

Economic Partnership Agreements : drivers of development



European Commission

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I have decided to write this booklet to answer the many questions which I have received on the Economic Partnership Agreements since I took office as European Commissioner for Development policy and relations with the African, Caribbean and Pacific Countries.

I trust that this book will answer most of your questions.

Louis Michel

Preface

Europe is the largest provider of development funds in the world with €46 billion distributed per year; that is around 100 euros per European citizen. This is a role we will continue to play and to strengthen in line with our commitment to invest 0.70% of our GDP in development aid by 2015. But development policy is about much more than financial assistance. It is about supporting sustainable integration into the world economy. And based on our experience in Europe and that of other regions in the world, we believe that supporting regional integration in the 78 countries of Sub-Saharan Africa, the Caribbean and the Pacific is an important means to facilitate this inclusion into the process of globalisation.

The Economic Partnership Agreements (EPA) are part of this approach. The trade preferences of the Cotonou Agreement, while well intentioned, have not succeeded in their objective of helping to integrate the ACP countries into the world economy, nor protected our trade relationship with ACP from challenge by others in the WTO. This is why it was agreed, in the Cotonou Convention, to replace the Cotonou trade preferences by WTO compatible trade arrangements.

The new agreements will slowly and progressively open up EU-ACP trade in goods: immediately for ACP goods exported to the EU and gradually for EU goods exported to ACP countries. But EPAs are

more than about trade in goods, and trade with the EU. They are about regional integration and other aspects of trade integration (services, trade-related rules).

The aim of these agreements is not to open markets for European companies at the expense of ACP producers, as has been wrongly claimed by some. On the contrary, EPAs should help developing countries to build larger markets, foster trade in goods and stimulate investment. Opening up progressively to neighbouring countries, exploiting economies of scale and reorganizing their industries will help prepare them for the bigger step of integrating into world markets and taking greater advantage of the opportunities of international trade. For its part, the EU will remove the final restrictions to ACP exports, including in sugar and bananas. And we are changing our rules of origin to ensure that ACP countries can use in reality the preferences they receive. We firmly believe that this is the way forward for development policy, enabling countries to help themselves to grow rather than continuing to grant aid eternally in a "donor-beneficiary"-manner.

At the beginning of 2008, agreements have been concluded with countries from five regional blocs. One "full" EPA has been concluded with the whole Caribbean region, covering all the above areas. Because more time was needed, interim agreements were concluded with other regions or countries, with

negotiations on the remaining areas continuing in a second phase.

To underpin this policy, the EU will continue to be at the side of the ACP, on a regional basis as well as individually, in supporting them as they reform and develop. Over the period 2008 to 2013, € 22 billion will be mobilised in support of the ACP through the 10th European Development Fund (EDF), or nearly € 3.7 billion per year, against € 2.7 billion per year under the 9th EDF. €3 billion is pledged from 2010 to develop economic infrastructures, an essential component to link regional markets and thus build the capacity to trade. €1.8 billion has been earmarked for so called Regional Indicative Programmes from 2008 to 2013, the largest amount ever spent on regional aid during a similar period through the European Development Fund (EDF) and 60% more on an annual basis than the amount put aside for regional cooperation over the period 2003 to 2007. This amount will be largely devoted to economic regional integration – such as productive capacity building and regional infrastructure networks – and accompanying measures for the implementation of the EPA, such as compensation of net losses of customs tax revenues and trade technical assistance to reach foreign markets.

Fostering regional integration goes beyond trade integration. It is about strengthening regional political institutions and helping developing countries

tackle challenges with transnational issues such as AIDS, the management of natural resources or migration. Regional integration has a positive role to play in maintaining peace and preventing conflict, both conditions vital for trade and economic integration to flourish. That is why EU policies across the board support these goals – from sending observers to elections, to helping negotiate peace agreements to bring conflicts to an end and to providing aid in humanitarian crises.

The EU's approach to regional integration in the ACP is therefore a comprehensive one. And the EPAs – and the possibilities they offer of market building and integration into the global economy – are an integral part of that strategy.

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1. Starting point

A. Less than satisfactory results for Lomé preferences (1975-2000)

The ACP States are increasingly marginalised in world trade. Thanks to the tariff preferences of the Cotonou Agreement, 97% of ACP exports used to enter the EU free of duty. The Cotonou trade arrangements provided more extensive preferences than those which the other developing countries not classed as LDCs enjoyed under the GSP, thus affording the ACP a competitive edge. Since 2002, all LDCs have even enjoyed total duty- and quota-free access to the European market under the "Everything But Arms" initiative.

Despite these preferences, *the ACP countries' share in the EU's imports has declined from 7% to 3% since 1975.* Trade between the EU and the ACP countries has continued to grow slowly, even at a time when world trade has been exploding, the growth in value of recent years being largely attributable to the rising prices of raw materials, especially energy.

However, *trade with the EU is important for the ACP countries:* all the ACP regions trade more with the EU than they do between themselves and the EU is the main trading partner of most ACP countries. As the following table shows, Europe

accounts for some 30% of ACP trade while trade between ACP countries in the same area is not more than 10%.

Exports	EU	ACP same area	Other ACP	Rest of world
ECOWAS	31.9%	9.3%	1.2%	57.6%
CEMAC+	37.4%	0.8%	3.2%	58.6%
COMESA	29.9%	9.2%	4.8%	56.1%
SADC	32.6%	2.1%	4.5%	60.8%
Caribbean	20.0%	8.9%	0.8%	70.3%
Pacific	15.4%	0.6%	0.5%	83.4%
All ACP	29.8%	6.7%	2.5%	61.0%
Imports	EU	ACP same area	Other ACP	Rest of world
ECOWAS	37.0%	10.5%	1.3%	51.3%
CEMAC+	53.5%	1.4%	8.2%	37.0%
COMESA	22.4%	6.4%	2.7%	68.5%
SADC	23.3%	2.5%	4.3%	69.9%
Caribbean	18.1%	5.8%	1.4%	74.6%
Pacific	8.8%	1.3%	0.8%	89.1%
All ACP	27.9%	6.7%	2.4%	63.0%

Source: CEPII, 2007

However, with a population of around 730 million, ***the ACP countries accounted for only 2.9% of the EU's foreign trade*** (and 2% of world trade) ***in 2006***. In 2006, European imports from the ACP countries stood at around EUR 40 billion (against EUR 70 billion from just Switzerland with a population of 7.5 million) while European exports to the ACP countries stood at some 35 billion (against EUR 38 billion to Norway with a population of just 4.5 million).

Furthermore, ***trade is concentrated on a very small number of products:***

- four products, all of them raw materials, accounted for more than 50% of ACP exports to the EU in 2004: crude oil (26%), diamonds (11%), cocoa (9%) and wood (4%). Nor have we seen any diversification over the long term. On the contrary, in recent years, the rising prices of energy-producing raw materials has even increased the proportion of commodities in ACP exports.
- in the other direction, in 2006, three industrial sectors accounted for more than 50% of EU exports to the ACP countries: machine tools (29%), transport goods (16%) and chemical products (10%).

Moreover, since 1990, foreign direct investment (FDI) in the developing countries have risen fivefold, none of it, however, going to the ***ACP countries***, which, in terms of both flows and stocks, account for ***only 3% of European FDI***.

Preferences have nonetheless had a beneficial impact on some production sectors and export patterns, particularly where the preference level was high compared with the GSP. Examples of this are cut flowers in Kenya, fishery products in many coastal countries of West and East Africa and the Pacific countries, basic agricultural products such as sugar, bananas and pineapples and processed agricultural and fishery products.

However, in overall terms, *tariff preferences have not yielded the results hoped for in the development of the ACP countries* and most of those countries which have experienced a spectacular development over the last 30 years thanks to the dynamism of their exports are not ACP countries – and have not enjoyed the benefit of generalised preferences. Furthermore, in the context of the general liberalisation of world trade through both multilateral (successive GATT/WTO rounds) and bilateral agreements, *preferences have been slowly but steadily eroded*. They could not on their own serve as a strategy for the future. This is one of the reasons why, in the Cotonou Agreement, the EU and the ACP countries scheduled the expiry of the system of non-reciprocal preferences on 31 December 2007.

B. Preferences incompatible with WTO rules

Not only broadly ineffective, *the preferences granted to the ACP moreover required a derogation from WTO rules* because they did not comply with Article I of GATT on

Most Favoured Nation treatment¹ and were not covered by the WTO provision known as the "Generalized Scheme of Preferences (GSP) Enabling Clause".

According to the Enabling Clause, the developed countries may grant unilateral preferences to the developing countries. However, these unilateral preferences must be generalised and extended to all developing countries, the only possible differentiation being between the levels of preferences for LDCs and non LDCs. Preferences are thus granted for development reasons and not on a geographical basis or because of political or historical links. This principle of non-discrimination is a fundamental pillar of the multilateral trade system, a guarantee of equality between all the WTO Member States². The fact is that, in the situation that obtained until 1 January

1 This clause obliges the member countries of the WTO to extend immediately and unconditionally all the advantages granted to one or more WTO Member States to all the Member States. It does not apply to the advantages granted in the context of preferential trade agreements by developing countries, free-trade areas or customs unions.

2 Some have contended that the "Enabling Clause" permitted the non-reciprocity of commitments by developing countries. However, beyond what is set out above concerning this clause, the principle of non-reciprocity enshrined in paragraph 5 of the clause applies solely in the context of multilateral negotiations. This is moreover what the European Commission does in the context of its negotiations in the Doha round, for example when it accords developing countries and the LDCs the possibility of assuming commitments of a lower level than those of the developed countries. By contrast, in the context of bilateral agreements between developing countries on the one hand and developed countries on the other, such as the Economic Partnership Agreements, the Enabling Clause does not in general apply. There is therefore necessarily reciprocity between the concessions granted to satisfy the GATT rules.

2008, non-ACP developing countries were objectively discriminated against compared with ACP countries, some of which are considerably wealthier.

The EU and the ACP countries are both fundamentally committed to multilateral trade rules.

These rules are essential for protecting the poorest and weakest countries, according to the principle "Between the weak and the strong, it is freedom which oppresses and the law which sets free".

It was therefore decided that, when the derogation for the trade provisions of the Cotonou agreements expired, ***a system would be set up which was fully compatible with the WTO so as to retain and even improve the preference granted to the ACP*** compared with other developing countries. This system takes the form of regional trade agreements in accordance with Article XXIV of GATT concerning free-trade areas.

There was no alternative to the EPAs. To respect the principle of non-discrimination, the EU could have considered the possibility of bringing the GSP preferences into line with those of the Cotonou Agreement, which would have boiled down to granting the non-ACP non-LDCs the tariff preferences given to the ACP countries. However, this option would have let countries like China or India export free of duty to the EU while the ACP countries

would have had face competition on many fronts and lost many of the competitive advantages they enjoyed in exporting to the EU.

The EPAs thus establish a ***new type of trading relationship between*** the EU and the ACP countries based on a partnership for development, not on the granting of non reciprocal preferences. While the substance of the trade preferences is maintained, they will no longer be based on an exceptional and non reciprocal scheme but on a common international rule and will thereby be strengthened from the point of view of legal certainty, itself a decisive consideration for traders.

C. Status quo not a solution

In a globalised world isolation is no solution as recent examples of successful development show only too well: 40 years ago, South Korea was poorer than Ghana. Today, the per capita GDP of Korea (USD 24 000) is, in terms of purchasing power, nearly ten times as high as that of Ghana (USD 2 800).

Given the persistent poverty, a way had to be found to help the ACP countries to develop their trade and enter into a virtuous circle of development. We must not bury our heads in the sand: ***to protect the existing production structures is to maintain the existing state of poverty.*** Change is needed to create jobs and trade

is an essential motor of development. The most vulnerable people must of course be protected and the adjustment costs kept to a minimum but the primary objective of the Economic Partnership Agreements is to build new regional and international markets and thereby create sufficient opportunities and markets to generate a process of investment and growth.

The EPAs thus constitute a new trading instrument which should prove more effective than the existing simple tariff preferences in achieving the ultimate objective of development. To quote Article 34 of the Cotonou Agreement on the objectives of economic and trade cooperation: "Economic and trade cooperation shall aim at fostering the smooth and gradual integration of the ACP States into the world economy, with due regard for their political choices and development priorities, thereby promoting their sustainable development".

2. The means: regional trade and development agreements

A. Gradual, controlled and mutually advantageous liberalisation

Trade liberalisation is a means of attaining development objectives. These objectives can only be achieved if such liberalisation is gradual and controlled.

It is of course of capital importance that fragile industries are protected and given the time to improve their competitiveness before prices of imports are reduced.

In this way, EPAs will do much to facilitate trade between the EU and the ACP countries in goods and services, in terms of both imports and exports. However, *the opening up of the ACP markets will be very gradual and will afford enough flexibility to protect sensitive sectors, especially agriculture, and offer safeguard mechanisms for coping with unforeseen problems.*

In any case, there is no real competition between the EU and ACP economies: it is the other developing regions that are the ACP countries' main competitors and the vast majority of the EU's exports consists of goods that the ACP countries do not produce. The competition facing the local industries of the ACP countries, whether well established or nascent, comes far more from other developing or emerging

countries. The ACP textile industries are threatened above all by very cheap imports from countries such as China, India or Pakistan. At all events, *wherever there is competition (nascent industries or agricultural products which are sensitive for the ACP countries), the EPAs will offer the ACP countries the necessary protection.*

Having said that, the ACP countries cannot entirely refrain from an unavoidable amount of liberalisation. To rule out any liberalisation commitment for the ACP countries is also to proceed from the mercantilist principle that exports are a good thing whereas imports are essentially harmful. This idea is false. The fact is that *the benefits of world trade also come from imports* of cheaper and more competitive inputs and consumer household products; exports are a way of diversifying production in order to serve foreign markets and obtain the foreign currency needed to pay for these imports.

In addition, *opening up to trade encourages the transfer of technology and stimulates local businesses:* exposed to competition, they will become more efficient. This increased efficiency will have a knock-on effect on the national or regional economies. *Most ACP countries have no bilateral trade balance problem with the EU:* The coverage rate for their trade with the EU stands at around 110% every year.

It should not be forgotten that, ***if correctly controlled, opening up to trade is a good thing for development.*** As a rule, import taxes tend to discourage economic activity and development by pushing up the cost of goods that are not produced locally. Many of these goods are essential for development, whether it be for productive investment (machinery, IT equipment, vehicles), as production inputs (intermediate goods, fertilisers, chemicals) or directly (medicines, water-treatment systems). Agricultural inputs, for example, are on average, taxed four times more highly in the ACP countries than in South-East Asia, to the detriment of both farmers and poor consumers.

Liberalisation brings down the cost of inputs to local producers, makes them more competitive and reduces the prices of consumer goods and food products. This reality has been acknowledged by a certain number of ACP countries, which have chosen to open up their markets more rapidly than required under the WTO rules. For example, Mozambique, an LDC, has pledged to open up 78.5% of its market from 1 January 2008 and to liberalise 82% over a period of 10 years.

B. An asymmetric liberalisation

There is no question of opening ACP markets up to the four winds. In the interests of development and a liberalisation that is compatible with economic and social factors in the ACP countries, the EU fully accepts the principle of asymmetric commitments in the EPA negotiations.

The *EU has no offensive interests*. The agreements already initialled enshrine the comprehensive and immediate opening up of the EU market to all ACP products, with transition periods for sugar and rice only. The least developed countries (LDCs) already enjoy this access under the "Everything But Arms" initiative. ***This nevertheless remains the most generous offer ever made in a regional trade agreement.*** Though already very open, unliberalised trade from West Africa, for example, amounts to EUR 1 billion and that from Central Africa to EUR 300 million. And many ACP countries specialise in agricultural products, some of which continue to be subject to duties in the EU. The ACP countries therefore have a lot to gain from the further opening up of the EU market. The end of customs duties will mean a substantial saving for producers and create major new trading opportunities.

As for the exclusion of sugar and rice, it is only temporary: the market access offered by the EU will therefore ultimately (2010 in the case of rice and 2015 in that of sugar) enable the ACP countries to export freely these products in which many of them are highly competitive. The opening up of the vast and profitable EU market has led the Community to denounce the Sugar Protocol under the procedure laid down in Article 10 thereof. This instrument afforded the ACP signatories³ prices similar to those guaranteed EU producers. With the reform of

³ Barbados, Belize, Republic of the Congo (Brazzaville), Côte d'Ivoire, Fiji, Guyana, Jamaica, Kenya, Madagascar, Malawi, Mauritius, Mozambique, St Kitts-and-Nevis, Swaziland, Suriname, Tanzania, Trinidad and Tobago, Uganda, Zambia and Zimbabwe.

the EU sugar market, European producers will see this guarantee phased out. ACP producers will therefore be treated in the same way and benefit from European internal prices that the EU will remain able to manage. Moreover, to help them adapt to falling European prices, the Sugar Protocol countries will benefit from EUR 1.24 billion in accompanying measures over the period 2007-2013.

The market will be opened up to the ACP countries in stages:

- until 30 September 2009: the terms offered by the Sugar Protocol will be maintained and market access improved by increasing the tariff quotas;
- from 1 October 2009 to 30 September 2015: LDCs will have free access to the market (on the terms laid down in the "Everything But Arms" initiative), the only restriction being an automatic safeguard clause for non-LDCs;
- from 1 October 2015: there will be free access to the market for all ACP countries, with the general safeguard clause remaining applicable should imports from ACP countries violently destabilise the EU market.

This very extensive opening up has the added advantage of giving the ACP countries a maximum of flexibility without breaching WTO rules. The EPAs comply with Article XXIV of the GATT, and the EU has accepted asymmetric opening up so that the ACP countries can protect their sensitive products.

It is for the ACP countries to draw up this list of sensitive products in compliance with Article XXIV of the GATT. In the agreements already initialled, the special protection afforded such products takes the form of:

- ***the total exclusion of the most sensitive products from the tariff reduction.*** Many countries or regions have made extensive use of the scope for excluding the most sensitive products from all liberalisation commitments. According to their national and regional interests and their development priorities, Côte d'Ivoire, Ghana and the EAC countries (Kenya, Tanzania, Uganda, Rwanda, Burundi) have thereby been able to definitively exclude almost 20% of their market from the scope of liberalisation. The exclusion covers agricultural products crucial to food security and the income of rural communities, the products of the industries they consider most vulnerable and, in some instances, goods whose import procures revenue considered essential for the state.

- ***long transition periods for reducing tariffs.*** In the agreements initialled in December 2007, our partners made extensive use of the flexibility offered, spreading the liberalisation over a period of 10 to 15 years. Mauritius, for instance, chose to open up its market almost completely (95.6%) by 2022, thereby acknowledging the benefits of opening up trade. This liberalisation will, however, be very gradual, since it will only have opened up 53.7% of its market by 2017. This will enable the sectors concerned to build their competitiveness over the medium and long term.

- ***variable rates of tariff reduction according to a product's sensitivity.*** The agreements initialled reflect this possibility and the commitments already made when establishing regional markets, free trade areas and customs unions;
- ***safeguard clauses*** to protect infant industries, food security and rural development or any other production sector in the event of disturbance by imports. All the agreements initialled contain such safeguard clauses.

C. A liberalisation fully benefiting the ACP countries

The EPAs will also give the ACP countries an opportunity to make the most of the market access offered by the EU through substantial improvements in two areas seen by the ACP countries as major obstacles to the development of their exports to Europe.

1. Rules of origin

Since the ACP countries enjoy preferential market access, it is normal to ensure that it is indeed they who benefit and that other countries do not have their goods shipped via an ACP country with the sole aim of obtaining preferential customs treatment. This is why there are rules of origin. Yet these rules should not be so restrictive that they prevent the ACP countries from taking their place in the international division of labour and capitalising on their

comparative advantages, including tariff preferences. ***Many ACP countries*** and some experts ***considered the Cotonou Agreement's rules of origin too restrictive.*** In the EPA negotiations, the EU therefore adopted a particularly pro ACP position by agreeing to negotiate and include in the agreements origin rules reflecting the ACP countries' development needs and demands. The resulting ***rules of origin are markedly more favourable to development.*** The prospect of better rules in the fishery sector is, for instance, one of the Pacific region's key motives in pursuing negotiations beyond the interim agreement concluded with Fiji and Papua New Guinea. The criterion of "simple processing" now used for textiles is one of the reasons why Madagascar, an LDC already enjoying free access to the EU market, initialled an EPA. This country, which is not competitive in producing fabrics, will thereby be able to develop its textile industry by importing fabrics and so create wealth and jobs locally, something that is currently difficult under the Cotonou or Everything But Arms rules of origin.

2. Sanitary and Phytosanitary Standards (SPS)

These ***sanitary and phytosanitary standards limit the involvement of developing countries in international trade.*** There can obviously be no question of the EU lowering its standards or taking a more relaxed attitude to imports from ACP countries. It is the health of European consumers that is at stake. The EU is nevertheless fully aware of the importance of helping the developing countries meet its sanitary and phytosanitary standards.

The EU already provides the *ACP countries with considerable financial aid in this area* and will continue to do so. The all ACP programmes of the 9th EDF include, for instance, the EUR 28.8 million Pesticides Initiative Programme (PIP) and the EUR 46.7 million programme "Reinforcement of the Sanitary Conditions of the Fishery Products (SFP)", which is aimed at building the capacity of the ACP countries to meet European SPS standards for fishery products.

With technical barriers to trade, this issue was a priority in the EPA negotiations. *It is not just part of the full agreement concluded with the Caribbean countries but of most interim agreements, too.* The provisions of the texts initialled include commitments on the exchange of information, consultations, cooperation and regional integration and cooperation in the competent international bodies.

D. Regional integration, a priority objective

The ACP countries' economies and national markets are small and fragmented: the economy of the 78 ACP countries, which have 730 million inhabitants, is 35 times smaller than that of the 27 EU Member States. While the ACP countries have a combined GDP more or less equal to that of Belgium, their markets remain basically national and, therefore, particularly small because most ACP countries have fewer than 5 million inhabitants.

There are many non tariff barriers hampering trade between neighbouring African countries. Though there is solvent demand, administrative and transport difficulties deter, for instance, Cameroonian traders from exporting bananas to the neighbouring Central African Republic. Trade facilitation is therefore crucial ***if the ACP countries are to reap the benefits of regional integration.*** The benefits resulting from economies of scale and specialisation on the basis of comparative advantages have been estimated at EUR 1 billion a year for Africa alone. Bigger markets, which also make the region more attractive to regional and foreign investors, will also have a positive impact on growth.

Promoting deeper regional integration means building regional markets that become a tangible legal reality, capable of attracting private investment to sectors other than natural resources. The objective that the EPAs must help achieve is a situation in which each EPA region is based on a single market (with a customs union and free movement of goods) and harmonised regional rules on services, investment, etc. For Africa, these regional markets would be a step towards continental integration, in line with the Treaty of Abuja signed by the African countries.

With the EPAs, the aim is not to promote mere regional free trade areas confined to trade in goods

but to ***integrate the economies concerned in depth.*** Such integration calls for the establishment of regional systems of economic rules promoting good governance and for the establishment of common policies, according to the partner regions' respective integration agendas.

In addition to the potentially considerable economic gains, ***the political benefits of regional integration should also be emphasised.*** The European example remains a historical exception. Its political implications can nevertheless inspire regional integration on other continents, especially in regions that have experienced or are experiencing conflicts that are sometimes extremely long and painful. Regional integration is, by definition, a first step towards reconciliation and serves to gradually lay the foundations for closer cooperation. This regional political stabilisation brings in return economic benefits in terms of a stable business climate and lower risks.

E. Rules, a fundamental aspect

Growth is built on investment. And investors need rules. Trade facilitation, investment, competition, public procurement and intellectual property are the standards of economic governance, vital to long term development, that the ACP countries need. What is more, drafting these rules on a regional basis helps

consolidate regional markets that are currently fragmented as much by a failure to harmonise rules as by physical (infrastructure) and tariff barriers. The objective is not therefore to win preferential access to the market for European investors. This liberalisation will come later, when the ACP economies are ready (and attractive).

The *EU recognises the current limits of regional integration in these areas* and the inability of certain regions and countries to make commitments in the short term. In this context, *a gradual approach is conceivable* which offers a degree of flexibility to adjust to each region's specific difficulties, even if it entails transition or temporary variable geometry arrangements. The EU will be particularly careful to take account of regional agendas in these areas. The aim is to build regional markets before opening them up.

At any rate, no EPA will be signed unless all the parties agree, so *there can be no question of the EU imposing these issues on its ACP partners*. This is reflected in the agreements already initialled. The full EPA with the Caribbean contains provisions on investment, competition and public procurement precisely because these subjects concern the region. In other regions these subjects are not covered by the interim agreements. But the EU and its African partners believe these subjects belong in the EPAs because they can serve the development of regions concerned and the ACP countries.

1. Investment

Investment agreements would offer security to investors, be they regional or European. At present the ACP countries are not sufficiently attractive to European investors. Solid and transparent rules will help persuade them to invest in the development of strong and balanced economic sectors outside the traditional fields of mining and oil.

The Caribbean EPA is the first to contain market access provisions for investment, including investment in sectors other than services. In a public document targeting the private sector⁴, the region explained what it hoped to gain in terms of predictability and transparency. It also stressed that the EPA will give regional investors (for instance, in the tourism sector) preferential access to the EU's single market. Lastly, the region points out that the EPA contains provisions to ensure that investors observe high standards with regard to protecting the environment and workers' rights.

2. Competition

Countries with no competition rules pay more their imports and for goods and services produced locally. Cartels target such countries and cost the ACP countries hundreds of millions of dollars. In 1997 it is reckoned

⁴ *Caribbean Regional Negotiating Machinery: What's in the EPA for the private sector? 19 December 2007*

that price agreements between suppliers covered almost 9% of the poorest countries' imports. In 1999 cartels in the heavy engineering sector overcharged Kenya and Zimbabwe by 270 million dollars.

The cost of an effective competition policy is therefore negligible when set against the gains it would bring.

Competition policy must not be seen as a luxury reserved for rich countries. Kenya is a very good example: 70% of the national competition authority's operating costs have been covered by the dismantling of just one cartel (in the vitamins branch). Setting up regional competition authorities would further limit the costs and increase the benefits.

Thus, the agreement concluded with the Caribbean includes provisions imposing the establishment of appropriate legislation where there is none, prohibiting the abuse of dominant positions and agreements and fostering exchanges of information.

3. Trade facilitation

Customs procedures engender considerable costs for national and foreign traders. The EPAs will make trade easier by improving communications, cutting red tape and simplifying customs rules for importers and exporters. The World Bank believes that the ACP countries stand to gain billions of dollars in this area. It takes, for example, an average of 18 signatures to unload a freighter in Africa, compared with just three

in the OECD. It costs as much to clear a ship through the port of Dakar as to send it to Europe, and the delays can add 10% to the cost of ACP exports, namely two to three times as much as the average rate of customs duties imposed by the EU on non ACP countries. In other words, if the ACP countries are to make the most of the preferential margins they enjoy over their competitors, administrative and logistic inefficiencies must be reduced to a minimum.

4. Public procurement

Transparent rules on public procurement are a key factor in cutting costs. A number of examples suggest that the savings made average a third of the amount of contracts, thereby freeing considerable public funds for development while helping reduce favouritism and corruption. Once again, establishing such rules at regional level increases competitiveness and reduces costs. Public spending accounts for a substantial share of national wealth, and more effective public spending makes it possible, at a given level of taxation, to provide more public services (water, sanitation, hospitals) and to invest more in public amenities (education, infrastructure).

In the Caribbean EPA, the public procurement provisions are based primarily on transparency aimed at fostering the emergence of a regional market. A rendezvous clause means that the scope of the agreement could one day be expanded by decision of the Cariforum countries.

5. Intellectual property

Intellectual property is important for development and the EPA provisions must cover issues of protection, application, cooperation and policy at regional level. It is clear that ***poor countries suffer more than others from trade in counterfeit products, such as medicines or spare parts***, which have adverse and sometimes deadly effects on the people concerned.

The EPA with the Caribbean region guarantees an effective and appropriate level of protection, in line with international standards, for intellectual, industrial and commercial property rights and for other rights, such as the protection of geographical indications. This reduces trade distortions and barriers and fosters investment and economic development. The development of a regional capacity to handle intellectual property issues is also covered, based on regional policy in the matter, and there is a chapter on innovation to foster exchanges of experience, technology and know how.

The mutual recognition arrangements established by the Caribbean EPA will open up considerable trading opportunities for the region's countries. They will, for instance, permit the development of geographical indications, which are seldom used at present in the

4 Caribbean Regional Negotiating Machinery: What's in the EPA for the private sector? December 19, 2007

Caribbean and ACP countries in general. Yet such regional indications, especially if they are identified and applied in a regional framework, are a vector for development in that they enable producers to highlight the quality and specificities of their products and therefore to "go upmarket" and add value to their exports.

F. Services: at the service of development

The need for rules is just as great in the service sector, which remains underdeveloped in most ACP countries. Services are, however, essential to any economy, regardless of its level of development. It is also the sector in which international trade is growing fastest.

Bringing services into the framework of the EPAs must also enable discussions to begin on *temporary access for ACP citizens supplying services in Europe* ("Mode 4" in WTO speak), a field in which the ACP countries have much to gain and considerable potential. With the Caribbean, the EU has shown itself flexible and receptive to the region's demands. In this sensitive area it has pledged to open up its market to the contractual service suppliers (CSS) in 29 sectors and to independent professionals in 11 sectors. This is both a motor with considerable potential for the region's development and a major innovation by the EU, which had never before accepted such a level of international commitment in this area, either at the WTO or in free-trade agreements.

More generally, the liberalisation of certain services, and in particular business services, will help cut businesses' costs and develop new skills. ***Establishing more transparent, stable and liberal rules on sectors crucial to development could considerably reduce the excessive costs currently borne by businesses and consumers.*** The excessively high cost of services can sometimes increase the cost of industrial products by as much as 20%. In the Kenyan and Tanzanian market gardening sector, transport and services account for half of all costs: any reduction in these costs would be matched by a commensurate increase in the sector's competitiveness and create wealth and local jobs. Moreover, it is small countries that bear the most exorbitant service costs, above all for transport. It therefore costs more to transport maize from Tanzania to Zambia than from the United States to Tanzania.

The EU therefore considers it in the ACP countries' interests to open up infrastructure service sectors, such as telecommunications, transport, banking and insurance. These basic sectors are vital to all businesses. They are part of a country's basic economic infrastructure and pivotal to its competitiveness.

The agreements on services are, of course, reciprocal: in the agreement initialled with the Caribbean, the EU has opened up more than 90% of sectors, creating considerable opportunities for the region's service

sectors on the world's largest market. The EU has gone beyond the multilateral commitments given in the General Agreement on Trade in Services (GATS), thereby according a preference to countries that have signed an EPA.

The principles of asymmetry and flexibility are also observed: as a memo published by the region indicates, the Cariforum countries have partially opened up 65 to 75% of their markets, focusing on sectors with the greatest impact on development and those where the region's need for investment and transfers of technology and know how is greatest. This opening up is gradual in a number of sectors sensitive for the Caribbean countries.

At any rate, liberalisation will not affect basic services to the community: health, education, water, etc. The EU has made no requests in these areas, and the agreement with Cariforum excludes public services, also maintaining exceptions for small and medium sized enterprises in a certain number of areas.

3. EPAs and development cooperation

A. Two pillars of the same policy

Financial aid, like the EPAs, should promote the development of the ACP States. *We therefore need to find the greatest possible synergy between these two pillars of European development policy.* Financial aid is programmed in parallel with the EPAs in accordance with the Cotonou Agreement and the negotiating directives given the Commission by the Member States. It is the Regional Preparatory Task Forces (RPTF) in each EPA region that have the job of linking the negotiations and the aid requirements they throw up.

Development financing can stimulate industry and help companies in fields such as compliance with EU standards. But good rules and reforms are also crucial. The "development" component of the EPAs is much more than just extra money: they offer a way to improve the business environment and diversify the economies of ACP countries. Development financing is only a means to this end. So it is especially important that the ACP States incorporate trade related issues into their national as well as regional development strategies.

B. Substantial increase in development aid

The 10th EDF (2008-2013), the sole Community instrument for financing aid to the ACP States, is 35% bigger than the 9th EDF and stands at almost

EUR 23 billion. The 10th EDF regional programmes, which by definition support regional integration and therefore the EPAs, have been allocated EUR 1.75 billion -- twice as much as under the 9th EDF.

Thanks to this overall increase in resources, the focus on other priorities such as health and education can be maintained while investment under the EPAs in economic structures and economic governance can be boosted, which should prevent the ACP countries from being definitively sidelined in the world economy.

Total aid from the Member States to the ACP States stood at more than EUR 12 billion in 2005 and this will rise considerably if the Member States fulfil the commitments they have often repeated.

Drawing on these huge sums, the EU has decided that trade-related assistance should rise to EUR 2 billion by 2010: EUR 1 billion from the Member States and EUR 1 billion from the Commission. When adopting the "***Aid for Trade***" strategy on 15 October 2007 the Member States pledged to devote around 50% of the increase in aid to the ACP States. In implementing this strategy, we must be prepared to make the best use of these additional resources. The Commission and the Member States are working to improve synergies and get agreement in the course of the year on ***regional packages of EU trade aid*** to support the implementation of the full regional agreements that are concluded.

If the regions so decide, a new financial instrument (EPA fund) may be created. Depending on specific regional circumstances, an existing instrument could be assigned the function of financing support for the EPAs . This would fit well with the priority of making existing instruments – including the EDF – more efficient, and collaboration with the Member States and other donors more effective. West Africa and Central Africa are the regions most interested in this possibility: the interim agreements signed with these regions, and those with the Caribbean and Southern Africa, refer explicitly to the setting up of such funds.

But the key is for our partners ***to take ownership of trade issues in their development strategies.*** This is shown by the fact that 31 of the 51 NIPs adopted in 2007 contain a trade/EPA component and that the ***total volume of aid for trade in the 10th EDF NIPs adopted to date is EUR 3.5 billion.*** some EUR 3 billion for economic infrastructure and EUR 576 million for trade/EPAs and productive sectors, i.e. three times more than the 9th EDF.

C. The issue of lost customs revenue

This is an issue of course, but not one that should be overestimated. First, ***we need to look at the net budgetary impact of the EPAs.*** That cannot be done until the ACP States' tariff commitments are decided.

With the interim agreements concluded with a few countries at the end of December 2007 we can begin impact studies and flesh out our analysis.

In the absence of agreements, most studies overestimated the potential problem by supposing a rapid and total liberalisation. However, there will be long transition periods and customs tariffs will not be removed from all products. And the beneficial impact of increased trade flows has to be taken into account: VAT and customs duties on new imports, plus a fall in the cost of imported goods and services, will generate more economic activity. Lower customs duties will also reduce the opportunities for corruption and trafficking, possibly bringing whole swathes of the economy back into the formal sector. Overall, it is not at all certain that EPAs will erode public revenue. Indeed, the increased activity generated by the EPAs may well help boost it.

Whatever the case, *customs reform in the interests of better yields is a priority for many countries*. The duties actually collected are usually less than half of the duties theoretically due. In Ghana the figure is as low as 20%. In Mozambique, after two years of reform, the speed of customs throughput was multiplied by 40, and customs revenue increased by 40% while customs duties were significantly cut. Generally speaking, a reform of taxation is often desirable and necessary. Too great a dependence on

customs revenue is not sustainable and is an indicator of unbalanced public revenue. ***The EU is ready to support these efforts.*** Its budgetary support is the main instrument for supporting reform of public finances. Regional solidarity efforts in the form of special regional funds to support such reforms may also be envisaged. Here again, the Commission is ready to finance such facilities.

4. The negotiations

A. A long-standing commitment, often reaffirmed

Let us remember that the *date of 1 January 2008 for the entry into force of the EPAs* is not an arbitrary one, it *is specified in the Cotonou Agreement*. This deadline seemed remote when Cotonou was signed in 2000. While the negotiations on the substance of most of the EPAs first got under way towards the beginning of 2007, the deadline was known well in advance by all the parties.

This deadline was all the more pressing as any delay was likely to increase the marginalisation of the ACP States. It was crucial, therefore, to seize the opportunities created by the new ACP EU trade arrangements to reverse this marginalisation. The ministerial meetings which took place in February and March 2007 for each EPA, the informal meeting of EU and ACP ministers on 13 March 2007 and the final text of the Article 36(4) review provided for in Cotonou, were *all occasions where the shared commitment to conclude the negotiations by the end of 2007 was reiterated*.

B. A new WTO exemption was not an option

Extending the deadline would have meant putting the future of ACP EU trade in the hands of other WTO members. A new formal exemption ("derogation") would have been needed to prolong the Cotonou

preferences. The other WTO members would have taken the opportunity to get trade-offs for this exemption. So the cost of the exemption was likely to have been intolerable. It should not be forgotten that the "derogation" in force until the end of 2007 was obtained only by dint of concessions to non-ACP countries, in particular on bananas.

Without a "derogation", the Cotonou preferences could have been challenged at any moment by any WTO member that considered itself injured by these preferences. A panel, that is a decision by WTO judges, would have subjected ACP EU trade relations to unbearable legal uncertainty, and European importers would have stopped buying to avoid any risk.

Action by other developing countries is not beyond the bounds of possibility. Ecuador, for example, has already initiated a WTO procedure against the EU preferences granted to ACP bananas and, in the absence of agreements on goods, such procedures could proliferate, leading to a rapid and very detrimental erosion of ACP preferences precisely in areas where they bring the greatest benefits.

The only alternative to the EPAs or interim EPAs compatible with WTO rules would be to apply the Generalised Preferences System (GSP) to the ACP States, the least developed countries continuing to be eligible for "Everything But Arms" market access. The

GSP is much less favourable than the Cotonou preferences, however. For West Africa, for example, EUR 1 billion's worth of exports to the EU (almost 10% of non LDC exports to the EU) would be subject to higher customs duties, thus entering into competition with the exports of other developing countries. For some countries, the share of the exports affected by tariff increases would be much bigger, only 1% in the case of Nigeria (15% for non oil exports) but 25% for Ghana, 36% for Côte d'Ivoire and up to 69% for Cape Verde. The hardest hit products would be fish, canned tuna, shrimp, pineapples, cocoa butter and paste, bananas, vegetables, aluminium and textiles/clothing.

At this stage, few non-LDCS have not initialled at least an interim agreement, at this point Nigeria, Congo (Brazzaville), Gabon and seven Pacific States. These countries have therefore been under the GSP since 1 January. But the commercial and economic impact is still small. Gabon has announced its intention to sign an interim agreement, the Pacific countries in question trade very little with the EU, and the exports of Nigeria and Congo mainly consist of oil and other raw materials not subject to customs duties under the GSP.

But even with this small cost, it is important to underline the advantages offered by EPAs to non-LDCS as well as LDCs. Admittedly, they will keep EBA market access preferences in any event. But

EPAs are not limited to preferences and all the other EPA advantages would be lost, in particular legal certainty (EPAs are binding international treaties whereas the EBA scheme is a unilateral arrangement), rules, regional integration, access to larger regional markets and solidarity with their neighbours. On this point it is significant that an LDC, Haiti, is party to the only full EPA concluded, that with the Caribbean. Similarly, the commitment of the four LDCs of the EAC (Eastern African Community) together with Kenya (a non-LDC) clearly shows that these countries believe in regional integration and the prospects that conclusion of an EPA opens up for the whole region.

C. The issue of regional configurations

This issue is undeniably complicated. In several EPA regions, notably East and Southern Africa, there are countries belonging to different regional organisations that have contradictory trade objectives. *This problem of regional formations was not caused by the EPA negotiations, it predated them.* However, decisions taken on the substance of the EPAs could have an impact on the choices of ACP countries. Indeed, in a number of cases there is a clear clash between membership of the EPA negotiating group and membership of the regional organisation. For example, in East and

Southern Africa there are three regional organisations, each proposing trade integration and a customs union: the EAC (customs union since 1 January 2005), COMESA (scheduled for 2008) and the SADC (scheduled for 2010). Some countries are members of more than one organisation. These overlapping memberships will become incompatible when the customs union projects of COMESA and the SADC are implemented since it is not possible to participate in more than one customs union, each with different external trade policies. The African Union has started a consultation process to solve this problem.

But on this point *the principle is clear: the EU is neutral as to the make-up of regional integration areas, this matter is a sovereign decision of the ACP states*. The EU supports regional integration for the benefits it offers and seeks to promote practical solutions:

- As a partner in the negotiations, the EU has merely tried to draw attention to practical and technical constraints and confined itself to that. *It pointed out, for example, that a country cannot, as sometimes happens in Africa, be part of two customs unions at once.*
- The EU believes that less red tape is good for everyone and that single sets of simple trade arrangements and clear agreements between regions are essential.

The negotiations have not miraculously solved this complex problem. But the example of Tanzania shows that they have made some countries think about their interests and make choices. Tanzania initially negotiated with Southern Africa (SADC), but when the EAC split from the ESA, it joined this group. This was a logical move as the EAC already has a customs union.

D. Current situation and outlook

Apart from the Caribbean, negotiations on full regional agreements could not be completed before the expiry of the Cotonou trade arrangements on 31 December. It was important, therefore, if we were to maintain trade between the EU and the non-LDC ACP States while complying with Cotonou and our multilateral trade commitments, to conclude trade agreements compatible with WTO rules. This is why interim agreements were concluded with EPA regions or some of their members.

In turn, *the EU kept its promises and adopted on 20 December 2007 a market access regulation which offered effective duty free, quota free access to the European market from 1 January 2008 to countries that had concluded an interim or full agreement.* In terms of market access, this has improved the situation of the 35 signatory countries (see annex), maintained the EBA preferences of the 33 non-

signatory LDCs, and applied GSP preferences to the 10 non LDCs. Given the nature of the non LDCs' exports (oil in the case of Nigeria, Gabon and Congo) or the small volumes involved (Pacific countries), the economic impact of the transfer to the GSP is small.

In regions such as West Africa and Central Africa, where individual agreements have been signed, *the interim agreements are by definition only a first stage*. All the agreements concluded include a commitment to continue negotiations that should lead to a full regional EPA before the end of the year (June 2009 for the EAC). In West Africa the negotiations with Côte d'Ivoire and Ghana, for example, were conducted with extensive involvement of the regional organisations and other regional partners with an eye to the forthcoming regional negotiations. In no way do these interim agreements reflect any desire to divide regions; they were designed to offer an solution to the awkward situation in which some countries were likely to find themselves, with the cooperation of all the stakeholders.

Annex : Situation by region on 1 January 2008

	Caribbeans	West Africa	Central Africa	East Africa (EAC)	Eastern and Southern Africa (ESA)	Southern Africa	Pacific
Signatories (LDCs in bold)	Antigua & Barb, Bahamas, Barbade, Belize, Dominique, Rép. Dom., Grenade, Guyane, Haiti , Jamaïque, St Kitts & Nevis, St Lucie, St Vinc & Gren., Suriname, Trinité & Tob.	Côte d'Ivoire, Ghana	Cameroon	Burundi , Kenya, Uganda , Rwanda , Tanzania	Seychelles, Zimbabwe, Mauritius, Comoros , Madagascar	Botswana, Lesotho , Swaziland, Namibia, Mozambique (5)	Cook Islands , the Solomon Islands, Kiribati, Marshall Islands , Micronesia , Nauru , Niue , Palau , Samoa, Tonga , Timor, Tuvalu, Vanuatu (13)
Non-signatories (non LDCs in bold)		Benin, Burkina, Cape Verde, Gambia, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger , Nigeria , Senegal, Sierra Leone, Togo	Central Africa, Congo, Gabon, Eq. Guinea, DRC, Sao Tome, Chad	P.m. initially negotiated in the ESA Framework	Djibouti, Eritrea, Ethiopia, Malawi, Somalia, Sudan, Zambia	South Africa (TDCA) , Angola	