufficient. Both sides' divergent preferences for neo-liberal and protectionist trade policies respectively were generally well known. While it indeed seemed to have been the case that the EU and West Africa did not take their mutual attempts to signal their negotiating positions seriously, a rationalist approach gave little indication about the criteria upon which the actors presumably relied when judging the information coming from the other side.

This is where the importance of paying attention to collectively held structures of meaning came in: the 'Battle over Games' framework suggested that in order to understand what state actors regard as 'rational' negotiating strategy in a game that was not clearly structured, we need to conceive of the cooperation situation as partly dependent on the actors' interpretations thereof. What the actors lacked was a shared understanding of the meaning and content of the rules that structured interaction, rather than merely a lack of information about an 'objectively' given cooperation situation. The empirical analysis uncovered that the manner in which the EU and West Africa saw the cooperation situation depended on collectively held identity conceptions and causal ideas about the trade-development linkage. They were embedded in existing structures of norms and knowledge, which shaped their

⁷ James D. Fearon and Alexander Wendt, "Rationalism v. Constructivism: A Skeptical View," in *Handbook of International Relations*, eds. Walter Carlsnaes, Beth A. Simmons and Thomas Risse-Kappen (London ; Thousand Oaks, CA: Sage, 2002), 52-72; Amrita Narlikar, *Deadlocks in Multilateral Negotiations: Causes and Solutions* (Cambridge, UK ; New York: Cambridge University Press, 2010), 8.

⁸ John C. Harsanyi, "Games with Incomplete Information Played by "Bayesian" Players, I-III," *Management Science* 50 (12/02, 2004); see also Robert O. Keohane, "International Institutions: Two Approaches," *International Studies Quarterly* 32, no. 4 (Dec., 1988), 386.

interpretations of the strategic choices they faced. It was, for instance, not objectively given whether the proposed agreements would be utility-maximising for the West African side. The extent to which the proposed market opening commitments constituted a beneficial ‘payoff’ depended partly on the actors’ beliefs about (and collective recognition of) the causal effects of trade liberalisation on economic development in the region. Similarly, whether or not the provision of financial aid was seen to be appropriate or inappropriate was shaped by the actors’ changing understandings of the norms that structure the EU-Africa relationship. Hence, the choices of ‘sub-optimal’ negotiating strategies were partly the result of the lack of a collective definition of the rules of the game at the trade-development nexus, rather than a lack of information as such.

Paying Greater Attention to the (Re)negotiation of ‘Games’

The empirical findings suggested a second shortcoming of rationalist approaches in situations in which the games played by states are not clearly structured: the cooperation problems states face might at times be located at a different and deeper-seated level than formal models of strategic interaction suggest. Snidal prominently argued that the ‘problem of international cooperation is essentially one of collective action applied to the particular circumstances of the international system’⁹. While distributional problems are also acknowledged¹⁰, rationalist approaches continue to focus on the functional dimension of the cooperation problems faced by states. Yet, as the findings of this thesis suggest, it might be necessary to complement the analysis of such collective action problems with greater attention to the normative conflicts that characterise the highly political (re)negotiations of the games that states play¹¹. This is because deciding what kind of game to play holds distributional consequences that touch upon normative values such as fairness or justice. The problem at stake might not only be how to prevent free-riding between self-interested state actors, but how to settle politicised conflicts over which values or beliefs to adhere to.

⁹ Duncan Snidal, "Coordination Versus Prisoners' Dilemma: Implications for International Cooperation and Regimes," *The American Political Science Review* 79, no. 4 (Dec., 1985), 923.

¹⁰ See for instance Duncan Snidal, "Rational Choice and International Relations," in *Handbook of International Relations*, eds. Walter Carlsnaes, Beth A. Simmons and Thomas Risse-Kappen (London ; Thousand Oaks, CA: Sage, 2002), 86.

¹¹ See for instance Hurrell, *On Global Order : Power, Values, and the Constitution of International Society*.

This is not to say that collective action problems did not play a role – yet, such a rationalist perspective would miss an important part of the processes that led to the impasse situation. In the case of EPA negotiations, the negotiation strategies of both sides (and in particular the European approach) elicited strong resistance and high levels of politicisation precisely because they were regarded as illegitimate. While rationalist approaches are to some extent able to incorporate considerations of fairness as part of the actors' utility functions, they hardly offer the conceptual tools to examine what kind of rules are regarded by states as acceptable, and which proposals would lead to a politicisation of the negotiation process. This is because they relate the substance of the rules of the game primarily to the actors' self-interests, which as such tells us little about their substance and whether or not they could be regarded as acceptable by the cooperation partners. Defending what is seen to be right and appropriate is, therefore, difficult to reconcile with rationalist models of decision-making that are better suited to integrate functional calculations of utilities¹².

Refocusing Constructivist Approaches

What are the theoretical implications of these findings from a constructivist perspective? Many suggestions made build on existing constructivist literature. Challenging the methodological individualism of rationalist approaches underpins the social ontology endorsed by constructivism. Moreover, constructivists have long pointed at the historicity of the 'games' states play¹³, and regard identities as partly constitutive of the interests that states pursue¹⁴, pointing at considerations of 'appropriateness' as important driving forces of state behaviour¹⁵. This thesis has, however, filled an empirical gap regarding the conflicting sets of norms of appropriate behaviour and the conventions applicable in trade negotiations that are framed in terms of development.

¹² Miles Kahler, "Rationality in International Relations," *International Organization* 52, no. 04 (1998), 936; Fabienne Peter and Kai Spiekermann, "Rules, Norms and Commitments," in *The SAGE Handbook of the Philosophy of Social Sciences*, eds. Ian C. Jarvie and Jesus Zamora-Bonilla (London: SAGE Publications Limited, 2011).

¹³ Friedrich V. Kratochwil, *Rules, Norms, and Decisions : On the Conditions of Practical and Legal Reasoning in International Relations and Domestic Affairs* (Cambridge: Cambridge University Press, 1989).

¹⁴ Alexander Wendt, "Collective Identity Formation and the International State," *The American Political Science Review* 88, no. 2 (Jun., 1994).

¹⁵ James G. March and Johan P. Olsen, "The New Institutionalism: Organizational Factors in Political Life," *The American Political Science Review* 78, no. 3 (198); James G. March and Johan P. Olsen, "The Institutional Dynamics of International Political Orders," *International Organization* 52, no. 04 (1998).

What has also been novel about my approach is that I provided a more systematic assessment of how the contingency and identity-based understandings of the rules of the games played by states affect strategic interaction in the cases of implicit and explicit disagreement. While constructivists have previously argued that disagreement over the rules of the game¹⁶ or conflicting ideas about fairness¹⁷ might present an obstacle to cooperation, they have not systematically engaged with their effect on strategic interaction. Constructivists mostly tend to analyse the causal effects of norms on strategic interaction once they become stable and internalised¹⁸. Contested norms are often assumed to have less impact on state action than settled norms¹⁹. Pointing at the contingency of the 'games' that states play, however, implied that the rules of state interaction are inherently unstable. This is where the 'Battle over Games' framework provided us with the conceptual tools to examine how the lack of firmly institutionalised rules of the game affects strategic interaction.

Constructivists, moreover, tend to shy away from analysing the effect of norms on strategic interaction. They tend to assume that it is possible to analytically and temporally separate the actors' attempts to establish the rules of the game through 'arguing' from the strategic bargaining they engage in at a later stage²⁰. The findings of this thesis suggest that such a separation is highly problematic. The lack of shared understanding of the rules of the game is unlikely to prevent actors from engaging in strategic bargaining. Instead, both are inextricably intertwined. What states collectively regard as acceptable shapes their expectations about each other's

¹⁶ Thomas Risse, "'Let's Argue!': Communicative Action in World Politics," *International Organization* 54, no. 01 (2000).

¹⁷ See for instance Cecilia Albin, *Justice and Fairness in International Negotiation* (Cambridge, U.K. ; New York: Cambridge University Press, 2001); Ethan B. Kapstein, "Fairness Considerations in World Politics: Lessons from International Trade Negotiations," *Political Science Quarterly* 123, no. 2 (2008).

¹⁸ See for instance Jeffrey T. Checkel, "Norms, Institutions, and National Identity in Contemporary Europe," *International Studies Quarterly* 43, no. 1 (1999); Deitelhoff, *Überzeugung in Der Politik : Grundzüge Einer Diskurstheorie Internationalen Regierens*.

¹⁹ Annika Bjorkdahl, "Norms in International Relations: Some Conceptual and Methodological Reflections," *Cambridge Review of International Affairs* 15, no. 1 (2002), 20.

²⁰ See for instance H. Muller, "Arguing, Bargaining and all that: Communicative Action, Rationalist Theory and the Logic of Appropriateness in International Relations," *European Journal of International Relations* 10, no. 3 (2004); Cornelia Ulbert, Thomas Risse and Harald Müller, "Arguing and Bargaining in Multilateral Negotiations," *Final Report to the Volkswagen Foundation* (2004); Nicole Deitelhoff, *Überzeugung in Der Politik : Grundzüge Einer Diskurstheorie Internationalen Regierens* (Frankfurt am Main: Suhrkamp, 2006); Risse, *"Let's Argue!': Communicative Action in World Politics*; Thomas Risse and Mareike Kleine, "Deliberation in Negotiations," *Journal of European Public Policy* 17, no. 5 (08/01; 2010/10, 2010); Arne Niemann, "Beyond Problem-Solving and Bargaining: Genuine Debate in EU External Trade Negotiations," *International Negotiation* 11, no. 3 (2006).

behaviour in a given situation by providing them with a particular set of rules around which their expectations can converge. Yet, states hold strategic incentives to reshape these rules of the game in a way that serves their self-interests. At the same time, these rules depend on the collective recognition of states. State actors, therefore, face the need to make compromises at the negotiating table since most efforts of international cooperation depend on the approval of others. In such situations, states face a trade-off between pushing for a set of rules that best serves their own interests, and making concessions in order to reach an agreement. This is where normative convictions (and processes of arguing) become important: if states are driven by strong convictions to defend a particular version as ‘right’, they are more likely to risk a blockage in negotiations that could be ultimately costly to both sides. Hence, the constructivist preoccupation with meta-theoretical debates over whether international negotiations can be best conceived of as areas for arguing or bargaining²¹ seems to divert attention from the interplay between both: it is not as if states are either driven by normative convictions about acting ‘rightfully’ or strategic calculations to maximise their utility.

Directions for Further Research

It is important to bear in mind that the theoretical implications of this thesis are tentative since further research is needed to substantiate the generalisability of the conclusions reached. I have only looked at the context of a ‘Battle over Games’ within the thematic area of International Political Economy (IPE). Within IPE, I have focussed on cooperation at the trade-development nexus, more specifically the negotiations of EPAs. Out of the seven sub-regions that have negotiated EPAs with the EU, I have only examined the single case of negotiations with West Africa. To examine the extent to which the findings of the thesis are generalisable – and hence have broader theoretical implications – further research is needed. The conceptual framework is only of use in cases characterised by the lack of a firmly institutionalised and intersubjectively shared understanding of the rules of the game. Regarding the selection of new empirical cases, three main avenues are suggested: research on other nexus-areas such as the security-development nexus or the climate-

²¹ See Hurd (2008) for criticism of the distinction between norm-following and interest-following state behavior that is pervasive in much of the IR literature; Ian Hurd, "States and Rules, Norms and Interests," *Working Paper of the Research Group in International Security, McGill University* (2008).

migration nexus; on new issue areas such as climate change or cyber security; and on contested issue-areas such as humanitarian intervention and the responsibility to protect. Further research could potentially help to specify the scope conditions under which it is likely that a ‘battle over games’ emerges. Negotiating theory may provide helpful insights into understanding cooperation processes as joint value-creation in this regard²².

3. Policy Relevance

The findings of this thesis could be relevant from a policy perspective by enriching our understanding of the reasons behind the current impasse in EPA negotiations. Simply providing more information is unlikely to lead to an agreement. Instead, it might be time to acknowledge that the current agenda is too ambitious given the deep division between expectations of both sides about the kind of agreements they would accept as mutually beneficial. The West African region will not suddenly back off from its demands for aid, endorsing a neo-liberal reform package instead. Nor will the EU easily abandon its concept of EPAs, and is likely to stick to its vision of an EU-Africa partnership with more equal obligations. What is left to the actors is to limit the damage already caused by the impasse. Significantly reducing the scope of EPA agreements to a goods only agreement, potentially reduced even to sector specific agreements,²³ would make it much more feasible to reach agreement. At the same time, it would be crucial to start thinking about how to reconcile the different trade regimes the West African region would be part of should no regional EPA be signed. Ghana and Cote d’Ivoire are likely to trade with the EU under the interim EPA, Nigeria already relies on the GSP regime, while the rest of the region depends on the EBA regime. Clearly, such a situation is detrimental to the region’s efforts to foster

²² See for instance James K. Sebenius, "Challenging Conventional Explanations of International Cooperation: Negotiation Analysis and the Case of Epistemic Communities," *International Organization* 46, no. 01 (1992), 336; I. William Zartman, *The Negotiation Process: Theories and Applications* (Beverly Hills, Calif.: Sage Publications, 1978), 73.

²³ This proposal has been raised by James Nyomakwa-Obimpeh, ‘Time for a new generation of Trade Agreements between the EU and ACP countries?’, TEPSA Brief, 15 February 2012, http://tepsa.be/TEPSA%20brief%20by%20James%20Nyomakwa-Obimpeh_15022012.pdf (last accessed: 18 June 2012).

regional economic integration, including the implementation of a Common External Tariff.

Beyond the particularities of the EPA negotiations, there are broader lessons to be learned for both the EU and West Africa. The EU should realise that it is difficult to establish itself as a ‘friend’ of the developing world in the context of trade negotiations. It would be more helpful to identify structural barriers to coherence rather than pretend that the EU does not pursue its own commercial interests, as it declared in the EPA process. Despite Louis Michel’s assertion that ‘we are generous but not naïve’²⁴, the EU did seem to rely on the naïve understanding that it could behave as trade and development actor simultaneously. Expecting the West African side to engage in an open discussion about the reforms needed to foster economic development, while at the same time pushing for trade concessions for Europe, seemed unrealistic. There are structural limits to policy coherence that do not go away by cushioning conflicting interests in sweeping rhetorical declarations. The EU must be more up-front about what it attempts to achieve in negotiations, simply for the sake of reducing ambiguity about what it means when portraying itself as a ‘friend’ of the developing world.

If the EU seeks to promote development-oriented trade reforms, it should pay much more attention to the highly complex realities on the ground in developing countries. Abstract debates about whether or not free trade is good for development are of little help in this regard. Instead, the EU must reconsider the assumptions that its self-perception as an external and knowledgeable ‘advisor’ rely upon. Desk officers that lead negotiations at the technical level are oftentimes junior members of staff who typically rotate into different positions after a few years and might never have been in the region themselves for a long period of time. While this does not mean that they do not have a sound understanding of the policies needed to foster economic growth, they may not always know what kind of incentives and processes would be needed to implement them. In order to trigger development-oriented reforms in ‘transition economies’ it would have been necessary to pay much greater attention to the struggle between conservative (often corrupt) and progressive forces in the

²⁴ Q&A: “We are generous but not naïve”, Interview with Louis Michel, EU Development Commissioner, IPS, Bruxelles, February 11 2008, www.ipsnews.net/news.asp?idnews=40762.

region²⁵, and how to tailor negotiations in such a way as to empower (rather than advise) those agents that drive development within the region. Increasing the budget of the ECOWAS Secretariat might be of greater help than conducting information seminars on EPAs.

Finally, the danger of falling back on assumptions about the presumed inferiority of Africans – who ‘continue to play’²⁶, do not ‘really care about the agreement’²⁷, are afraid of being ‘cut off from their comfort of living’²⁸ and need an ‘educational phase’²⁹ bear the pitfalls that come with gross generalisations and remind us that the problematic echoes of colonialism continue to lurk around the corner.

The West Africans must face the reality that the EU is less and less willing to play the role of donor in the context of a global shift towards ‘realpolitik’ thinking, or even a ‘scramble for Africa’³⁰. In the EPA negotiations, putting a strong emphasis on demands for financial aid and a continuation of preferences to some extent undermined a more proactive approach. While individual trade representatives, in particular within the ECOWAS Secretariat, might have been willing to drive a much more ambitious reform agenda (albeit one that differs from the European proposals), there currently does not seem to be a momentum for pushing towards ambitious trade policy changes within the region. Yet, without developing a clear-cut trade agenda on its own, the region will face bleak prospects of economic development – regardless of whether or not EPA agreements with the EU will be concluded.

While there might be legitimate reasons to demand for redistribution, this might not always be the most effective way to ensure development-oriented policies are put in place – as the impasse in EPA negotiations suggests. While the EU faces the difficulties of reconciling the roles of being a trade and development partner, the West African side faces the challenge of seeing itself on the one hand in the passive ‘wait-and-see’ position of a ‘recipient’ that stems from the structural position of a

²⁵ On the struggles between conservative and progressive forces within government see, for instance, Okonjo-Iweala on the case of Nigeria, or Ayyiteh on Africa more generally: Ngozi Okonjo-Iweala, *Reforming the Unreformable: Lessons from Nigeria* (Cambridge, Mass.: MIT Press, 2012); George B. N. Ayittey, *Africa Betrayed* (New York: St. Martin's Press, 1992); George B. N. Ayittey, *Africa Unchained: The Blueprint for Africa's Future* (New York, N.Y.: Palgrave Macmillan, 2005).

²⁶ Interview 20, Brussels, Commission official, February 2010 (own translation).

²⁷ Interview 12, Brussels, Commission official, February 2010.

²⁸ Interview 12, Brussels, Commission official, February 2010.

²⁹ Interview 22, Brussels, Commission official, February 2010.

³⁰ Former President Benjamin Mkapa depicting EPAs as ‘scramble for Africa’, quoted in “EU faults Mkapa on Epa”, *Allafrica.com*, 6 April 2010, <http://allafrica.com/stories/201004060337.html> (accessed 06 August 2010).

developing or 'Least Developed Country' in the global economic system, while at the same time attempting to play a more assertive role in its relations with the EU, 'fist-grounding our feet on the ground'³¹. To position the region strategically in its relations with the EU and other major powers, it will be important reconsider and define the role Africa wants to play in a more straight-forward way. This is likely to be a delicate process, as it involves coming to terms with the historical baggage of the past and how elite perceptions continue to be affected by the experiences of colonialism undergone by African societies³².

Beyond the context of EU-Africa relations, the evidence from the case of EPA negotiations points at the difficulties of cooperation that aims at improving the living conditions within a country or region through external intervention. While this does not mean that it would be worthless to try, it is important to keep in mind the structural limitations that stem not only from a lack of knowledge of the realities on the ground but also the inherent bias towards promoting a self-serving agenda – with or without proclaimed good intentions. Yet, the way in which external partners might be able to provide support to those actors driving domestic agendas in countries in transition might often come in unexpected ways. In the EPA negotiations, it was the perceived threat of unwanted 'intrusion' through the EU's reform agenda that triggered greater efforts on the regional level that were conducive towards strengthening regional integration. Albeit an 'unintended consequence', the fear of external imposition pushed the region to better coordinate its trade policies and to establish trade policy committees at the national level that connect not only different ministries, but also civil society and private sector actors with government officials.

While it remains to be seen where the different 'games' played by the EU and West Africa will lead the EPA process, it is important to keep in mind that these political 'games' have real-world consequences that affect the lives of millions of people. The impasse situation in EPA negotiations stands not only for a puzzling 'sub-optimal' outcome, but also for the failure of both parties to devise trade policies that could address the challenges of those living in poverty in a more meaningful way.

³¹ Interview 47, phone-to-capital, government official, October 2011.

³² Mohammed Ayoob, "The Third World in the System of States: Acute Schizophrenia Or Growing Pains?" *International Studies Quarterly* 33, no. 1 (1989).

List of interviews³³

Face-to-face Interviews:

West African Representatives

- Interview with —, ECOWAS Commission, Programme Officer, Trade & Competition, Brussels.
- Interview with —, ECOWAS Commission, Trade Officer, Abuja.
- Interview with —, ECOWAS Commission, Consultant, Abuja.
- Interview with —, ECOWAS Commission, responsible for EPADP, Abuja.
- Interview with —, ECOWAS Commission, Principal Programme Officer for Trade, Abuja.
- Interview with —, ECOWAS Representative in Brussels, Brussels.
- Interview with —, First Secretary at the Embassy of Sierra Leone, Brussels (interviewed twice).
- Interview with —, Embassy of Burkina Faso, Economic Advisor, Brussels.
- Interview with —, Embassy of Senegal, Ambassador, Brussels.
- Interview with —, Federal Ministry of Trade and Investment, Abuja.
- Interview with — and —, Federal Ministry of Trade and Investment, Commercial officers, Abuja.
- Interview with —, National Association of Nigerian Traders, Programme Officer, Abuja.
- Interview with —, National Association of Nigerian Traders, President, Abuja.

European Representatives

- Interview with —, DG Environment, Director-General, former Deputy-Director General of DG Trade, EPA chief negotiator, Brussels.
- Interview with —, DG Trade, EPA Unit, Desk Officer for EU-ECOWAS EPA negotiations, Brussels.
- Interview with —, DG Trade, EPA Unit, Communications Officer, Brussels.
- Interview with —, DG Trade, EPA Unit, Desk Officer for EU-EAC EPA negotiations, Brussels.
- Interview with —, DG Trade, EPA Unit, responsible for commercial relations with the African Union, Brussels.
- Interview with —, DG Trade, Policy Support; former member of DG AidCo, seconded to DG Trade to support on development-related questions on EPA negotiations, Brussels.
- Interview with —, DG Development, Policy Officer; Aid for Trade programming, Brussels.
- Interview with —, DG Development, International Relations Officer, Brussels.

³³ Names of interviewees not included in this copy for reasons of confidentiality.

Interview with —, DG Development, Unit B/1: Economic Development: Infrastructure Networks, Trade and Regional Integration, Brussels.

Interview with —, DG Development, International Relations Officer; Desk Officer for EU-ECOWAS EPA negotiations, Brussels.

Interview with —, DG AidCo, formerly working on EPA negotiations, Brussels.

Interview with —, DG AidCo, Implementation of aid-for-trade, Brussels.

Interview with —, EU-ACP Parliamentary Assembly, former Deputy Director General of the European Parliament, Brussels.

Interview with —, European Parliament, Parliamentary Assistant at the Office of David Martin MEP, Brussels.

Interview with —, Government of Belgium, DGCD Service Union Européenne, Attaché, Brussels.

Others

Interview with —, ACP Secretariat, Department of Sustainable Economic Development and Trade, Brussels.

Interview with —, ACP Secretariat, Trade Policy Expert, Brussels.

Interview with —, African Union Commission, Brussels, 26.11.2010.

Interview with —, Country Director of the Southern and Eastern African Trade, Information and Negotiations Institute Kenya, Berlin, 13.1.2010.

Interview with —, ACP Consult - Economic Advisory Services, financial economist, Brussels, 25.11.2010.

Interview with —, Appleton Luff, lawyer, former TRADE.Com official/consultant on trade capacity building programmes including EPA negotiations, Brussels, 19.2.2010.

Interview with —, Senior researcher at the European Centre for Development Policy Management, Brussels, 15.2.2010.

Interview with —, Coalition of the Flemish North-South Movement, Brussels, 18.2.2010.

Interview with —, Association of World Council of Churches Related Development Organisations in Europe, Brussels, 3.12.2010.

Interview with —, German Embassy in Nigeria, Economic Attaché, Abuja, 12.12.2011.

Phone interviews:

West African Representatives

Phone-to-capital interview with —, former Team Leader of the EPA Technical Support Unit at the ECOWAS Commission.

Phone-to-capital interview with —, ECOWAS Commission, Principal Programme Officer for Trade, Nigeria.

Phone interview with —, ECOWAS Representative in Brussels.

Phone-to-capital interview with —, ECOWAS Commission, Programme Officer, Trade & Competition, Nigeria.

Phone-to-capital interview with —, ECOWAS Commission, Customs Directorate, Nigeria.

Phone-to-capital interview with —, Deputy Minister of Finance and Development, Sierra Leone.

Phone-to-capital interview with —, Regional Trade Policy Adviser at the African Union, Ethiopia; former Principle Commercial Officer, Federal Ministry of Trade and Industry, Nigeria.

Phone-to-capital interview with —, Federal Ministry of Trade and Investment in Nigeria; formerly Senior Counsellor at the Embassy of Nigeria in Brussels.

Phone-to-capital interview with —, Ministry of Trade and Industry, Trade Policy Analyst, Commonwealth Secretariat (Hub and Spokes), Sierra Leone.

Phone-to-capital interview with —, Federal Ministry of Trade and Investment, Department of Trade, Assistant Chief Commercial Officer, Nigeria.

Phone-to-capital interview with —, Federal Ministry of Science & Technology, Nigeria.

Phone-to-capital interview with —, Policy Division, Ministry of Trade, Sierra Leone.

Phone-to-capital interview with —, Head of Economic and Financial Cooperation Division, Ministry of Economy and Finance, Senegal.

Phone interview with —, First Secretary at the Embassy of Sierra Leone, Brussels.

Phone-to-capital interview with —, Trade Policy Expert and former Technical Advisor to Sierra Leone for the EPA negotiations (2004-2005).

Phone-to-capital interview with —, Trade Policy Analysts, Fara-Africa, Ghana.

Phone-to-capital interview with —, Ministry of Trade and Industry, Senior Commercial Officer, Ghana.

Phone-to-capital interview with —, AGOA, Nigeria Export Promotion Council, Assistant Manager.

Phone-to-capital interview with —, Manufacturing Association Nigeria (MAN), Director, Corporate Affairs.

Phone-to-capital interview with —, L'Association Nationale des Organisations Professionnelles Agricoles de Côte d ' Ivoire (ANOPACI), interim Executive Secretary, Cote d'Ivoire.

Phone-to-capital interview with —, National Association of Nigerian Traders (NANTS), President.

Others

Phone interview with —, Trade Policy Expert at the European Centre for Development Policy Management, Maastricht, the Netherlands.

Phone interview with —, Director of the European Research Office (ERO), Brussels.

Phone interview with —, German Agency for International Cooperation (GIZ) Nigeria, Adviser, Trade Support Programme to the ECOWAS Commission.

Phone interview with —, University of Helsinki, Researcher.

Phone interview with —, follow-up interview, GIZ Nigeria, Adviser, Trade Support Programme to the ECOWAS Commission.

Phone-to-capital interview with —, Friedrich-Ebert Foundation, Head of the Regional Programme on Regional Integration and International Trade in West Africa, Benin.

Written responses to interview questions from : 1) Trade representative at 'Commission National ACP-UE Ministère de l'Industrie et du Commerce', Benin ; 2) Trade policy expert, Fara-Africa, Ghana.

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