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Economic Partnership Agreements :

an Essential Step on the Path Towards Regional Integration and Trade Liberalisation

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Introduction

The signature of economic partnership agreements (EPAs) between Africa, Caribbean and Pacific (ACP) countries and the EU has provoked outcry from a number of civil society organisations in many concerned regions, in particular in the EU and in West Africa.

These agreements seem to have broken the spirit of the Lomé Convention[1], and the agreements preceding it[2], that is to say the EU's desire to provide aid to ACP countries in the "traditional" framework of developmental aid[3]. The agreements signed before the EPAs were under the control of the European Commission's Directorate-General for Development, whereas the EPAs themselves are managed by the Directorate-General for Trade. The reciprocal nature of the agreements means that the opening up of markets removes protective trade barriers – doubts hang over these "generous donors" who will be the first to benefit from the opening up of markets.

While EPAs resemble free trade agreements (FTAs) in many ways, there are distinguishing structural characteristics (asymmetric agreements, different liberalisation schedules, bilateral protection clauses). In addition, the EU has promised to aid ACP countries financially to enable them put in place economic reforms which are supposed to help their development. While we are concerned here with the negotiation of regional agreements between the EU and ACP countries, the EPAs and the Cotonou Agreement should also be examined in the larger context of existing international and regional

1 Relations between ACP countries and the EU have been governed since 1975 by the Lomé Conventions that have established a close, deep and complicated partnership. Cooperation is centred on two main pillars: economic cooperation and development cooperation. The last Lomé Convention, Lomé IV which was signed in 1989 and lasted 10 years, introduced numerous important innovations. The promotion of Human Rights and respect for democracy became key components of the partnership, and the partnership framework integrated new objectives such as improving the position of women in society and protecting the environment. The new millennium brought an important change in ACP-EU relations: Lomé IV expired on 29 February 2000, and a new agreement, signed in Cotonou, in Benin, on 23 June 2000, entered into force on 1 April 2003. This agreement heralded a new approach, and a new stage in the partnership, while keeping the same instruments (institutions, financial tools, etc.).

2 The Conventions of Yaoundé I and II, signed in 1963 and 1969 between the AASM (Associated African States and Madagascar) and the EEC, represent the first step in the creation of the partnesrship.

3 Philippe Hugon (ed.): Les économies en développement à l'heure de la régionalisation, 2003, Paris, Karthala. Jean Marc Siroen : La régionalisation de l'économie mondiale, 2004, Paris, La Découverte.

agreements; "Everything But Arms"(EBA[4]), Generalised system of preferences (GSP+[5]), AGOA (African growth and Opportunity Act[6]) – agreements that have been negotiated and are being negotiated within the framework of the World Trade Organisation (WTO).

The stakes are high, given ACP countries' social situation and economic status, as well as each country's specific characteristics, because their general development is strongly affected by one of the stated objectives of the EPAs: the progressive integration of ACP countries into the world economy. This new goal sets a challenge for ACP countries, in particular the poorest ones, as to whether they have the capacity to manage this integration.

EPAs are above all free trade agreements between each ACP sub-region and Europe that are reciprocal, yet asymmetric. What will be the legal scope of these new accords? What questions are being asked? What are the key negotiations?

4 This regime in favour of least developed countries (LDC) applies to countries defined as such by the UN. The European Community's "Everything But Arms" initiative suspends customs tariffs on the vast majority of imports from LDCs. There are more products covered by the GSP for LDCs that in the general trade regime.
5 Generalised System of Preferences. The GSP is an autonomous trade agreement through which the EU provides non-reciprocal preferential access to the EU market to developing countries. Some countries receive additional preferences under the GSP+ incentive agreement.
6 Signed in 2000, the African Growth and Opportunity Act is an agreement between the United States and some African countries (37 in 2008), which aims to reduce poverty through export-lead economic growth. It concerns the textile, agriculture and handicraft sectors.

Trade preferences incompatible with WTO rules

The need to transform the Cotonou Agreement

EPAs cover a wide range of areas, their aim being to enhance the growth of ACP countries. The trade dimension is especially important because it involves a big change compared to previous ACP country agreements – the reciprocal opening of markets. Basically, the trade preferences inherited from the Lomé Convention are no longer compatible with WTO rules. In order to conform to existing international law the EPAs propose the creation of zones of quasi-free trade between the EU and each of the six ACP sub-regions.

Nevertheless, a structural asymmetry remains. ACP nations can maintain import tariffs on a number of products (clause on sensitive products) representing up to 20% of their imports coming from Europe and can take up to 20 years to put the agreements in place. In addition, to reinforce regional integration, the six groups of ACP countries are supposed to put in place regional free trade zones or customs unions: Southern Africa (SADC[7]), East Africa (COMESA[8]), West Africa (ECOWAS[9]), Central Africa (CEMAC[10] and part of ECCAS[11]), the Caribbean (CARIFORUM[12]) and the Pacific.

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7 Southern African Development Community: Angola, Botswana, the Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, the Seychelles, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe

8 Common Market for Eastern and Southern Africa: Angola, Burundi, the Comoros, the Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Uganda, Rwanda, the Seychelles, Sudan, Swaziland, Zimbabwe, Zambia.

9 Economic Community of West African States: Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo.

10 Economic and Monetary Community of Central Africa: Cameroon, Gabon, Chad, Equatorial Guinea, the Central African Republic, and Congo Brazzaville.

11 Economic Community of Central African States: Cameroon, Gabon, Equatorial Guinea, Chad, Congo Brazzaville, Burundi, the Central African Republic, the Democratic Republic of Congo, Sao Tome and Principe, Rwanda, Angola.

12 Formed in 1993, CARIFORUM regroups the member states of CARICOM (Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada,

The need to transform the Cotonou Agreement[13] comes from the feedback drawn from its 25 years of existence and the new multilateral context that arose from the creation of the World Trade Organisation in 1994. At the same time, the creation of the WTO made it more difficult to keep existing unilateral preference agreements. It's not so much that the rules have changed: they have become more restrictive. The WTO's legal framework requires that a number of principles be respected, including the most favoured nation rule that forbids commercial discrimination between members of the organisation. This fundamental WTO principle does however have several exceptions[14].

The two main motivations for reform are therefore legal and economic. First of all, the allocation of non-reciprocal preferences to only the "developing countries" of the ACP group goes against WTO regulations, in particular the Enabling Clause[15]. The only way of conserving the trade partnership between the EU and the ACP countries was Article XXIV of the General Agreements on Tariffs and Trade (GATT), which allowed for the derogation of the most favoured nation rule[16] within reciprocal free trade area agreements. As a result, EPA negotiations were started within regional frameworks. Secondly, world trade liberalisation lead to a general lowering of customs tariffs because of the "MFN" rule and progressively reduced the preferential margin that ACP countries had benefited from. The ever-increasing number of trade agreements signed between the EU and other developing regions and successive reforms of the community's GSP have served to reinforce this phenomenon.

Guyana, Haiti, Jamaica, Saint-Kitts-and-Nevis, Santa Lucia, Saint-Vincent-et-Grenadines, Surinam, Trinidad-and-Tobago) and the Dominican Republic.

13 The 76 ACP countries that had signed the Cotonou Agreement started a new cycle of negotiations on 27 September 2002 in Brussels. The negotiations, aimed at concluding new Economic Partnership Agreements with the EU, continued until December 2007.

14 One of the overall goals of the Uruguay Round Agreement was the integration of developing countries into the global trading system. It recognizes constraints faced by many developing countries in taking full advantage of the emerging trading opportunities due to structural problems, low level of industrialization, limited access to advanced technologies and non-availability of adequate infrastructure. The provision of special and differential treatment (SDT) is a response to this recognition. The SDT is also recognized as an integral part of the Agreement. Many Agreements, Understandings and Decisions of the Uruguay Round have SDT provisions. Broadly, these are provided for in the following five forms: those which recognize the interests of least-developed/developing countries in general; those that provide for a longer time frame for implementation; those that require fewer obligations; those that provide for fewer notification obligations; and those that provide for technical and financial assistance.

15 This clause allows derogations to the most-favoured nation (MFN) rule in favour of developing countries. (The MFN rule states that when a member state accords special trade advantages, they should accord them to all other member states). However, the clause forbids and distinctions between developing countries that are not founded on objective criteria.

16 "Regional Trade Agreements: The basic rules for goods" For more information: http://www.wto.org/english/tratop_e/region_e/regatt_e.htm

In short, the EPAs are a response to the need to respect the WTO's regulations. They are designed to transform the existing trade relations between ACP countries and the EU into trade regimes that are compatible with the WTO. There were three alternatives to make the existing preferential ACP regimes comply with WTO regulations: 1) transforming the non-reciprocal preferential regimes into free trade areas; 2) extending the same preferential treatment to all developing countries; 3) obtaining an exemption from WTO rules.

Obtaining an exemption from WTO regulations was impossible. The European Commission therefore proposed the first solution, which was accepted by the European Council in the form of a series of economic partnership agreements. The EU then offered ACP nations asymmetric economic partnership agreements. In order to avoid the WTO's principle of non-discrimination, the EU and the signatory ACP nations of the Contonou Agreement[17] projected to sign EPAs based on Article XXIV of GATT. The reciprocal regional agreements would associate the EU with customs unions formed of groups of ACP countries.

What is at stake?

When one understands the predominant role of WTO law in international trade relations, it is easier to understand that it is not so much the EU as the WTO that needs to be convinced to make its rules clearer and easier to implement in order to benefit developing countries. Although developing and less developed countries do benefit from a more favourable regime with the WTO, this regime is not very efficient. The Doha round was supposed to make this regime clearer and more efficient, but the difficulties and current delays being experienced in this trade round only serve to underline the organisation's inability to take development questions into account.

However, the EU is not beyond reproach in this domain: the EU wants to conclude negotiations on controversial subjects, which the WTO has not yet resolved itself. The ACP trade agreements have also been used to negotiate topics that have been abandoned at multilateral level, namely the "Singapore issues"[18].

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17 Signed on 23 June 2000 in Benin's economic capital, the Cotonou Agreement marks a turning point in cooperation between the EU and ACP states. The successor to Lomé IV, concluded for a period of 20 years and to be revised every five years, brings together 77 ACP nations and the EU's 15 members. The Agreement has five pillars. Compatible with WTO agreements, the agreement aims to integrate ACP nations into the world economic by liberalising trade.

18 Introduced into negotiations during the WTO conference in Singapore in 1996, the four issues (investment, competition, transparency in government procurement, simplification of customs procedures) were abandoned in 2004.

Accordingly, delays in WTO trade negotiations have consequences for the EPAs. At the time of the signature of the Cotonou Agreement, it was assumed that the Doha round would be completed before the conclusion of the EPA negotiations. This is why ACP countries are justified in deferring the signing of the EPAs, as a result of the uncertainty surrounding the considerable future impact that new multilateral agreements will have.

What Europe placed on the table six years after the start of negotiations has not only failed to achieve its goal except on the aspect of being WTO compatible, but also compromises it in certain areas. Months after the signature of the EPAs, impassioned debates rage over the advantages and problems created by the agreements. Wide differences of opinion were encountered during the EPA negotiation, which is nothing new. However, never before in the history of EU-ACP relations has a measure, aimed at increasing access to the EU's market and reinforcing cooperation between the EU and ACP countries, become so controversial[19].

Following this line of reasoning, many European and African organisations are working to draw attention to the contradictions between the stated aim of the Cotonou Agreement – the elimination of poverty – and the EPAs, and are campaigning for a halt in negotiations (the "Stop EPAs" campaign). More generally, civil society organisations and political leaders have criticised the negotiation process for its lack of transparency, as well as the insufficient levels of participation and public debate. While the ACP countries have been formally committed to the process since 2002, negotiations only began to get serious at the end of 2007. This was caused by the imminent expiry of the WTO exemption allowing the Cotonou trade preferences.

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19 In October 2007, Jean Ziegler, U.N. Special Rapporteur on the Right to Food, declared in strong terms in a main French daily newspaper that "Europe favoured famine in Africa" (Libération, 16 October 2007). Rappers from a dozen African countries including the Burkinabé Smockey and the Malian Djo Dama joined the Senegalese Didier Awadi in the struggle against EPAs which the denounced in a music video. "We won't sign!", sang other rappers from the collective Aura (Artists united for African rap). In Mali in December chants of "EPA –suicide! No to EPAs!" could be heard. "Multinationals like Nestlé could demand the same treatment as any Senegalese SME. However, History has shown us that no indigenous industry can develop without protection. Putting Senegalese enterprises into competition with the world's biggest food company is simply impossible. It's like a boxing match between Mike Tyson and a poor man from the slums of Abidjan. It's crazy!" Jean Ziegler (Libération, 16 October 2007) According to Gérard Choplin, coordinator for European Farmers (Le Quotidien, Dakar, 27 february 2008) "EPAs are 'laundering' the EU's dumping". Abdoulaye Wade, Senegalese President, declared that Europe was trying to "put [Africa] in a strait-jacket", and said, "it would never work!" (France 24: Talk by Paris Abdoulaye Wade, by Ulysse Gosset 6 December 2007). Aminata Dramane Traoré, member of the forum "enfoncer le clou"(banging in the nail) defines EPAs as "Economic Pillage Agreements" (Public conference at CAD University 31 December 2007).

Peter Mandelson, the EU trade commissioner, addressing members of the European parliament on 17 April 2008, declared that for the EU, the agreements are "the most generous offer ever made in regional trade accords. Any renegotiation of the EPAs signed with ACP countries would be a disaster". Mandelson rejected recent criticisms of the agreements, saying that he had "clearly stated that any issue could be discussed during negotiations of a final EPA" and refused "any suggestions to renegotiate the [interim] agreements". According to Mandelson, any new concessions would pose a "renewed threat of legal uncertainty and risk unravelling everything we have achieved". He reaffirmed his aim of concluding "the full EPAs with comprehensive regional coverage" of all the ACP regions. His firm words underlined the need to respect international agreements and multilateral rules – in general, something that developing countries normally do. Without a doubt there is a need for more widespread debate and better understanding of the content and the nature of the interim agreements, seen by the European Commission as essential to opening the path towards definitive regional agreements.

In such conditions, it would have been expected that multilateral pressure placed on the EU and its ACP partners would have been seen as useful. Clearly, further exchange of ideas and analysis, as well as more transparency, will be necessary to help the EPAs progress.

Box 1: The state of EPA negotiations on 1 January 2008

The Caribbean was the only region to have signed a complete EPA with the EU before 31 December 2007 – the "expiry date" of the WTO waiver allowing preferential trade tariffs, in line with the Cotonou Agreement. Aiming to establish a new trade regime compatible with WTO demands from 1 January 2008, the majority of the non-LDC African states (apart from Nigeria, the Democratic Republic of Congo, Gabon and South Africa), as well as two non-LDC Pacific states, signed interim agreements with the EU. This meant that by the end of 2007, a total of 35 countries had signed a final or interim agreement with the EU.

Countries not having signed an agreement, and not having access to the EBA regime have to export to the EU under the GSP regime. In December 2007, the following countries fall into this category: in Africa, Nigeria, the Democratic Republic of Congo and Gabon; in the Pacific, the Cook Islands, the Micronesian Federation, Nauru, Niue, Palau, the Marshall Islands and Tonga. South Africa exports under the Trade, Development and

Cooperation Agreement (TDCA[20]). All other ACP countries either signed an interim agreement or export to the EU under the EBA regime designed for LDCs.

A brief overview of the six regions negotiating an EPA will give a better idea of the current state of negotiations.

In the Pacific, interim agreements were signed by Papua New Guinea and Fiji on 29 November 2007. Although the value of exports to the EU from other ACP countries in the region is very low, exports to the EU can represent an important part of these countries overall trade.

In the Eastern and Southern African region (ESA), the members of the East African Community (EAC) – Burundi, Kenya, Rwanda, Tanzania and Uganda – decided to form their own EPA region and signed an interim agreement with the EU in November 2007. The other countries in the ESA region opted for a framework agreement consisting of a common central text, but with different individual market access schedules. To date, the ESA-EU interim agreement has been signed by the Seychelles and Zimbabwe (28 November 2007), Mauritius (4 December 2007), and Madagascar and Comoros (11 December 2007). Zambia has signed the agreement but has not yet submitted a market access schedule; the country has therefore exported to the EU under the "EBA" regime since 1 January 2008.

In the SADC region, an interim agreement was signed by Botswana, Lesotho, Swaziland and Mozambique on 23 November 2007, and by Namibia on 11 December 2007. South Africa, although a member of the Southern Africa Customs Union (SACU) with Botswana, Namibia, Lesotho and Swaziland, has not signed to date an interim agreement with the EU. As a result, South Africa exports to the EU under the ATDC regime.

In Central Africa, no regional interim agreement has been concluded. Among the non-LDCs, Cameroon signed an interim agreement with the EU on 17 December 2007. Gabon and the Republic of Congo, the two other non-LDCs in the region, have not yet signed an interim agreement, but could do so in 2008.

The region of West Africa indicated that it did not want to sign an interim agreement but that it would need 12 to 18 months to conclude a full EPA with the EU. Cote d'Ivoire and Ghana signed interim agreements with the EU on the 7 December 2007 and 13

20 The TDCA establishes preferential trade arrangements between the EU and South Africa, along with the progressive introduction of a Free Trade Area.

December 2007 respectively. It is unlikely that Nigeria – the third non-LDC in the region – will conclude an interim agreement; instead Nigeria has applied to integrate the GSP+ regime. Cape Verde, no longer classified as an LDC from 1 January 2008, will be able to export to the EU under the "EBA" regime for a transition period of 3 years.

Final content of the EPAs: unclear and linked to WTO negotiations

Trade or development?

The EPAs suffer from being built around several ambiguous components, the first of these being the question of trade and development. According to the "Aid for Trade" doctrine, one helps the other. Should the specificities of each ACP country's developmental progress, a process that they will both benefit from and are actors in, be taken into account?

Fundamental differences appeared during the first round of negotiations for several reasons:

- The European Commission's unequivocal position. The Commission, and more particularly the Directorate-General (DG) for Trade are leading the EU's negotiations. The knowledge and contacts that the DG for Development has would give many advantages. But it is trade liberalisation that is at the centre of the Commission's preoccupations. What's more, the predominant role adopted by the Commission reflects the lack of unity and agreement among the member states who assigned a negotiating mandate that was not clearly defined;

- The ambiguous position of EU member states. Sweden, the Netherlands and Denmark formed a task force to better communicate issues important to ACP countries and to try to have more influence on the negotiations. The other member states, waiting for an expected strong Franco British line, have hesitated to give clear signals. In fact the two states have both taken ambivalent positions. On the one hand the British Department for International Development (DfID) published a paper called "Making EPAs deliver

for development"[21], underlining that the EU should "take a non-mercantilist approach and not pursue any offensive interests. […] We will not force trade liberalisation on developing countries either through trade negotiations or aid conditionality […]". While, on the other hand, in Brussels, the British government supports its Commissioner[22] (Mr Mandelson, Trade) in his traditional free market line. The French position is equally unclear. The last two parliamentary reports adopted a very clear line on the issue, but government actions have tended towards a free trade line[23];

- Divergent interests among ACP countries. The regional groups which form the base for negotiations are economically heterogeneous: for example the presence of LDCs and non-LDCs in the same zone. For this reason, certain countries are arguing for differentiated reciprocity. In many EPA regions, in particular in Southern and Eastern Africa, there are countries that belong to more than one regional organisation which have contradictory trade objectives.

The stated aim of EPAs is to help ACP countries integrate better into the world economy by favouring regional integration and improving the access of ACP products to the EU market. However, the accompanying measures (investment in productive and human capital) don't seem to have been considered by those benefiting from them to be at the same level as the market liberalisation measures. ACP demands for additional financial support to help them improve in these domains haven't been taken enough into account at this stage.

For these reasons the process opened by the Cotonou Agreement is today considered by participating countries as a negotiation as to tools of development reduced simply to a trade discussion.

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21 DTI-DFID 2005: "Economic partnership agreements: Making EPAs deliver for development", Position Paper, March 2005. London, Department of Trade and Industry

22 Note that Catherine Ashton replaced Peter Mandelson as Trade Commissioner on 3 October 2008 [Ed.]

23 Nicolas Sarkozy tasked Christiane Taubira, MP for Guyane, with looking at ways to make EPAs an "asset" of the EU-ACP partnership. Her report was published on 17 June 2008. (http://www2.christiane-taubira.org/cms/)

The challenges of reciprocity and differentiated treatment: calming the debate

EPAs come from the Cotonou Agreement, which is the most recent convention signed between the EU and the 77 ACP nations. This convention, signed on 23 June 2000, entered into force on 1 April 2003 for a period of 20 years. Article 37 of the Agreement sets out the timetable for negotiation and implementation of EPAs. The key deadline of 1 January 2008, which seemed far off when the Agreement was signed in 2000, is written into it. Despite the fact that all the participants had therefore known the deadline long beforehand, negotiations on the texts of the EPAs were for the most part only started around the beginning of 2007.

By concentrating only the trade of merchandises, and by distinguishing very poor ACP countries, categorised as LDCs, from those less poor, categorised as developing countries, the potential effect of such agreements was strongly reduced.

LDCs benefit from a tariff-free, quota-free access to the European market, as under the "Everything But Arms" (EBA) regime. For these countries, concluding a special agreement with the EU doesn't make much difference. For the second group of nations, in the absence of a new agreement with the EU, they will revert to the "Generalised System of Preferences" (GSP) regime – this is less favourable that the EBA regime, but more favourable that the standard trade regime common to members of the WTO. Today, 35 ACP countries have signed an agreement with the EU. Among the others, 32 benefit from EBA trade regimes anyway. This leaves 10 countries (of which 7 don't export to the EU) that will have their access to the European market limited. This is the optimistic interpretation it is possible to make at this point in time.

The poor efficiency of the precedent system, and the mitigated record of the Lomé preferences, should also be highlighted. ACP countries suffer from an increasing marginalisation in the world economy. Thanks to the preferential tariff scheme created under the Cotonou Agreement, 97% of ACP exports enter the EU tariff-free. Despite this scheme, ACP exports as a proportion of all EU imports have dropped from 7% to 3% since 1975. Trade between the EU and ACP countries has continued to grow slowly, while world trade has exploded. The growth in export value these past few years is largely down to the increase in the prices of raw materials, especially energy. At the same time, trade with the EU is important for ACP countries: each of the ACP regions does more trade with the EU than inside their region, and the EU is the most important trade partner for the majority of ACP nations. Europe represents 30% of ACP trade, while trade between countries in the same ACP region doesn't exceed 10%. What's more, ACP trade is centred on a small number of

products: 3-4 raw materials make up 50% of ACP exports to the EU (oil 26%; diamonds 11%; cocoa 9%; wood 4%). This trade composition has not changed over a long period of time. In fact, in recent years, the increase in the price of raw materials has reinforced the proportion of raw materials in ACP countries exports.

Overall, it can be said that preferential tariffs haven't brought the expected economic development of ACP nations and that, over the past 30 years, the majority of countries which have undergone a spectacular development thanks to dynamic export growth are not ACP countries – and so didn't benefit from preferential tariffs. The classic example is South Korea: 40 years ago the country was poorer than Ghana. Today, South Korea's GDP per capita ($24000) is nearly ten times greater in purchasing power (PPP) terms than that of Ghana ($2800). What's more, within the framework of increasing liberalisation of world trade, through multilateral (successive GATT/ WTO rounds) and bilateral agreements, such trade preferences are undergoing a slow yet irreversible erosion. On their own, trade preferences will therefore not be a viable future development strategy.

Finally, it shouldn't be forgotten that EPAs are technically a process[24], or a schedule. It was never a question therefore of implementing a free trade area on 1 January 2008 – this point is often misunderstood. There are in fact three timeframes: in the first period the EU opens up its market tariff-free and quota-free (with the exception of rice and bananas); in the second period the EU market is completely open and ACP markets are partially open, through application of non-reciprocity in North-South agreements; and finally in a distant future period of time a "substantial" part of EU-ACP trade will be free. This schedule leaves room for manoeuvre, especially allowing for the careful choice of "sensitive" products.

24 It's worth remembering a few things: 1) The most sensitive products are totally exempt from tariff reductions. Many countries or regions have already taken or could take advantage of this to exempt a large number of goods from market liberalisation; 2) The transition schedules for tariff reduction are very long. In the agreements signed in December 2007, ACP nations took advantage of the timescale flexibility on offer, extending the liberalisation process over 1à or 15 years. This should allow affected sectors the time needed to adjust their strategy and improve their competitiveness in the medium and long term; 3) The tariff-reduction schedules vary according to the products' sensitivity. The agreements signed to date, as well as engagements taken within the framework of regional free trade areas or customs unions, have taken this into account; 4) Emerging industries, food security and the development of rural zones, along with any production sector which is disrupted by imports, can be protected using safeguard clauses. All the agreements signed so far contain such clauses.

EU-ACP Economic Partnership Agreements: the uncertain and limited short-term effects on ACP countries

Opportunities for ACP countries

If we put aside the time schedule-linked tensions, EPAs represent a certain number of economic opportunities for ACP nations.

In theory, free trade agreements should favour the creation and expansion of trade. Traditionally, the expected economic effects of regional integration are first of all static ones, such as the creation of trade and the displacement of existing trade. Even when the common exterior tariff of a customs union is lower than previous import tariffs were, products from a partner country, which weren't economically competitive when subject to the same import tariffs as the rest of the world, can become so thanks to the abolition of trade barriers inside the union. This therefore increases trade inside the customs union, while consumers benefit from lower prices and an associated rise in living standards. However, domestic producers can lose out as they can end up reducing production. In addition, the imposition of import tariffs on goods coming from elsewhere in the world, while allowing partner countries to import goods freely, can eliminate, or at least reduce, imports from the rest of the world even if they are cheaper (before tax) than the same goods coming from a partner country. In this way, trade flows are changed: rest-of-world production and exports are reduced; partner customs union countries increase their production and their exports; and productive resources are misallocated in the analysed country and in its fellow member states, because domestic resources will be used to produce goods that cost more to produce than the reference price.

However, unlike in Europe, intra-region trade flows are low between ACP countries. The creation of a "South-South" customs union is therefore likely to have little effect. Trade relations between the EU and African regions are asymmetric – they represent a large

proportion of African trade, but very little for Europe. The possible benefits that Southern countries could gain from strengthening trade relations with the EU are dependent on their increasing specialisation. Currently, the economic specialisation of ACP countries is dependent on traditional products that have unstable prices and are listed by the United Nations Conference for trade and development (UNCTAD) as goods having little potential for growth in international trade.

Often described as more promising, the dynamic effects are varied but little studied, generally because it is difficult to analyse them. Potential stimulating economic factors are the growth in market size – which can permit producers to benefit from economies of scale – and the growth in competition in economies where the few existing industrial sectors are protected from external competition. On the other hand, increasing competition can be destructive for local producers.

Finally, EPAs are supposed to increase the level of preferential access to the European market. The current "EBA" initiative in favour of LDCs in fact poses several inconveniences which the EPA regime should remove or improve: -preferences are accorded unilaterally by the EU; -the rules of origin[25] are very strict; -the EBA regime has a safeguards clause.

Concerning these adjustment costs, however limited, the benefits offered by EPAs to non-LDCs in terms of market access should be highlighted. LDCs will also benefit from increased market access, while continuing to keep existing EBA trade preferences. EPAs are not just limited to these trade preferences; other EPA benefits could be lost, in particular legal security (EPAs are international treaties whereas the EBA regime is unilateral), rules, regional integration, access to bigger regional markets, and solidarity among neighbouring countries. What's more, the fact that EPAs will be compatible with WTO rules will reduce legal risks and provide stability for traders, while regional integration supposes stable trade policies. EPAs can also act as a lever to improve environmental regulation and help initiate structural reforms.

Box 2: Who would the winners and losers be?

African experiences of regional integration in the 60s and 70s (West Africa) show a concentration of economic activity in the more developed countries or coastal areas, which had more infrastructure, more qualified workers, etc. The

25 Rules of Origin specify how much value needs to be added by an exporting country so that it can benefit from market access. The amount general varies from between 40 and 60% of the value of the product, depending on the type of product ad the trade regime (EBA or GSP). When they are too complex or demanding, rules of origin can be a barrier to developing country exports.

big winners were Côte d'Ivoire and Senegal, who reinforced their positions as regional hubs. The biggest loser was Burkina Faso, who lost workers and industrial capital. According to geo-economic analysis, vertical North-South integration is in theory better for economic growth that regional South-South integration. Regional integration diverts the spending of the poorest economies.

Therefore, the poorest countries involved in South-South integration processes have no economic interest in participating, except if they will be compensated. Many methodological questions still need to be answered: What initial conditions distinguish winners from losers? (Size of the economy, geographical position, existing diversification of production…) And so, which countries should contribute to/ benefit from a compensation system? Previous African compensation systems haven't lasted long, so how can a durable compensation system be made?

Another advantage: these new free trade areas (FTA) can attract foreign direct investment (FDI). This is for two reasons: 1) the size of the new regional market justifies implantation instead of exporting; 2) the endowment of production factors are adapted to the needs of firms who implant to obtain a synergy between their competitive advantages and the advantages offered by the host country in order to export worldwide. FDI can satisfy numerous financing needs (construction of abattoirs and refrigerated warehousing, development of raw material transformation processes, etc). It is, however, difficult to estimate the impact of EPAs on FDI, due to the many other factors (such as political instability) that can effect the destination of FDI flows. Firms' desire to implant themselves in a foreign country depends on the availability of natural resources (e.g. oil), the cost and qualification level of workers, infrastructure quality and the size of markets.

ACP countries are therefore betting heavily on EPAs. This bet relies on at least three assumptions: -firstly, that ACP nations are capable of dealing with EPA adjustment costs; -that there will be a hypothetical inflow of FDI, attracted by tariff-free EU market access, which is already guaranteed by the Lomé Convention; -finally, they calculate that market liberalisation will lead to improved specialisation which will enable the reduction of the proportion of raw materials in ACP exports.

EPAs also include a financial component. The European Commission has announced increasing contributions to the European

Development Fund (EDF[26]), to which should be added European Investment Bank's (EIB) EU-Africa Infrastructure Trust Fund[27], and EPA Regional Funds[28] that the EU has agreed to in principle. In October 2006, the EU promised to increase trade-related aid to €2bn a year by 2010.

The costs and risks of EPAs: the shock of free trade

The inequality of the two parties could cause ACP countries to have to make expensive adjustments. The fact that adjustment costs and comparative advantages will vary from one ACP nation to another will entail different rates of growth, based on the price elasticity of demand. A country having a (regional) advantage in the production of goods with a high income elasticity of demand will see its potential for economic growth augment progressively as long as the enlargement of its market is not opposed by national or regional institutional structures.

There is therefore a danger that economic growth could be concentrated in one or two countries of a union to the "detriment" of the other members. On the supply side, some industries seem to benefit from economies of scale, enhanced by what they learn from experience. The outcome, in the case of regional integration, is that an already-developed industry from one country will increase its relative competitive advantage (or even its absolute advantage) over competitors from other member countries. This will then enhance the comparative advantages of related industries, and so can result in the concentration of industries in one country that had started out with a slight advantage. It seems essential that the union will therefore need a corollary policy of regional rebalancing if it is to survive.

In general, economists highlight the shock of market liberalisation on ACP countries' economies. The effects, as yet unknown, are feared, especially as the European Commission has not yet called for a systematic evaluation of ACP economies, which would allow sensitive production sectors to be identified and level and timetable of market liberalisation to be determined. We can anticipate at least three shocks.

The first potential shock is budgetary and fiscal. As well as the suppression of import tariffs for products coming from the EU,

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26 The amount allocated to National Indicative Programmes (NIPs) and Regional Indicative Programmes (RIPs) in the 10th EDF is twice that allocated in the 9th EDF: €18.9 bn compared with €9.6 bn.
27 This amounts to € 10 m.
28 These are FRAPE in West Africa and FORAPE in Central Africa. Their goals are defined by sub-region.

adopting common external tariffs (with the context of regional integration) will reduce tax receipts. Re-exportation taxes (a sizeable revenue for Nigeria's neighbours, among other countries) will be eliminated. According to European negotiators, the additional economic growth generated by the EPAs will make up for the loss of customs revenue (in many ACP nations, customs incomes represents 50 – 70% of the state budget: they will have to recover this lost income from other tax sources). In most ACP countries customs tariffs are an important source of budget revenue because it is relatively easy and not so expensive to collect import taxes. The majority of customs revenue is raised on UE imports in most ACP countries, especially those in Africa. Given this situation, many ACP countries are worried about the repercussions the transition to free market trade with the EU will have on their budgets. Large reductions in tax receipts could compromise African governments' capacity to finance important socio-economic projects – unless they improve the efficiency of public service delivery and tax collection considerably. Finding new revenue streams will not be a trivial task; reforms of public spending are essential. This will have repercussions on imports for government services and on employment in the public sector.. In other words, it's the EU's responsibility to assist ACP nations in their fiscal adjustment processes – and to integrate this responsibility into the conclusion and the creation of EPAs. In this matter the main problem comes from the EU refusing to speak out clearly in favour of sustained support for fiscal restructuring in those ACP countries that depend heavily on customs revenue from EU trade.

The second potential shock is on production. Few sector studies have been carried out in ACP countries, and no systematic survey has been made of the potential consequences of EPAs on production. Local producers will without a doubt face increased competition from EU suppliers. If local producers have a relative advantage, they will be able to survive by increasing their productivity. If they don't manage to do this, they will be forced to reduce production levels, cut jobs, and finally shut up shop. As part of the adjustment process, means of production will be transferred to other industries where they can make the most of relative advantages. For ACP economies, increasing productivity and structural adjustments could grow job creation and raise overall prosperity levels. However, traditional trade theory depends on a number of hypotheses that don't always correspond to reality. In particular, theory assumes perfect competition, which means that all agents are buyers in the market for goods and capital/means of production. In addition, theory excludes the possibility that large firms could abuse their market position or that firms could make non-competition pacts. Theory assumes that factors of production can be moved between industries within a country at zero cost, and that the return on factors of production can be freely modified to give full employment. In other words, it doesn't cost anything to reallocate resources from producers suffering as a result of imports to other domestic industries. In fact, if we diverge

from the ideal, we cannot guarantee that trade liberalisation will not lower overall prosperity.

The final potential shock is the effect on the balance of payments. Without a doubt, the main aim of EPAs is to reinforce each of these countries' supply capacity and improve their chances of social and economic development. According to recent studies using a partial-equilibrium model[29], the first of these effects will dominate, to such an extent that EU exports could benefit more than ACP exports. Imports to Africa from the EU won't be increased very much, with a non-negligible diversion of trade from Japanese and American products. However, African exports to Europe will only grow by around 1.5%. The direct impact on manufactured goods (apart from textiles) will probably be minor, although bigger than the impact on agricultural exports. Bearing in mind the proportion EU trade makes of total African external trade and the effect of trade diversion to European goods due to economic growth, according to this report[30], total African imports will increase by about 1 to 5%, while the effect on African exports will be negligible. There will therefore be an increase in Africa's balance of trade with Europe.

Hard-to-measure long-term effects

In this context, it is clear that these countries can gain credibility for their economic policy from the agreements, in particular in the trade sector. This is one of the key objectives sought by developing countries when they sign such agreements with developed nations. It is particularly important in Africa, which suffers from political marginalisation. In the long term, establishing contractual trade relations with the world's biggest market guarantees future market access for African goods. (The rights to trade under the GSP regime can be withdrawn or unilaterally modified by the EU at any moment.)

However, even before negotiations started, the definition of the regions to be the basis for the EPAs caused a problem. Some countries are members of more than one regional grouping. As a result, the countries concerned had to choose between regions that could agree to non-compatible conditions (differing schedules for tariff removal, different sensitive economic sectors); these problems were not caused by EPA negotiations but were pre-existing. Basically, in

29 Such models analyse the impact of changes in prices and certain trade levels on income and household expenditure using a partial equilibrium. They specify a system of relations between supply and demand for some sectors of the economy in order to estimate the impact of policy changes in one sector on other economic sectors. These models enable the supply-side and redistribution effects that are at the heart of the development process to be understood in more detail. What's more, these models don't require long series of statistical data.

30 Pricewaterhouse Coopers, Sustainability Impact Assessment (SIA) of the EU-ACP Economic Partnership Agreements, PWC, January 2004, 142 p.

more than one case, there was a clear incompatibility between being a member of an EPA regional negotiation group and being a member of a regional organisation. For example, in Southern and Eastern Africa, three regional organisations foresee trade integration and the formation of a customs union: the EAC[31] (customs union formed on 1 January 2005), COMESA (planned in 2008) and SADC (planned in 2010). Several countries are members in more that one organisation, but this will be impossible once the COMESA and SADC customs unions come into force. It's simply not possible to be a member of both customs unions if they have different external trade policies.

In this domain, the principle is clear: the EU is neutral as to the configuration of regional integration areas – this is a sovereign decision, which belongs to ACP governments. The EU supports regional integration for the benefits that it brings and aims to support practical solutions to membership conflicts.

31 The East African Community (EAC) brings together Kenya, Uganda, Tanzania, Rwanda and Burundi.

Conclusion

Today, it seems impossible to go back. EPAs therefore must be used as a lever to aid development. The scale of the asymmetry (how much trade will ACP regions continue to protect?), and the tariff-reducing schedule are at the heart of the negotiation with Europe. Other subjects, technical barriers to trade, form part of the discussion: norms; accompanying measures; intellectual property; government procurement; the liberalisation of services, etc.

There are two important points however.

It is essential to bring infrastructures up to standards, especially for transport and energy, so that Africa can really make the most of its natural advantages and create local added value.

Also, at a national level, strategic industries and/or branches of industry sensitive to competition must be identified so that they can be protected and correctly exploited. Indeed, countries can put forward the best case for their interests and be better prepared for regional and international negotiations, they must determine: 1) the risks linked to opening up markets to international competition; 2) the opportunities that arise from regional integration; 3) their strategic products in terms of food security, supporting households standards of living and rural development.

Liberalisation of trade with the EU, ACP countries' first trading partner, will have two consequences: a loss of customs revenue and increased competition for both transformed goods and raw materials in domestic markets. The economic sensitivity of a product should therefore be estimated based on these two effects. From a fiscal point of view, the goods that bring in the most revenue for ACP countries should be chosen as sensitive goods in order to get exemptions. When considering products that are sensitive for specific production sectors, safeguard measures allow a country to react if imports cause sizeable competition problems between the two groups of countries. Competition problems come in different forms: they are direct when imports are the same or very similar to local produce; indirect when imports and local produce are not equivalent; potential when imports don't compete with existing local products but will damage the medium and long term capacities for a country to develop new productive activities; selective when only some sectors of the population are effected.

But, economic calculations aside, the discussions over which products are sensitive will face several challenges. The first challenge

is that of the founding idea behind the EPAs – they are agreements between a grouping that has already unified its economic policies (the EU) and a group of countries whose national policies dominate still. The second challenge comes from differences of interest between ACP countries, which come from the different positions that states occupy in regional political and economic systems[32].

The choice of sensitive products is crucial, and has to be debated by regional blocs (the EU and each respective EPA regional group). The need to negotiate at this level assumes that each individual country identifies its main sensitive products and then coordinates with the other members of its region to establish the region's list of sensitive products ready for negotiations with the EU. As a result, a country or a group of countries can't prevent the market liberalisation of their entire agricultural sector. Finally, the range of national domestic situations makes the sensitive goods selection process very difficult.

Concerning the timing and the establishment of schedules, great attention needs to be paid to the progressive introduction of tariff reductions. It is widely accepted that the existence of adjustment costs requires a "gradualist" approach to the removal of protectionist trade barriers. ACP countries should establish suppression schedules that remove trade barriers progressively. This will allow their economies to adapt to the increase in EU competition with the minimum of social and economic disruption. In sectors where EU competition could have devastating effects, the market needs to be opened up gradually in order to protect domestic production and to allow it to become competitive, or more specialised in a particular niche that produces goods not found in the EU. Overall, there is no standard solution for determining schedules. However it seems to be important that ACP nations can define a longer schedule than the twelve-year schedule foreseen in order to reduce and eliminate obstacles with EU trade progressively. This period will allow sensitive agricultural sectors to adapt to the new competition, adopt techniques that are more productive and that also reduce negative side-effects on the populations whose lives depend on agricultural activity.

Identifying the sensitive goods is a difficult task – the countries that make up the regional integration zones don't have the same interests – but it is essential if a customs union and a common market are to be established. The manner that countries' markets are opened up should be adapted according to each country's capacities and incapacities. For this reason, it helps to recognise that certain goods need protecting temporarily, so that they can become more competitive and reduce their sensitivity to EU competition.

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32 For example, the discordances in trade policies between Nigeria and the members of UEMOA cause re-exportations. Another example, oil is 10 to 20 times cheaper in Nigeria than in neighbouring Niger.

Even if an EPA improves access to the EU market somewhat, that doesn't mean that there will be a massive and rapid increase in exports from that region. At present, production capacities for goods suitable for the European market are low; developing this will require investment. The majority of studies show that for EPAs to enable ACP countries to gain market share in Europe, lots of aid will be needed to enable the necessary economic development. Without that aid, EPAs will reveal more drawbacks than advantages.

List of acronyms used

ACP – Countries from Africa, the Caribbean and the Pacific
AGOA – African Growth and Opportunity Act
AASM – Associated African States and Madagascar
CARICOM – Caribbean Community
Cariforum – Caribbean Forum of States
CEMAC – Communauté Economique et Monétaire de l'Afrique Centrale (Economic and Monetary Community of Central Africa)
COMESA – Common Market for Eastern and Southern Africa
DFI – Direct Foreign Investments
EAC – East African Community
EBA – Everything But Arms
ECCAS – Economic Community of Central African States
ECOWAS – Economic Community of West African States
EDF – European Development Fund
EPA – Economic Partnership Agreements
EU – European Union
FTA – Free Trade Agreements
FTA – Free Trade Area
GATT – General Agreement on Tariffs and Trade (replaced by the World Trade Organisation in January 1995)
GSP – Generalised System of Preferences
LDC – Less Developed Country
MFN – Most Favoured Nation (clause)
PPP – Purchasing Power Parity
RTA – Regional Trade Agreements
SACU – Southern Africa Customs Union
SADC – Southern African Development Community
SDT – Special and Differential Treatment
TDCA – Trade, Development and Cooperation Agreement
UNCTAD – United Nations Conference on Trade and Development
UEMOA – West African Economic and Monetary Union (Union Economique et Monétaire Ouest-Africaine)
WTO – World Trade Organisation