

**Background Note for the 6th ACP Summit of Heads of State
and Government 2-3 October, Accra, Ghana**

**Economic Partnership Agreements and
the Future of the ACP group**

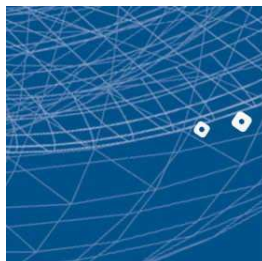
**submitted by Sanoussi Bilal and Aurélie Walker
ECDPM**

22 September 2008

1 Introduction

The Cotonou Partnership Agreement (CPA) has provided the framework for cooperation between the African, Caribbean and Pacific (ACP) Group and the European Union (EU) based on three major pillars: political dialogue, development support and economic and trade cooperation. In 2000 the ACP and EU agreed to conclude new trading arrangements compatible with the World Trade Organisation (WTO) rules to replace the unilateral regime of trade preferences granted by the EU to imports from the ACP that prevailed at the time. Thus, negotiation of the new Economic Partnership Agreements (EPAs) was initiated in 2002 with the aim of being concluded by 31st December 2007. Since EPAs aim at building on and strengthening the regional integration processes in the ACP, negotiations have been conducted at the regional level with 6 self-declared EPA regional groupings. The EPA negotiation process involved the all-ACP level to determine broad cross cutting themes of interest whilst the specific issues of interest of the negotiations were and still are being determined at the national and regional level. By 1 January 2008, only one region, CARIFORUM, had managed to conclude a comprehensive EPA with the EU, as initially envisaged. Another 18 countries in Africa and 2 countries in the Pacific had concluded interim – goods-only – agreements with the EU. As of September 2008, none of the ACP countries had formally signed an agreement with the EU. EPA negotiations are continuing with African and Pacific regional groupings.

This paper discusses the impact of the EPA negotiations and conclusion of (interim) agreements on the cohesion and role of the ACP Group in the future. It also considers two other important dates in the CPA which also call the ACP Group to examine its future role: the CPA revision in 2010 and the CPA expiry in 2020.



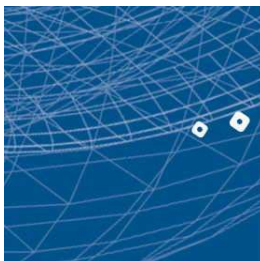
The ACP Group was brought together by its historical connection to the European Union but also acts collectively in other fora, notably as a coalition in the multilateral trade arena. When considering the future of the ACP Group, it is necessary to consider the wider role in relation to the rest of the world, and on issues of common interest beyond trade.

2 EPAs: Stumbling blocks or building blocks to collective ACP action?

There has been a major shift in the economic and trade relationship between the ACP and EU from a unilateral ACP-wide regime to a reciprocal region-specific approach. The Lomé/Cotonou type of unilateral preferences allowed for a small differentiation among ACP countries, for a limited number of commodities ruled by specific Protocols (sugar, banana, beef); but the EPA process marked a radical shift. Differentiation began in 2001 with the introduction of the Everything-But-Arms (EBA) initiative; granting duty-free quota-free market access to all imports from least developed countries (LDCs) has de facto created a differentiated treatment for imports to the EU coming from ACP LDCs and imports from ACP non-LDCs. However, the introduction of a regional approach to trade relations with the ACP, combined with the reciprocal nature of the EPAs, have contributed to test the cohesion of the ACP Group. ACP countries were not only seeking better treatment for their exports, as in the case of the past revisions of the Lomé and Cotonou unilateral preferences. They were also faced with the request to open up their markets. For the first time, the ACP and the EU were engaged in real trade negotiations, touching upon national and regional interests in the ACP. While the ACP Group attempted to maintain a unified front in the initial phase of the negotiations (the all-ACP Phase of 2001-2002), the EU was eager to engage on substantive negotiations with ACP regional groupings; and some ACP regions were similarly prompt at breaking away from an all-ACP approach to pursue their interests in regional talks with the European Commission.

The ACP Group has made collective decisions and recommendations throughout the negotiation process through numerous declarations, but responsibility for implementation lies at the national/regional level. The bilateral negotiation process has meant that countries and regions have had to make concessions to the EU. Defining offensive and defensive national and regional interests in the process has compromised the unilateral decisions taken at the ACP level. The European Commission has also been accused of pursuing a divide-and-rule strategy, in an attempt to prevent a unified front from the ACP, hence further straining the cohesion of the ACP Group.

The (interim) agreements concluded by only 35 ACP countries at the end of 2007 have resulted in a de facto further differentiation in the treatment of ACP exports to the EU, which now enter the EU under 3 different trade regimes: (i) an



(interim) EPA for those countries that have concluded an agreement, (ii) EBA for the many ACP LDCs that have not concluded any agreement, and (iii) the standard GSP for the others. The various, at times conflicting, interests among ACP regions and countries, and their differentiated treatment has not been conducive to the cohesion of ACP regions, let alone the ACP as a group.

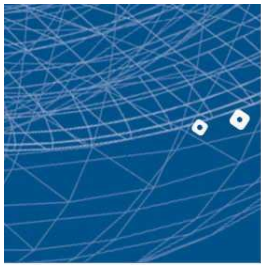
However, the EPA process has also allowed regional groupings to pursue their specific interests, which may differ from region-to-region. In doing so, it has offered ACP countries the opportunity to better identify areas where their interests converge. Therefore collective action by the ACP Group, which until now has been based on the general principle of solidarity, can be strengthened by defending a well-defined set of common interests.

Asymmetric negotiating capacity between the parties requires ACP solidarity to counterbalance the EC's upper hand. The conclusion of interim agreements which contain provisions that many ACP negotiators disapprove of shows the power-bias in favour of the European Commission and the limitations of ACP countries and regions acting individually. The latest ACP declaration of June 2008 which called for the EU to review ten contentious clauses in the interim agreements is an illustration of the ACP desire to act collectively. Yet, to have an impact, such declarations must be followed by coordinated efforts from the ACP Group to alter the EU position. This in turn requires strong political leadership and commitment by ACP regions and countries to act collectively and not to shift position in bilateral talks with the EU which has been the case not only at the continental level, but also at the regional and country levels. The capacity and at times the will of the ACP countries to effectively work together has been seriously put to the test by the EPA process.

Opportunities for common action will also emerge during the implementation and monitoring phases of the EPAs. These next stages are key to ensuring that EPAs deliver on their development objectives as stipulated in the CPA, "enhance the production, supply and trading capacity of the ACP countries as well as their capacity to attract investment." Issues that cannot be satisfactorily addressed at the regional EPA level, notably in relation to the CPA framework (e.g. programming and delivery of Community development assistance) or in terms of the EU response, may be more successfully tackled at the continental and all-ACP levels. Again, strong political leadership will be required to identify and defend the collective interest in this next phase.

2.1 CPA Review 2010

The next revision of the CPA, to be negotiated in 2009 and adopted in 2010, will provide a useful opportunity to actualise Title II of the CPA on Economic and Trade Cooperation, and in particular Chapter 2 on new trading arrangements. This Chapter deals with the negotiation of EPAs, which was foreseen to end by 31 December 2007. Many of its provisions need to be updated. Since EPAs were conceived to replace the economic and trade cooperation pillar of the ACP-EU partnership, the CPA could be adjusted accordingly. The transitional trade regime



of unilateral (Lomé/Cotonou) preferences, as specified in Annex V, is no longer relevant as it elapsed on 1 January 2008. Similarly, the Commodity Protocols should be adjusted.

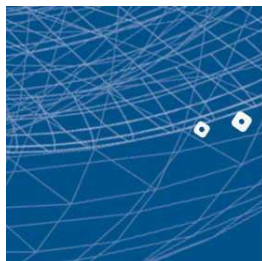
New issues that could be addressed in a revised CPA include the relationship between EPAs and the CPA. Some basic provisions of the EPAs (e.g. on principles, objectives, etc.) could be referred to in the revised CPA. Development cooperation principles and commitments on EPAs could also be spelled out in the CPA.

An important issue relates to the institutional framework foreseen in an EPA and its relations with CPA institutions. For instance, the CARIFORUM-EU EPA establishes a Joint CARIFORUM-EC Council, a CARIFORUM-EC Trade and Development Committee, a CARIFORUM-EC Parliamentary Committee and a CARIFORUM-EC Consultative Committee for other non-state actors. The institutions are established without prejudice to any pre-existing equivalent in the CPA, and their function is restricted to matters arising in the EPA. The role of the ACP and joint ACP-EU institutions will need to evolve to accommodate this change, and will have to work harder to identify areas of common interest to all regions. What will be the relations between these bodies and the ACP institutions? How will it relate to the tasks of the ACP and ACP-EU Councils of Ministers? What will be the relation between the CARIFORUM-EC Parliamentary Committee and the Joint Parliamentary Assembly? Since the CARIFORUM-EU EPA, in Article 231, states that the CARIFORUM-EC Parliamentary Committee “shall cooperate with the Joint Parliamentary Assembly provided for in Article 17 of the Cotonou Agreement, it would seem logical that at least a parallel reference is made in Article 17 to the EPA Parliamentary committees.

It is also worth recalling that the CPA, as concluded in 2000 and revised in 2005, did not require the conclusion of an EPA and foresaw the possibility of an alternative. Indeed, Article 37.6 of the CPA allows for non-LDC countries not in a position to conclude an EPA to be provided with an alternative trading arrangement “equivalent to their existing situation and in conformity with WTO rules”. ACP non-LDC countries have not formally requested such an alternative, with the exception of Nigeria, which did so unsuccessfully at the end of 2007. As of 1 January 2008, the few non-LDC countries that had not concluded an (interim) agreement with the EU started trading with the EC using the General System of Preferences trading regime, which is inferior to the Lomé/Cotonou preferences. The review of the CPA in 2010 will provide an opportunity to address once more the issue of alternative trade regimes in case some non-LDC countries do not sign an EPA. Only the collective effort of the ACP Group could lead the EU to possibly agree to provide a more preferential alternative than the GSP.

2.2 CPA expiry 2020

The EU’s external relations strategy is increasingly based on regional approaches as seen by the European Neighbourhood Policy, the Mediterranean Union initiative following the Barcelona Process, its relations with South and Central



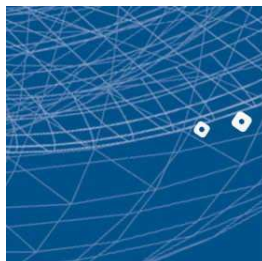
America and now with Asia. Even with the ACP, the EU has developed individual strategies with each of the African, the Caribbean and the Pacific regions. In March 2006, the European Commission adopted the EU strategy for the Caribbean, which serves as the framework for EU - Caribbean relations at the political, economic and developmental level for the future. Likewise, the new Africa-EU Strategic Partnership provides a comprehensive, integrated and long-term framework for the EU's relations with the African continent that follows on from the 2005 EU Strategy for Africa. It is structured along 8 Africa-EU strategic partnerships; Peace and security, Democratic governance and human rights, Trade, regional integration and infrastructure, Millennium development goals (MDGs), Energy, Climate change, Migration, mobility and employment, Science, information society and space. The EU's Pacific strategy defines its relationship with 15 Pacific countries and 3 Overseas Countries and Territories in the Pacific. The strategic aims are to strengthen political dialogue, focus development cooperation on economic growth and sustainability, and improve the effectiveness of aid delivery – e.g. through beneficiary-led donor coordination (eg with Australia and New Zealand). While these continental/regional partnerships are currently conceived as complementary to the ACP-EU partnership, they could further develop and ultimately replace the CPA.

In the same vein, EPAs which currently only redefine the economic and trade cooperation between ACP regions and the EU, could be complemented on expiry of the CPA in 2020, by political dialogue and development cooperation pillars, possibly importing key provisions from the CPA into enhanced EPAs. There is currently no indication that this will be the case, and both scenarios remain fictitious. Yet, EU free trade agreements with its partners tend to be multi-dimensional, encompassing political, trade, economic or development dimensions, as in the case of the agreements with Mexico, Chile, South Africa, Balkan states and Mediterranean countries.

The ACP group have a collective interest in ensuring that political dialogue and development assistance remain part of their cooperation with the EC, and moreover that these issues are addressed in a manner reflective of the needs of the time. The bargaining power of the ACP and the further enlarged EC in 2020 cannot be predicted, but the need to create a relevant political, development and economic cooperation framework beyond 2020 is real. The challenge is one the ACP group has the opportunity to address collectively as the CPA provides for the parties to enter into negotiations to examine which provisions will govern relations eighteen months before its expiry.

3 Beyond ACP-EU relations

The future of the ACP Group need not be determined by the fate of the CPA. The group can act collectively in other fora with third parties, such as the WTO, and can continue the tradition of working together to address issues of common interest with or without the CPA, with or without EPAs.



Each region is involved with bilateral trade discussions with other partners; the Caribbean region with Canada and the USA, the Pacific region with Australia and New Zealand, and African regions with a number of trade partners. As bilateral trade relations gain importance the Group can support each other by sharing experiences and information if trust is a principle of future ACP cooperation.

To that end, the deepening of the integration process in the ACP regions may contribute to enhance the capacity for collective action of the ACP Group, which could be articulated around its few regional groupings, rather than its 79 countries.

4 Conclusion

The future of the ACP Group is not solely dependent on the EPAs or CPA. The future of the ACP group lies in identifying common interests and providing political leadership to promote and defend them. The ACP Group itself has identified cooperation for development, culture, migration, environmental protection and climate change as issues of common interest, and these extend far beyond relations with the EU. The ACP Group has a tradition of working together and can continue to do so on trade and economic cooperation matters if the institutions evolve to meet the new challenges raised by increasing regionalism in international trade relations globally. To foster this process, the ACP Group should, inter alia:

- Objectively review the strengths and weaknesses, as well as challenges and potential benefits of collective actions by the ACP Group;
- clearly identify the priority areas of cooperation for the ACP as a group;
- guide and support the work of the group of ACP Ambassadors and the ACP Secretariat in their contributions on the future of the ACP Group and revision on the Cotonou Agreement;
- actively involve parliamentarians, private sector, farmers and civil society representatives, as well as experts, to help identifying the implications of EPAs on the future of the ACP Group, its relations with third parties and the CPA revision, including by organising consultative meetings; and
- dedicate appropriate resources to the ACP institutions, so as to strengthen the cooperation framework and support available to the Group.

EUROPEAN CENTRE FOR DEVELOPMENT POLICY MANAGEMENT (ECDPM)

Onze Lieve Vrouweplein 21
NL-6211 HE Maastricht
The Netherlands
Tel +31 (0)43 350 29 00,
Fax +31 (0)43 350 29 02

Rue Archimède 5,
B-1000 Brussels
Belgium
Tel +32 (0)2 237 43 10,
Fax +32 (0)2 237 43 19

More information: info@ecdpm.org www.ecdpm.org www.acp-eu-trade.org