

# Options for Future ACP-EU Trade Relations

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## Acronyms

ACP	Africa, Caribbean and Pacific
CARICOM	Caribbean Common Market
CAP	Common Agricultural Policy
CEMAC	Communauté Économique et Monétaire de l'Afrique Centrale
COMESA	Common Market for Eastern and Southern Africa
EAC	East African Cooperation
EC	European Commission
ECOWAS	Economic Community for Western African States
EDF	European Development Fund
ESAF	Enhanced Structural Adjustment Facility
EU	European Union
FTA	Free Trade Area
GATT	General Agreement on Tariffs and Trade
GSP	Generalised System of Preferences
IOC	Indian Ocean Commission
LDC	Least-Developed Country
MERCOSUR	Mercado del Cono Sur
MFN	Most-Favoured Nation
NAFTA	North American Free Trade Agreement
NTB	Non-Tariff Barrier
RFTA	Regional free trade agreement
UDEAC	Union Douanière et Économique de l'Afrique Centrale
UEMOA	Union Économique et Monétaire Ouest-Africaine
SADC	Southern African Development Community
WTO	World Trade organisation

## Executive Summary

Improved export performance and greater trade openness can help ACP economies to achieve faster growth. They are also necessary as a stimulus to countries starting or re-starting a process of industrialisation. While this is primarily the responsibility of ACP governments, the significant changes that are about to affect ACP trade relations with the European Union will have a major impact on the trade environment and on the design and implementation of ACP economic and trade policies.

The recently-approved European Commission mandate for negotiation on a successor to the soon to expire fourth Lomé Convention retains specific, but differentiated, European trade policies towards the ACP. These are in the form of "regional free-trade agreements" (RFTAs). The EC proposal is based on three principles: First, preferential free-trade agreements are the EU's favoured strategy to interact with its "preferred" trade partners. Second, forming regions among developing countries is good for development and the EC is good at supporting this process, therefore free-trade agreements will be with regional groups rather than individual countries. Third, least-developed countries deserve a special and different treatment, and therefore should retain existing non-reciprocal trade preferences. An additional principle is that the ACP should not be worse off in terms of access to the EU market than they currently are.

Reconciling all of the above will prove problematic, but the proposal should be seen as a compromise between a large number of objectives and interests, some of which conflict with each other. The EC is indeed under strong pressure, not only to achieve the Treaty of Amsterdam's objective to ease the integration of developing countries in the global economy, but also to maintain the principle of specific trade policies towards the ACP. It must also comply with WTO rules (particularly on non-discrimination) and preserve the EU's own political and economic interests (including the CAP).

While it is much too early to say to what extent the proposed solution would promote greater ACP trade performance - for much will depend on the results of future events such as the outcome of the GSP review and a possible new multilateral round - a number of elements have created concern in the ACP and in the EU. These include: The risk of trade diversion, agreements too complex to manage, an uncertain impact on reforms, no improvement in market access, and little likelihood of any increase in financial support. There are also doubts about the feasibility of RFTAs, since most ACP regions are not yet themselves free-trade areas and do not have the institutional capacity nor the mandate to negotiate such agreements. Finally, the "regional" approach of the EU could also - paradoxically - impede the formation of regions within the ACP.

However, regional FTAs are not the only possible trade option beyond Lomé IV. Some people still favour extending current Lomé trade provisions, but this seems increasingly unlikely. This leaves three possibilities:

First, WTO-compatible FTAs. These are the EC's preferred solution but they will require a long period of time, as well as the clarification of many provisions. Their success relies on the political will of the ACP, and on the capacity of ACP countries to overcome the huge obstacles on the road to forming regional groups. Second, to revise the EU's GSP to be equivalent to Lomé. This would leave absolute preferences unchanged for most ACP countries, but may be politically impossible to achieve. More limited reforms in 2004 could improve the GSP and bind it in the WTO. Third, the more multilateral-friendly, and more radical "MFN route" would harmonise European external trade policies, and gradually dismantle any form of discrimination on the ground that tariff preferences are losing their value anyway. While maintaining Lomé access for the ACP, the EU would extend it to others in the course of the next round of multilateral negotiations. In exchange, the ACP would actively seek improved access to dynamic non-EU markets. ACP-EU trade cooperation under Lomé V would cover new areas not currently fully covered by the WTO.

## Introduction

In February 2000 when the fourth Lomé Convention expires, the EU's trade relations with ACP (Africa, Caribbean, Pacific) countries will undergo significant changes. These will entail both opportunities and risks for ACP countries. Three months before negotiations for a post-Lomé IV arrangement officially start in September 1998, the Council of the European Union adopted the negotiating mandate proposed by the European Commission (EC).<sup>2</sup> By then, the ACP position was still under preparation.

There are several ways to address future EU trade policies towards the ACP group.<sup>3</sup> This Working Paper aims to analyse the pros and cons of the EC's post-Lomé IV proposals from the point of view of the development needs of the ACP, and to formulate alternatives that could count on a consensus between the EU and the ACP. By focusing on ACP countries, we are not considering the impact of the EU's external trade policies on developing countries in general, nor their consequences for the multilateral system. By focusing on economic development, we deliberately overlook other fundamental (political) dimensions of European trade policies, which may conflict with development concerns. This paper identifies the major challenges facing ACP countries in terms of their trade policies, as well as ways the EU can support them. The EC proposal to sign free trade agreements between the EU and ACP regions is assessed in relation to its implications for ACP countries. Finally, the feasibility of the "regional" approach as proposed by the EC is considered and four options for future ACP-EU trade relations are presented.

## Trade and Development: Challenges for Lomé V

### *Improving Trade Performance: Challenges for the ACP*

Most ACP economies are still relatively closed, have weak industrial sectors, and are not yet able to diversify their exports —although for each of these criteria several exceptions can be found. Improved export performance and greater trade openness can help to achieve faster growth, and is necessary for many countries to start or re-start a process of industrialisation. Broadly, most ACP countries face three major challenges.

1. *Continue to reform trade regimes.* More transparent and more open trade regimes are needed in most ACP countries to overcome supply-side constraints, to attract foreign capital and technology, and to improve their export performance. On the whole, ACP countries have made less progress on the road to trade reform than most other developing countries: their offers of tariff cuts during the Uruguay Round were among the lowest, particularly those by African countries, although other low-income countries, like India and Bangladesh, had equally limited offers. It should also be noted in this context that sixteen ACP countries are not WTO members (see table 1).

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<sup>2</sup> See EU Council, 1998.

<sup>3</sup> In this paper, except when noted, "ACP" does not include South Africa. Although it is now the 71<sup>st</sup> ACP country, South Africa does not benefit from current Lomé trade preferences and it has been negotiating a separate trade agreement with Europe since 1995. (See list of ACP countries in table 1). Strictly speaking, it is the European Community (i.e. the European Commission and the Council of the EU) that is in charge of the EU's trade policies. Although we should refer to the *European Community's* trade policy, and not the *European Union's*, we use the term EU to avoid confusion between the two acronyms of the European Community and the European Commission. In the text, EC refers to the Commission.

**Table 1: ACP and other developing countries  
Level of development and WTO membership (1998)**

Least Developed Countries			Developing Countries		
Africa (33)	Caribbean (1)	Pacific (5)	Africa (15)	Caribbean (14)	Pacific (3)
1 Angola	Haiti	Kiribati*	Botswana	Antigua and Barbuda	Fiji
2 Benin		Solomon Islands	Cameroon	Bahamas*	Papua New Guinea
3 Burkina Faso		Tuvalu*	Congo-Brazzaville	Barbados	Tonga**
4 Burundi		Vanuatu**	Côte d'Ivoire	Belize	
5 Cape Verde*		Western Samoa*	Gabon	Dominica	
6 Central African Rep.			Ghana	Dominican Republic	
7 Chad			Kenya	Grenada	
8 Comoros*			Mauritius	Guyana	
9 DR of Congo			Namibia	Jamaica	
10 Djibouti			Nigeria	St Christ. And Nevis	
11 Equatorial Guinea*			Senegal	St Lucia	
12 Eritrea*			Seychelles**	St Vincent & the Gr.	
13 Ethiopia*			South Africa <sup>1</sup>	Surinam	
14 Gambia			Swaziland	Trinidad and Tobago	
15 Guinea			Zimbabwe		
16 Guinea Bissau					
17 Lesotho			Non-ACP	Honduras	Pakistan
18 Liberia*			Algeria**	Hong Kong	Panama**
19 Madagascar			Argentina	India	Paraguay
20 Malawi			Bahrain	Indonesia	Peru
21 Mali			Bolivia	Iran IR*	Philippines
22 Mauritania			Brazil	Iraq*	Qatar
23 Mozambique			Brunei	Jordan**	Saudi Arabia**
24 Niger		Non-ACP	Chile	Korea DPR*	Singapore
25 Rwanda		Afghanistan*	China**	Korea	Sri Lanka
26 Sao Tome & Principe*		Bangladesh	Colombia	Kuwait	Syrian AR*
27 Sierra Leone		Bhutan*	Costa Rica	Lebanon*	Thailand
28 Somalia*		Cambodia*	Cuba	Libyan AJ*	Tunisia
29 Sudan**		Lao PDR*	Cyprus	Mexico	Turkey
30 Tanzania		Maldives	Ecuador	Mongolia	UAE
31 Togo		Myanmar	Egypt	Morocco	Uruguay
32 Uganda		Nepal**	El Salvador	Nicaragua	Venezuela
33 Zambia		Yemen*	Guatemala	Oman**	Viet Nam**

Source: UN Development Report, 1997; WTO web site.

Notes: \* not a WTO member; \*\* observer status at WTO. All observers have asked to join. In February 1998, the WTO general council agreed to establish a working party to negotiate accession terms for Laos, and approved a request for observer status from Cape Verde.

1. South Africa has formally joined the ACP group since Lomé-IV bis was ratified by all European member states, i.e. in April 1998. However, unlike the 70 others, it does not benefit from Lomé trade preferences; it has been negotiating a separate free trade agreement with the EU since June 1995; under the WTO it is considered as a developed country.

2. *Coordinate trade liberalisation with other economic reforms.* One of the main lessons of structural adjustment in developing countries is that coordination of trade reforms with other economic reforms — such as banking, tax, public sector, and business law — can make a substantial difference. Failure to do so may result in too severe a shock for fragile economies. This eventually may lead to a halt or a reversal of reforms.<sup>4</sup> Therefore, trade liberalisation has to be context-specific.
3. *Manage sustained trade reforms.* A major challenge for ACP countries is indeed to ensure that trade liberalisation measures are implemented in a sustainable manner. However, capacity to manage sustained reform remains weak within the ACP, particularly in many sub-Saharan African countries. Even if carefully implemented, such measures may be reversed as a response to economic shocks or under pressure from domestic vested interests.<sup>5</sup>

<sup>4</sup> A case in point is the trade liberalisation measures under the New Industrial Policy in Senegal in the 1980s, as shown in Berthélemy *et al.* 1997.

<sup>5</sup> A recent example is given by the protests of private sector trade unions in Madagascar, which contributed to delaying tariff cuts for products originating from Mauritius, the Comoros and the Seychelles. This led the government to breach

Addressing these three challenges is primarily the responsibility of ACP governments. However, because of the EU's weight as trade partner and aid donor, any post-Lomé IV trade agreement will have a major impact on the trade environment and on the design and implementation of ACP economic and trade policies. We now turn to the main areas where donors in general, and the EU in particular, can help ACP countries achieve sustainable trade reforms within the context of their overall economic reforms.

### ***Improving Trade Performance: How the EU can Help***

- *Support overall economic reforms.* To become better exporters, ACP countries must first produce a wider range of better products, and therefore increase their competitiveness. Support to economic transformation, especially within structural adjustment programmes, as provided through EDF (the European Development Fund) and ESAF (Enhanced Structural Adjustment Facility) is therefore crucial. This includes facilitating the trade reform process in coordination with other economic reforms, as well as offsetting related costs through balance of payment support, etc.
- *Keep the European market open to ACP products.* The current Lomé trade regime provides non-reciprocal preferential access for ACP exporters to the EU market. It is increasingly recognised, by the ACP as well as the EU, that this access is not sufficient to improve ACP export performance. Preferences will continue to erode as multilateral trade liberalisation brings world tariffs down. Nevertheless, as long as multilateral free trade is not achieved, there is a case for retaining or improving current market access for as many ACP countries as possible. Making trade preferences more readily usable by beneficiaries — e.g. by simplifying rules of origin, as proposed by the ACP — may also be an area of possible improvement.
- *Help ACP exporters to trade on international markets.* Even with preferential market access and structural adjustment, many ACP countries, especially the least-developed, lack the capacity to expand their exports. Trade-related technical assistance and cooperation is necessary to develop the skills and to strengthen institutions. Then exporters can take advantage of trade opportunities. This includes helping ACP countries deal with new issues such as international norms, environmental and labour standards, and intellectual property regulations.

The limitations of the existing Lomé trade arrangements have been underlined in several studies and in the Green Paper.<sup>6</sup> The question should now be raised whether the post-Lomé IV trade regime, as proposed by the EC, will promote greater ACP trade performance. It is much too early to provide a detailed assessment -- much depends on future events including the GSP review and a possible new multilateral round. However, we can analyze the key elements of the EC proposal, try to identify EC motives, and then highlight issues that have created concern among parts of the ACP.

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its earlier commitments under the Regional Integrated Programme for Trade Development (PRIDE) of the Indian Ocean Commission. See *Marchés Tropicaux & Méditerranéens*, December 1997.

<sup>6</sup> See Davenport, et al. (1995), EC (1996) and ECDPM (1996).

## The European Commission's Proposal

### ***Three Principles: Free Trade Agreements, Regions and Special Treatment for the Least-Developed***

Of the four options proposed in the EC's Green Paper, only two became real issues for the debate: either remove the trade chapter from the Lomé Convention, or retain specific, but differentiated trade policies towards the ACP. The status quo (option 1) and undifferentiated reciprocity (option 3) did not seem to be serious contenders. The real alternatives were therefore options 2 and 4.

Option 2 envisaged the merger of Lomé into GSP, which would *de facto* remove trade from the future agreement between the ACP and the EU, since ACP countries would benefit from the same non-reciprocal trade preferences as other developing economies. Option 4 proposed "differentiated reciprocity", i.e. to keep specific trade policies towards ACP countries, but with two differences. The latter would also open their markets to the EU and different sets of ACP countries would receive different treatment. The EC negotiating mandate of early 1998 is based on option 4. The proposal follows three principles.

1. *Free-trade agreements as the way forward.* DG VIII's proposal is in line with DGI's policy of signing preferential bilateral trade agreements.<sup>7</sup> The EC believes in the complementarity between multilateralism and preferential agreements. Its post-Lomé IV proposal is to replicate the EU-Mediterranean experience of turning non-reciprocal trade preferences into reciprocal preferential trade agreements to form free trade areas (FTAs), with aid offsetting the costs of opening to European products. This is proposed as one of two options: ACP countries that would not wish to enter a FTA with the EU would be graduated into the GSP (except LDCs, see below).<sup>8</sup>
2. *Regions.* The EU strongly believes in both the virtues of regions for economic development and in its own capacity to promote them through its cooperation agreements with developing countries. Part of Lomé aid is directed to regional groups (through Regional Indicative Programmes). In the nineties, following the successful completion of the European Single Market, greater emphasis was laid on regional *trade* cooperation. In particular, trade liberalisation within ACP regions has been actively promoted in Lomé-IV and Lomé-IV bis, as a step towards multilateral trade liberalisation.

While the promotion of regionalism and preferential trade agreements are not new features of the EU's external policies, the novelty is that the EU aims eventually to sign *free trade agreements with regions*.<sup>9</sup> Regional free trade agreements will be proposed to sub-regional groups, and may subsequently be merged into bigger FTAs, e.g. with former Lomé countries in Africa, the Caribbean and the Pacific respectively.<sup>10</sup>

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<sup>7</sup> For instance, the EU has free trade agreements with Tunisia, Morocco and Israel, and a customs union with Turkey.

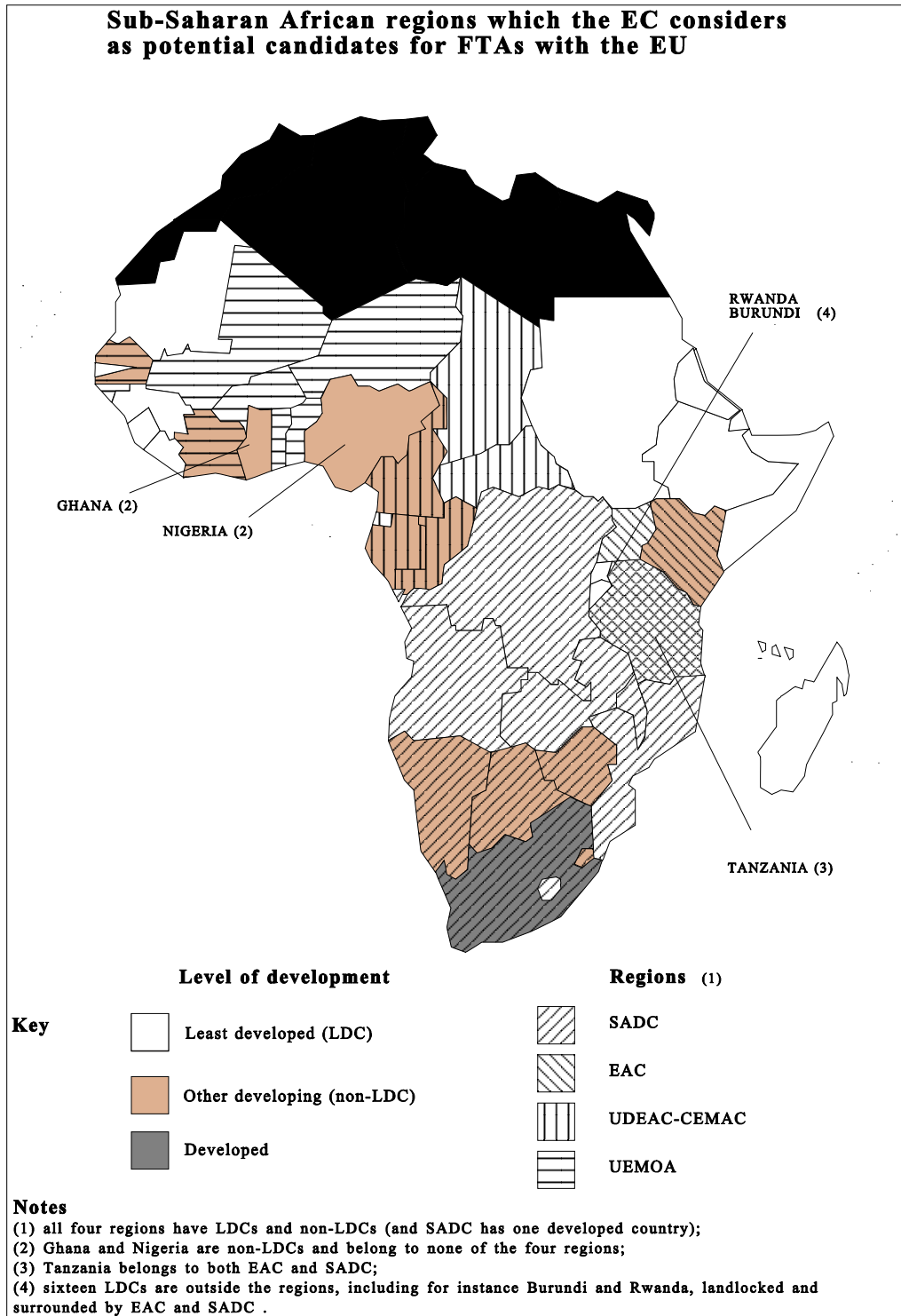
<sup>8</sup> The FTAs' option seems to have emerged relatively late. A few months after the Green Paper was published, and a few months before the first draft of the negotiating mandate was released, Commissioner Pinheiro had indicated that the projected free trade agreement with South Africa was not a shape of things to come for other SADC countries: "The FTA proposals were developed for South Africa and South Africa alone. They do not constitute a model that will be imposed on the rest of the region. On the basis of our current analysis we do not contend that it would be in the interest of the other countries of the region, including the countries that are in a customs union with South Africa, to formally accede to a Free Trade Zone with the EU. In the short and medium term these countries would therefore continue to benefit from preferential and non-reciprocal access to the EU market, in line with the current Lomé provisions" (Pinheiro, 1997).

(<http://europa.eu.int/en/comm/dg08/speeches/970417.htm>).

<sup>9</sup> There are also framework agreements which should lead to trade agreements with MERCOSUR and Mexico.

<sup>10</sup> EU Council, 1998, p.20. Although explicitly mentioned in earlier versions of the draft mandate, the perspective of agreements with each of those three groups of countries was dropped in the final version.

The mandate does not designate the regions the EU would seek to sign an agreement with, but an earlier document of the EC had identified four in Africa — UEMOA, CEMAC (same membership as UDEAC), SADC and EAC — plus an individual country, Nigeria (see map).<sup>11</sup>



<sup>11</sup> Commission européenne, 1998.



In the Caribbean, CARICOM is seen as a potential signatory, with the Dominican Republic - not a CARICOM member - linked through a supplementary agreement. In the Pacific, there is no regional body with whom to sign an agreement, but the EC seems quite confident that one will emerge eventually.<sup>12</sup>

3. *Special treatment for the least-developed.* ACP least-developed countries (LDCs), even those within the proposed regions, could retain current non-reciprocal trade preferences, whether or not they choose to join FTAs with the EU. This is in line with recent initiatives by the EU (in its GSP) and under the WTO (the Ruggiero proposal) that tend to differentiate among developing countries by level of development.<sup>13</sup>

The problem is that the two criteria for differentiating among ACP states - by level of development and by region - may be incompatible in the light of other commitments by the EU. As shown on the map, the least developed are found in more than one region, and every region has both least developed and others. The problem is that the mandate also states that future arrangements “should at least maintain the current market access for the ACPs”.<sup>14</sup> If this means that the minimum offer to the least-favoured ACP countries (under whatever differentiation is adopted) must be at least at the level of the present Lomé, then given the presence of some ‘developed’ countries within Lomé - South Africa - the only WTO compatible solution which meets this criterion is to offer Lomé access on an MFN basis to all members of the WTO.<sup>15</sup> As this would mean the end of any differentiation, which is clearly not the EC’s intention, there seems to be a contradiction in the various objectives and criteria for differentiation.

This proposal has emerged in the context of a lively public debate on the future of Lomé, and against the background of mounting concerns about issues related to globalisation. It has triggered an intense discussion where various actors took part (see box 1).

### **Box 1. The Lomé Trade Debate**

The EC's Green Paper triggered an intense debate on the various aspects of a successor agreement to Lomé IV. Many actors - joint EU-ACP institutions, EU governments, research institutes, NGOs and private organisations - expressed their views and expectations. The future trade regime was probably the most-debated issue, because to many it constitutes the backbone of the Lomé Convention, and it was perceived to be most at risk.<sup>16</sup>

This debate rapidly focused, not so much on the alternatives to the regional FTAs’ option, but on how to accommodate it. Almost a year before the negotiations began, it appeared as if the EC proposals were the starting point of most discussions. In response to the EC mandate, most actors were concerned for its overall impact on poverty and on the poorest countries, the consequences for ACP food producers of exposure to CAP-subsidised products, the risk of de-industrialisation, the feasibility of regional FTAs, the future of the banana protocol, and the transition of the smallest and most “vulnerable” economies towards freer trade.

However, the main recommendations for future orientations reflect a greater diversity of opinions, although all aim to

<sup>12</sup> Commission européenne, 1998: p.5.

<sup>13</sup> Page, 1997, pp. 33-45.

<sup>14</sup> EU Council, 1998, p.18. This provision was not included in the EC’s earlier drafts of the mandate. It was added after the EU Council’s General Affairs committee of 30/03/98. In its communiqué, the Council stated that the arrangement “should at least maintain the current market access for the ACP and must be WTO compatible” (our emphasis, EC press release 98/86 of 2 April 1998). The last part of the sentence was dropped in the final version of the mandate.

<sup>15</sup> Suppose South Africa is not part of the agreement, non-LDCs and ACP countries not taking part in regional FTAs would still be entitled to current Lomé access, which implies that it should be extended to all GSP beneficiaries, therefore all developing countries.

<sup>16</sup> This paper does not try to sum up the contributions already made to the debate. It is worth mentioning the consultations held at the initiative of the EC in all EU countries as well as in the ACP (see Hewitt, 1997). Each Member State provided a reaction to the Green Paper (Posthumus, 1998). The Economic and Social Committee of the European Communities, as well as the European Parliament's Committee on Development and Cooperation have devoted substantial work to the future of Lomé (Rocard report of 4 March 1998 - A4-0085/98; Kinnock report - COM(97)0537). NGOs have been very active, producing a common discussion papers (NGDO, 1998; see also UKPP, 1998). Finally, a very wide array of actors provided evidence to the International Development Committee of the UK House of Commons, in the context of its consultation on the renegotiation of Lomé (see IDC, 1998a and IDC, 1998b).

improve the deal for the ACP. It is possible to identify five broad categories:

1. The “*nostalgic conservatives*” want less-liberal regional FTAs. They are worried about the impact of trade liberalisation on the ACP, and poor economies in general. They view the Lomé preferences as the last line of defence against the unregulated progress of globalisation. For them, the first-best scenario would have been the status quo. On RFTAs, they call for a longer period of transition before FTAs are implemented, with current non-reciprocal preferences extended beyond 2005. They also seek to limit the extent of liberalisation on the ACP side, for instance through “asymmetrical” or only “partially reciprocal” agreements. They also favour a substantial improvement of the EU’s GSP for countries not willing to join RFTAs.
2. The “*neo-conservatives*” want to increase the coverage of EU preferential trade policies to all developing countries. They share the same concerns as those in (i) and also consider that EU preferential trade policies can protect poor countries. However, they do not particularly value the historical discrimination towards the ACP countries, and favour an extension and improvement of the GSP, bound in the WTO, towards all developing countries. They particularly supported the EU’s extension of Lomé to non-ACP LDCs and the Ruggiero proposal that WTO members offer 0-tariff to all LDCs.
3. The “*multilateralists*” believe non-reciprocal preferences and ACP discrimination should go because the benefits they provide to the ACP are less and less valuable. They think EU trade policies towards developing countries should be harmonised, and Lomé should not try to achieve what the multilateral system can do better, since ACP trade liberalisation would be best conducted by each government, at its own pace, on an MFN basis. Free trade agreements are a *détour* on the way to freer trade. Lomé should concentrate instead on new trade areas and on supporting the ACP in the multilateral system. ACP countries should look beyond the EU and seek better market access in other WTO members.
4. The “*voluntarists*” want the best of both worlds: They believe that strengthening the EU-ACP partnership in the area of trade can both preserve traditional ties and provide a stimulus for ACP countries to make necessary changes in their economic policies, and integrate in the multilateral trade system. For them, FTAs between the EU and ACP regions can do the job.
5. The “*converted voluntarists*” are a combination of (i) and (iv). Like (iv), they agree on the merits of preferential agreements that reinforce the Lomé trade link, but like (i) they think the current proposals need to be softened. Echoing to proposals by some ACP countries, their attention has shifted from the EC mandate to the WTO rules. The latter, rather than the former, are perceived as the main bone of contention in the negotiations. They are seen as imposing too tight a legal framework, thus preventing the proposed agreement to be “softer” for the ACP. Those who share this view argue that the EU and the ACP together should try and obtain a revision of WTO rules. Finally, some believe that, since there is no alternative to the EC proposal, the ACP should focus on negotiating increased financial assistance as a compensation for their liberalisation efforts.

Using a few basic criteria, the following comparative picture emerges:

<i>Preference for</i>	(i)	(ii)	(iii)	(iv)	(v)
Discriminating in favour of ACP	Yes	No	No	Yes	Yes
Keeping non-reciprocal preferences as 1 <sup>st</sup> best EU trade policy	Yes	Yes	No	No	No
Changing WTO rules	Yes	?	No	No	Yes
Reforming radically the CAP to curb its negative impacts	Yes	Yes	Yes	No	No

A major dividing line therefore appears to be running through these different strands of opinions. The EU trade policies towards the ACP seem to have reached a crossroads. The choice is between a *specific ACP-EU general framework for trade relations* or an *integration of the traditional trade relationship within the multilateral system*.

## The EC's Motives

Free trade agreements (FTAs) between the EU and any of the six regional groupings (UEMOA, CEMAC, SADC, EAC, CARICOM, and the Pacific) would be a first in the history of the EU’s trade policies, and possibly in the history of world trade. It is useful at this point to identify the motives of the Commission for proposing such an ambitious and innovative and extremely complex<sup>17</sup> framework.

<sup>17</sup> The EU-South Africa trade negotiations show, in spite of the strong political incentives on both sides to reach an agreement, the technical and political difficulties of establishing FTAs with unequal trade partners.

1. *The political economy argument.* According to the EC, the main benefit for the ACP is that FTAs with the EU can help “lock-in” economic reforms in ACP countries. This is to respond to their difficulty of sustaining trade policy reforms. The EU would play the role of “an agency of restraint” or “reform anchor” for ACP countries. This means that the threat of sanctions/retaliations by the EU would deter governments from breaking commitments made under the free trade agreement (by re-installing barriers to imports from Europe).<sup>18</sup> FTAs would thus accelerate the opening up of ACP economies and provide reforming governments with a “good excuse” vis-à-vis domestic vested interests and lobbies to implement unpopular measures. In addition, the agreements would have an unlimited duration, therefore giving a strong signal to foreign and domestic investors that the economic environment is stable and predictable.

However, the EC recently hinted that it may water down the constraints that its FTAs would impose on ACP countries. In June 1998, officials said that a safeguard clause within the proposed agreements would allow ACP countries to “suspend trade liberalisation and re-introduce duties” on goods imported from the EU.<sup>19</sup> In the mandate itself, the formulation is far less precise, and does not clearly indicate under what conditions this safeguard clause would be used.<sup>20</sup> If it effectively released ACP signatories from the obligation to comply with their commitment to enforce trade reforms, then the “lock-in” argument would become irrelevant. Thus the attempt to win “FTA-sceptics” by diluting the constraints associated with FTAs indicates that the “lock-in” argument does not play a central role in the EC’s motivations. Conversely, if the use of this safeguard clause was very restricted, ACP negotiators may see it as merely a negotiating tactic.

2. *The legal argument.* An EC leitmotiv since the publication of the Green Paper is that Lomé must be brought in line with the European Community’s commitments under the WTO. Turning it into WTO-regulated free trade agreements is one way of achieving this. The problem with the current Lomé arrangements is not that they are not reciprocal. The problem is that they discriminate between ACP and non-ACP countries of similar levels of development. WTO rules, under the Enabling Clause, allow developing countries to be excepted from the principle of non-discrimination (also referred to as the MFN principle, spelled out in Article 1 of GATT), but only if they are all treated the same, as in the GSP.<sup>21</sup> Under Lomé, *relatively* rich countries such as the Bahamas receive a better treatment than poorer ones like India. This discriminating policy has been made possible until now only by means of a waiver, which the EC said it would not seek to renew beyond 2005. Technically, there are two ways out. One is to give Lomé-type non-reciprocal preferences to all developing countries of similar levels of development. This is allowed by the Enabling Clause. Another is to transform the preferences into free trade agreements. This exception to the MFN principle is tolerated by the WTO under Article XXIV of GATT<sup>22</sup>. It is the option that has been chosen by the EC.

However, Article XXIV, which was devised both to limit the potentially negative effects of bilateral FTAs and to restrict their use, imposes strict constraints.<sup>23</sup> In particular, to be WTO compatible, FTAs must fully liberalise “substantially all trade” between the signatories, i.e. there should not be too many sensitive products excluded from the agreement. Also this liberalisation must take place “within a reasonable period of time”, now defined in the WTO as a period that

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<sup>18</sup> This argument was put forward in a preliminary study for the EC by Guillaumont *et al.* (1996). It is also central in the literature on New Regionalism; see Francois (1997) on the US as a “reform anchor” for Mexico through NAFTA.

<sup>19</sup> Address to the ACP-EU Joint Assembly *ad hoc* group on Lomé, 30 June 1998, European Parliament, Brussels.

<sup>20</sup> The mandate states: “The Parties could also introduce a clause providing for a review to assess the ACP countries’ progress towards liberalising imports from the Community, and, if necessary, to modulate the rate of progress towards the ultimate establishment of the Free Trade Area, in conformity with WTO rules”. EU Council, 1998, p.21.

<sup>21</sup> See Thomas, 1997.

<sup>22</sup> WTO, 1994, pp. 31-34 and pp. 522-525.

<sup>23</sup> For a discussion of issues related to Article XXIV of GATT, see Nagarajan, 1998. The author states in particular: “[...] Article XXIV imposes a cost to pursuing discrimination as an instrument of everyday commercial policy (for example discrimination must be extended to “substantially all trade”, and cannot involve less-than-100 per cent preferences). The underlying rationale seems to be that only those countries which are serious about discrimination, e.g. those with an ulterior political objective for integration, are likely to find that the benefits of integration meet this cost. Politics is important, and the GATT, as a pragmatic document, seems to recognize this.”, pp.8-9.

“should exceed ten years only in exceptional cases”.<sup>24</sup> Since both conditions are subject to a certain degree of interpretation, WTO-compatibility will remain a central issue in the debate, as we see in the last section of this paper, until it is actually brought to the WTO.

3. *Commercial interest.* The proposed trade policy would also promote a greater penetration of ACP markets by European goods and investment. In this respect, there has been a noticeable shift of tone on the European side since previous agreements, with the Commission calling for a more balanced partnership, where the “mutual interests” of partners would be taken into account. Preferential access of European goods to ACP markets is supposed to “balance” preferences provided to ACP exporters and may give European firms an advantage over their competitors (notably the US).<sup>25</sup> Broadly speaking, the recent initiative of the US towards some African countries has raised fears that, after decades of substantial European aid flows to the ACP, less-committed developed countries could “reap the harvest” by seizing new trade and investment opportunities in the most dynamic “emerging” ACP economies.<sup>26</sup> Another argument is that making the future agreement beneficial for European firms would make it easier for the EC to “sell” a renewed aid package for ACP countries to the most sceptical EU member states.
4. *Institutional and political motives.* From an institutional point of view, the Commission’s DG VIII may have a strong, natural, interest in keeping, and even magnifying, specific trade policies towards the ACP, which it would be responsible for. The more radical option of harmonising European trade policies towards developing countries could have carried the risk of turning Lomé into an aid treaty, thereby weakening DGVIII’s position within the European Commission.<sup>27</sup> Moreover, it can be argued that the preference of the EU for bilateral, preferential agreements with the ACP, over a multilateral approach, stems from political motives.<sup>28</sup> It is, however, beyond the scope of this paper to analyse them further.

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<sup>24</sup> WTO, 1995, p. 32.

<sup>25</sup> Commission européenne, 1998, p.18.

<sup>26</sup> Interview with Bernard Petit, Director General for Development in DGVIII, *L'Express*, 23 april 1998, Port Louis, Mauritius.

<sup>27</sup> This echoes the argument by Messerlin that the breakdown of portfolios among the Commissioners favours the Commission’s anti-MFN bias. “Today, the [European Community] trade portfolio is split between several Commissioners more or less on a geographical basis. Such an organisation creates powerful incentives for regional trade deals: each Commissioner with a geographical portfolio looks for deals with the non-EC countries of which he is in charge” (Messerlin, 1997, p.8).

<sup>28</sup> In fact, there is more than trade to European trade policies. In the same paper, Messerlin (1997) argues that the main reason why European trade policies are inconsistent with an MFN-based approach to trade liberalisation — in spite of repeated pledges to support the multilateral system — is that, more than any other “country”, the EU uses trade policies as an instrument of foreign policy. Non-trade objectives largely shape trade policies, resulting in a preference for fragmented, bilateral trade deals over MFN-based agreements. Similarly, it can be argued that non-development objectives largely shape EU trade policies towards developing countries. For instance, the trade agreements signed between the EU and Mediterranean countries in Barcelona in 1995 showed that non-development motives — the search for a combination of security and political stability in EU neighbours with the protection of European domestic food producers — can have a decisive impact on the shape of trade agreements between the EU and developing countries (see Fontagné and Péridy, 1997).

## Does the EC Proposal Offer the Best Possible Opportunities for the ACP?

The proposed economic partnership agreements include a very wide array of policies designed to help the ACP achieve greater trade performance, most of which obviously match some of their most pressing needs. These include assistance in multilateral trade negotiations, encouragement to join the WTO and participate actively in the multilateral trading system, a comprehensive aid package covering many trade-related areas, a strong focus on creating the necessary conditions to attract foreign investment, etc. However, we focus here on concerns about whether the proposed ACP-EU trade regime is most suited to matching the needs expressed in the first section of this paper.

### ***Does the EC Proposal Assist Trade Reform in the ACP?***

1. *The risk of trade diversion.* Benefits from trade liberalisation will be less if ACP countries open only to imports from Europe, instead of opening to all actual or potential economic partners. Since EU products would enter ACP markets free of import duties, they would be made “artificially” cheaper than products from other suppliers, all the more so in countries where average tariffs remain high. Trade diversion would occur if, as a result, higher-cost goods from the EU replaced lower-cost imports from, say, China or India.<sup>29</sup> European exporters would benefit and ACP importers — consumers as well as producers importing intermediate goods — would bear the costs. Compared to MFN liberalisation, this implies a welfare loss for the ACP. If FTAs were to “divert” trade, it would also mean that they would impede the diversification of ACPs’ import sources, in particular to sources in Asia and America.<sup>30</sup> Many ACP countries are already very dependent on the EU for their external trade, and bilateral free trade agreements may reinforce this dependence, at the expense of stronger links with other dynamic economies.
2. *The risk of making trade reforms more difficult.* The envisaged EU-ACP free trade agreements would leave very little flexibility for each ACP economy to implement trade liberalisation at its own pace. As argued earlier, trade reforms tend to bear most fruits if they are implemented in a coherent way as part of a more comprehensive set of economic reforms. However, if ACP-EU FTAs are to be WTO-compatible, they will have to be implemented within a period of time not exceeding 10 years, maybe 15 with some flexibility.<sup>31</sup> In other words, should CEMAC sign such an agreement, Cameroon, the Central African Republic, Chad, Congo, Equatorial Guinea and Gabon would have to dismantle most of their tariffs and non-tariff barriers on imports from the EU along a common timetable between 2005 and 2015/2020. It is likely that this will restrict the margin of manoeuvre for each of them to implement country-specific trade reforms.

The complexity of the proposed trade arrangements may also contribute to putting extra pressure on relatively weak ACP administrations. Many are already dealing with several import liberalisation schemes: Unilaterally (as part of domestic reforms), at the multilateral level (following commitments under the GATT/WTO), and at the regional level (within SADC, etc.). Import liberalisation towards the EU would be yet another tier, adding one more timetable for phasing out tariffs overlapping with others, and perhaps undermining the overall process of

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<sup>29</sup> Conversely, trade liberalisation within preferential trade agreements can have a positive outcome in the form of *trade creation*, i.e. when high-cost domestic production is replaced by lower-cost imports from within the FTA. Given the level of tariffs in most ACP and their economic structures, trade diversion effects are likely to be stronger than trade creation effects. On trade creation/diversion, see Krugman & Obsfeld, 1997: pp. 244-247.

<sup>30</sup> It should be noted that, before the draft mandate was produced, the Commission had called for a diversification of ACP trade partners: “Our analysis also leads to the conclusion that trade preferences are not enough: they must be accompanied by a policy to boost supply capacity, support for regional integration, and diversification of external economic relations” (Pinheiro, 1997).

<sup>31</sup> WTO rules governing FTAs (Article XXIV) do not distinguish between *North/South* and *South/South* or *North/North* FTAs. Any extension of the transition period beyond ten years would have to be negotiated under the WTO.

import liberalisation and diverting ACP efforts away from the multilateral negotiations.<sup>32</sup> This would contradict the EU's pledge to help ACP countries participate fully in the multilateral system.

For ACP countries depending on the EU for their external trade and with fragile industrial sectors, the impact, in terms of both increased competitive pressure and lost fiscal revenues, would probably be as significant as if they had completely opened up to the whole world (but as said above, the welfare impact would be worse). Is this a problem? It could be argued that the less-industrialised countries (like Chad) would have little to lose in the short run in adopting an externally-defined trade liberalisation agenda, but that more-industrialised countries like Cameroon may be more seriously affected. This would permanently debar the least-developed from using trade policy as an instrument within their national development strategies.

3. *Uncertain lock-in effect.* Any "lock-in" or "policy-anchor" effect will depend on the deterring impact of possible sanctions by the EU against defaulting ACP partners. However, the EC's proposal does not specify the nature of control and sanction mechanisms. What could prevent an ACP contracting party to a free trade agreement from defaulting? Could the EU easily take commercial sanctions against a least developed country that raised its tariffs under exceptional circumstances? How would sanction mechanisms co-exist with the "safeguard clause" mentioned above? More fundamentally, the argument of 'lock-in' holds only if there is not an alternative lock. Would a free trade agreement with the EU be more binding than commitments under the WTO? It might be argued that a country is more likely to accept the discipline of self-bound tariffs under the multilateral system than pressure from its dominant trade partner (and for some, former colonial power). There is no certainty in either direction.

### ***Does the EC proposal Provide Improved ACP Access to the EU Market?***

As in the Euro-Med agreements (see box 2), the ACP countries are offered the opportunity to keep their preferential market access in exchange for reciprocity, but there may not be any improvement in market access. Therefore some countries might lose, as we see below.

- *No new trade preferences.* Contrary to what several EU Member States suggested in their first reactions to the Green Paper<sup>33</sup>, but similar to what happened in the EU-Med and EU-South Africa trade negotiations, the draft mandate does not mention easing restrictions on sensitive products of potential interest for ACP exporters. Trade agreements between the EU and developing countries must adapt to the provisions of the Common Agricultural Policy (CAP).<sup>34</sup> Furthermore, current preferences do not exempt ACP exporters from the risk of non-tariff barriers (NTBs), and the proposal does not seem to provide any guarantee that the EU would refrain from using such measures as a protectionist alternative to tariffs if ACP exporters become a threat to European producers. Finally, it is proposed that existing rules of origin should remain, except for the least-developed (ACP and non-ACP), for which they would be "simplified and revised".<sup>35</sup>
- *Risks of losing current market access.* If graduated into GSP, non-LDCs would face tariffs they were exempted from under Lomé-IV. While much will depend, of course, on how generous the future GSP will be compared to current Lomé provisions, a preliminary analysis by Kennan and Stevens (1998) underlined that the loss of relative preferences would have major implications, especially if it included loss of special access for sugar. The EC proposal is unclear on whether

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<sup>32</sup> This last point was made by the UK Department of Trade and Industry in its contribution to the House of Commons' enquiry on Lomé. See IDC, 1998a, p.xxix.

<sup>33</sup> For a review of Member States' early reactions to the Green Paper, see Posthumus, 1998.

<sup>34</sup> Eventual improvements therefore depend on the reform of the CAP, which is driven by concerns not primarily centred on developing countries' interests. See CIIR, 1998.

<sup>35</sup> EU Council, 1998, p.18, footnote 8.

the sugar protocol will be affected by the negotiation of a post-Lomé IV arrangement.<sup>36</sup> The future of commodity protocols for bananas and beef is also still unclear. Can they be articulated with EU-ACP region FTAs? Would countries graduated into the GSP still benefit from them? Or would these protocols be phased out? As for the GSP, the final EC mandate states that the interests of non-LDC ACP countries will be taken into account during its revision in 2004, but it does not give any guarantee as to how close to Lomé-IV it will be.<sup>37</sup>

### **Box 2. The EU's New Mediterranean Policy: Towards an EU-Med FTA?**

Like ACP countries, Tunisia and Morocco have enjoyed non-reciprocal preferential trade preferences from the EU. However they were progressively eroded by the extension of preferences to other countries, and by the achievements of multilateral trade liberalisation under the GATT.<sup>38</sup> In 1995, the EU adopted a New Mediterranean Policy covering eleven Mediterranean countries. Its central feature -as agreed at the Euro-Mediterranean conference in Barcelona- is the implementation of *bilateral free trade agreements* between the EU and each Mediterranean country, to be completed by 2010. The Barcelona agreement does *not* directly provide for an FTA between the EU-15 and the "Med-11": Free trade among Mediterranean countries themselves is not part of the Barcelona agreement. The early Cannes declaration only *called for* each participant to implement additional free trade agreements with the others, on an individual and voluntary basis.

Free trade agreements have already been signed with Morocco and Tunisia, with the following characteristics:

- *non-agricultural goods*: exports to the EU already enjoy free access; the only exceptions are textile and clothing, for which the EU agreed to lift all restrictions progressively; imports of industrial products from the EU will be fully liberalised along a calendar stretching over a transitional period of 12 years;
- *agricultural goods*: the EU has agreed to slightly liberalise trade in agriculture by extending concessions already granted (e.g. increase in tariff quotas); on the Maghreb side, no additional tariffs will be applied to EU products; those provisions will be re-negotiated in 2001.

Given previously existing preferences, the short-term impact of these free trade agreements on Maghreb exports should be very small. Conversely, the impact on Maghreb imports from the EU will be very important, putting both the balance of payments and domestic industrial firms at risk. An estimated sixty per cent of the latter are unable to resist European competition unless significant technological and marketing upgrading (*mise à niveau*) is achieved by 2010.

### **Does the EC Propose Greater Financial Support for the ACP?**

In the absence of any improvement in terms of market access, the only possible compensation to the ACP for dismantling barriers to imports from the EU would be increased aid. While the EC proposal insists that the "economic partnership" package would include some assistance to help ACP economies cope with trade liberalisation, it does not provide any indication as to how much and how. Nevertheless, more financial aid would not necessarily contribute to improve export performance, as long as absorption capacity remains weak.

<sup>36</sup> "The banana, beef and sugar protocols will be revised in the context of the negotiation of economic partnership agreements with the ACP States and in accordance with WTO rules, and taking account of the special status of the sugar protocol." EU Council, 1998, p.23.

<sup>37</sup> "[...] the Council and the Commission will take into account [the non-LDCs'] interests in the review of the GSP in 2004". EU Council, 1998, p.18, note 8.

<sup>38</sup> See Fontagné and Périody, 1997.

## How Viable is the EU's Regional Approach?

The EU strategy seems quite risky, as it relies heavily on the willingness and ability of ACP regions to form themselves into effective trade regions. We first analyse the issue of feasibility, before turning to political willingness.

### ***Can ACP Regions be Trade Partners for the EU?***

Before FTAs can be put in place between the EU and ACP regions, the latter must have formed FTAs themselves. However, apart from CARICOM, ACP regions are in formation or have no existence, and intra-trade linkages show little evidence of progress in regional trade integration (see appendix 1).

- CARICOM is the exception. It has had the structure of a free trade area (although with exceptions for some sensitive products) for 30 years. It aims to become a customs union and has made some progress towards a common external tariff. It has acted jointly in international negotiations, both multilateral and regional in the Americas. The Caribbean countries have relatively large intra-regional trade flows (compared to their share in world trade) but as the countries are small, this gives an absolute share of intra-regional trade of about 5 per cent.
- Most of the African groups have no interest or structure to negotiate as groups. Several intend to become free trade areas, while EAC has the more ambitious goal of a common market. Some have programmes or formal frameworks for agreement, and a few have implemented limited preferences. However, in most cases these are bilateral or with some exceptions within the region. They do not have, and except for the EAC have no intention of having, a common economic policy towards the rest of the world. Overall, efforts to promote regional integration through trade liberalisation in Africa face huge difficulties: There is little scope for increased intra-regional trade, no clear political commitment to regional integration, and weak institutional capacity.<sup>39</sup> Intra-regional trade makes up between 3 per cent (CEMAC) and 12 per cent (SADC) of total trade within these regions (see table 2). On the whole, intra-regional trade has not improved significantly over the nineties, and when it has, it is for reasons not directly related to the process of removing barriers to intra-regional trade. For instance, intra-regional trade in SADC has grown quite rapidly over the last decade, but this owes much to the return of South Africa to the international community. One should also remember that 85 per cent of intra-regional SADC trade takes place between two members (South Africa and Zimbabwe).<sup>40</sup>

**Table 2. Regional distribution of trade  
in selected ACP regional groupings, 1995<sup>1</sup>**

Trade (in %)	UEMOA	SADC	EAC	UDEAC	CARICOM
Intra-regional	8.7	11.5	7.9	3.2	3.3
With EU-15	49.6	36.4	36.3	52.0	24.4
With others	41.7	52.1	55.9	44.7	72.3
Total	100	100	100	100	100

Note: 1. Trade is the sum of exports and imports.  
Source: IMF, 1997, Direction of Trade Statistics.

- Finally, the Pacific countries have very small trade flows among themselves. They have no

<sup>39</sup> See Oyejide (1997) and Foroutan (1998), pp. 16-19.

<sup>40</sup> Marx and Peters-Berries, 1998.



regional structure restricted to the ACP countries, although some are in larger groupings covering the Pacific or Asia-Pacific area, and have no intention of forming such a group.

There is therefore still a long and difficult path towards regional trade integration among the ACP before they are in any position to enter as groups into FTAs with the EU.<sup>41</sup> This process will require both a long period of time and a strong political commitment by ACP countries to integrate. As we see below, many uncertainties remain.

### ***Will ACP Regions Agree to be Trade Partners of the EU?***

There are three serious obstacles: at the level of the ACP group, in regions, and in individual countries.

- A first question relates to the *position of the ACP group* as a whole. In mid-1998, it did not yet have an official negotiating mandate. However, the Libreville Declaration of ACP Heads of State in November 1997 called for special attention to be given to vulnerable economies such as LDCs and small island states, thereby accepting the principle of differentiation. It strongly opposed the principle of separate agreements with regional groups.<sup>42</sup> The Ministerial conference of ACP Trade Ministers in May 1998 reinforced this point, accepting “the principle of regionalisation”, but insisting on “preserving and reinforcing the unity and solidarity of the ACP group within the current geographical framework”, as well as keeping “non-reciprocal trade preferences and market access”.<sup>43</sup>
- Second, *building consensus within each region on external free trade agreements may prove difficult*. Following the current proposal, and until the detailed provisions of the post-2004 GSP are known, the only way for the 30 ACP non-LDCs not to suffer a loss in trade preferences would be for them to enter into FTA negotiations with the EU. For instance, Zimbabwe (a non-LDC and a member of SADC) has to choose between graduation into a potentially less generous GSP or pushing for an EU-SADC free trade agreement. However, SADC LDCs such as Zambia and Malawi may not be so enthusiastic. Indeed, since they will continue to get preferential market access without any obligation to lower their own tariffs, there would be very little or no incentive for them to engage into free-trade agreements with the EU. This may undermine any attempt to start a free trade negotiation process. An (extreme) alternative is for reluctant LDCs to leave SADC. In any case, this situation may create tension among member states of ACP regions.<sup>44</sup>
- Third, *individual ACP countries will face hard choices*. Regions overlap, as Tanzania belongs to both EAC and SADC (see table 3 and map page 8). If only one of these regions wants to join an FTA with the EU, Tanzania may have to set up specific rules of origin or leave one of the regions. If both EAC and SADC sign FTAs, Tanzania will be bound by, and will receive the privileges, of both, which may create difficulties. Its position would require strictly enforced rules of origin within both EAC and SADC, which would not encourage regional integration. Conversely, the EU does not intend to sign a separate agreement with Ghana (according to the current proposal). It belongs to no region, it is not an LDC, and therefore it would not be offered any other option but to be graduated into the GSP. Here again, one solution is to modify regions, and to encourage Ghana to join UEMOA. The questions remain: Should regional groupings be modified to accommodate trade agreements with an external partner? Can they?

These questions are fundamental. To what extent can and should the EU promote the creation of regions among developing countries with which it has development cooperation agreements? Past

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<sup>41</sup> These problems are as acute for other regional groupings, such as COMESA, ECOWAS, IOC, etc. For a description of existing regional organisations in Africa, see Söderbaum, 1996.

<sup>42</sup> ACP, 1997.

<sup>43</sup> ACP, 1998.

<sup>44</sup> See a similar argument about the position of Haiti within CARICOM, in CCE, 1998, p.6.

experiences tend to show that regional agreements are never merely, or even primarily, economic. They are generally formed among countries with political, often security, interests, in common. Particularly if they are to advance to customs unions, they require a common approach to economic decisions, both day-to-day and for development strategy. While external support can certainly play a positive role in helping countries implement their own regional agenda, this type of integration cannot be created from outside.

A final consideration relates to a paradox: It is not certain that the EU's "regional" approach to future trade with its ACP partners would facilitate the formation of regions within the ACP. It might even have negative impacts. An immediate concern is that it will contribute to the fragmentation of sub-Saharan Africa into several trade zones, although it can be argued that this is already the case. Another problem results from the need to set up of new rules of origin, which would undermine regional integration efforts. Thus, in regions where FTAs are rejected and containing an LDC, internal rules of origin will be required to ensure that the non-LDCs do not benefit from LDC preferences in the EU market. Since, as is shown in table 3, all ACP regions have both LDCs and non-LDCs - SADC has seven LDCs, six developing non-LDCs and one developed country with its own agreement with the EU - such rules of origin would create additional transaction costs and impede trade between members. This is obviously not the kind of impact the EU seeks from its new trade agreements.

**Table 3: ACP countries, by regional membership and level of development**

	Regions which the EC considers for future FTAs <sup>1</sup>						Other ACP countries	
	UEMOA	CEMAC	EAC	SADC	CARICOM	Pacific**	Other Caribbean	Other Africa
<b>Developed</b>	South Africa							
<b>Developing</b>	Côte d'Ivoire Senegal	Cameroon Congo-Brazzaville Gabon	Kenya	Botswana Mauritius Namibia Seychelles Swaziland Zimbabwe	Antigua and Barbuda Bahamas * Barbados Belize Dominica Grenada Guyana Jamaica St Kitts and Nevis St Lucia St Vincent & the Gr. Surinam Trinidad and Tobago	Fiji Papua New Guinea Tonga	Dominican Republic	Ghana Nigeria***
<b>Least Developed</b>	Benin Burkina Faso Guinea Bissau Togo Mali Niger	Central African Rep. Chad Equatorial Guinea	Uganda	Angola DR of Congo Lesotho Malawi Mozambique ← Tanzania → Zambia	Haiti	Kiribati Solomon Islands Tuvalu Vanuatu Western Samoa		Burundi Cape Verde Comoros Djibouti Eritrea Ethiopia Gambia Guinea Liberia Madagascar Mauritania Rwanda Sao Tome & Principe Sierra Leone Somalia Sudan

Notes: 1. Commission européenne, 1998.  
 \* Member of the Community but not the Common Market.  
 \*\* Unlike other regions, the 8 Pacific ACP members do not form one single regional group.  
 \*\*\* The EC considers the possibility of signing a separate agreement with Nigeria.

## Options for post-Lomé IV ACP-EU trade relations<sup>45</sup>

Four options for future ACP-EU trade relations have emerged from ACP, European, and other discussions: (1) extension of Lomé, (2) the FTAs, (3) an extended and revised GSP, including the special GSP rules adopted for the least developed or (4) a new approach to MFN treatment.

### ***Extension of Lomé***

Many ACP countries still support trying to obtain a waiver from the WTO for (at least) another five years after Lomé-bis expires. This option, however, is not included in the latest proposals from the EC or the negotiating mandate now adopted, and it seems clear that the EU Member States would not be willing to request this. Therefore it must be considered impossible.

### ***WTO-compatible FTAs***

FTAs are clearly the Commission's preferred solution. It expects the ACP to accept the general principles of its proposal by February 2000, leaving the more detailed discussion on actual implementation to take place between 2000 and 2004.

If FTAs are adopted, this requires a complex sequence of events. Effective FTAs need to be in place within the ACP regions before larger FTAs can be signed between each of them and the EU. While this could provide incentives for regional integration, in reality it may complicate the trade relations of ACP countries, and may impede regional cooperation and integration. Also, as seen above, the benefits from 'lock-in' are uncertain, raising doubts over the possibility to create and sustain the necessary political momentum in Member States to implement the agreement. Besides, little, if anything, is known about how a free trade agreement between a Customs Union and even a completed FTA would work, but setting up and managing such agreements will require investment in capacity by all participants. Most ACP regions do not have the institutional capacity (nor the mandate) to negotiate FTAs, and doubts have been expressed by some policy researchers over the capacity of DG VIII, today, to monitor such agreements.

Many issues also require clarification. Without any reform to the EU's Common Agricultural Policy (CAP), free trade agreements with the EU would not improve market access for ACP exporters. It would however improve market access for EU exporters. Therefore, for the ACP, it is key to know what concretely the EU would offer in exchange. In particular, they need to know what will be available to help them offset the costs (loss of fiscal revenues, current account deficits) and to implement necessary reforms (e.g. fiscal reforms to broaden their tax base and improve collection, or help to improve their capacity to trade). The provisions for LDCs also need to be clarified. Specific situations, e.g. that of small island states relying mainly on the development of services (excluded from the proposed FTAs) and mono-crop exporters need be considered more thoroughly than in the existing proposal. The results of impact studies recently completed by the Commission may inform the debate and should be discussed with the ACP, including the private sector.

The EU may also have difficulties reconciling all its binding commitments. All the proposed regions include both least-developed and developing countries, and SADC has in South Africa a 'developed' country by WTO rules. Against this, the EC must offer (i) Lomé access to the least-developed, (ii) at least standard GSP access to the developing, and (iii) the provisions of the future EU-South Africa

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<sup>45</sup> This section is based on the conclusions of an informal workshop organised by ECDPM in Brussels, in May 1998, with experts from ACP and European institutions. See ECDPM, 1998.

agreement to South Africa. A fourth commitment stems from the fact that each FTA will have to offer, on completion, the same access to all members from all members, even if there are differences or asymmetries in a transition period. It is difficult to see how the EU can reconcile these four different standards of treatment.

Finally, WTO compatibility remains a crucial issue. In reaction to the concerns expressed by the ACP over the impact of FTAs on their economies, some have argued, both in the ACP and in the EU, that WTO rules (Article XXIV) could be revised to allow for “asymmetrical” FTAs. The EC has not gone so far as to say that WTO rules should be changed<sup>46</sup>. EC officials have said that it would argue for a long transition period for the ACP (e.g. 15 to 20 years), as well as the exclusion of many sensitive products (e.g. up to 20 per cent of their imports from the EU). Whether it can obtain this without a modification of Article XXIV is uncertain. It must be noted, however, that there is no precedent for such an “asymmetrical” arrangement, and the tendency within the WTO is to make rules for regional agreements stricter, not more flexible. Any ACP-EU FTAs will therefore need to comply with a strict interpretation of “substantially all trade”. For this reason, the suggestion that the EU and the ACP could obtain a revision of Article XXIV rules on regions does not seem realistic.

### ***The GSP option***

Under the current proposal, if any or all of the ACP countries do not sign FTAs, then all LDCs get the equivalent of Lomé preferences, while non-LDCs, once graduated into GSP, get a treatment similar to other developing countries. What consequences this will have will very much depend on the attitude of the European Community with regards to the GSP. If the Community is genuine about the “menu” approach, then making the GSP more generous would allow each ACP country to have a real choice whether or not to join in an FTA with the EU. Conversely, if the Community has a strong preference for the FTA option, it may be more inclined to leave the GSP more or less as it is.

One proposal would be to extend GSP to make it equivalent to Lomé. For most ACP countries, this would leave their absolute preferences unchanged. But a few will no longer be eligible for GSP as developing countries, and therefore could not receive it while meeting the requirement of WTO compatibility. And for all, there would be a potentially serious loss of relative preference, as all other developing countries were admitted to the same level of preference. For some ACP countries and some commodities, this would mean serious competition. It is also likely to be unacceptable to some protected producers within the EU.<sup>47</sup>

More limited reforms of the GSP would not meet the criterion of maintaining current access for all ACP countries. However, if this criterion was dropped as being unrealistic, a radical overhaul would still be possible during the 2004 review of GSP. Improvements could include the simplification and relaxation of rules of origin, reductions in the number of sensitive products, or increases in the degree of preference offered. Furthermore, a current disadvantage of GSP is that it is not binding on the EU, and can be suspended unilaterally. It must be renewed annually, and therefore does not provide the stability and predictability of Lomé. A possible solution would be to bind it in the WTO. Finally, precise criteria would be established for graduation, based on a broad interpretation of the Enabling Clause. The aim would be put the “ceiling” of eligibility for GSP as high as possible, so that as many non-LDC ACP countries as possible are included.

As a derogation to the WTO rules, the GSP is quite flexible. The political will, however, would be more difficult to achieve. If, because of the latter, no graduation criterion was found that allowed most

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<sup>46</sup> Individual officials of the EC have nevertheless hinted that a change in WTO rules may be desirable and feasible, see interview with Bernard Petit in *L'Express*, 23 april 1998, Port Louis, Mauritius.

<sup>47</sup> The controversy in July 1998 over the effects of an FTA with MERCOSUR on European agricultural producers is a warning, as all the members of MERCOSUR would become entitled to GSP entry.

ACP countries to benefit from a single enhanced GSP, differentiation within GSP based on income levels could be included as an alternative.

### ***The MFN route***

A more radical approach to the GSP scenario would be to remove trade from Lomé, as part of a more general move towards a harmonisation of European external trade policies. The EU would pursue its aim of supporting trade reforms in ACP countries under the multilateral system, for instance by encouraging them to progressively bind their tariffs to lower levels. This gradual opening would take place not through bilateral reciprocity, but on an MFN basis, i.e. vis-à-vis all trade partners, and each ACP country would retain control over the extent and pace of its trade liberalisation efforts. Aid under Lomé would also support the process. The ACP would try to obtain bound trade concessions from the EU and from other developed countries in the WTO.

This option is not being considered in the ACP or in the EU. In the EU, it would represent a radical turn away from its current trade strategy. In the ACP, few question the fact that keeping specific European trade policies under a post-Lomé IV agreement is preferable. This is partly due to the perception that Lomé is the only alternative to the cold wind of freer trade blowing under the multilateral system.

For those in favour of the MFN route, there are two justifications. First, it is the only way in which the EU can meet its commitments to maintain Lomé access and to be WTO compatible. Second, this option recognises that in the context of tariff reductions already agreed under the Uruguay Round and the prospect of further reductions in a 1999-2000 Round, tariff preferences are losing their value. They would be better used as an item for negotiation for the ACP and EU vis-à-vis all their world trade partners. As suggested in a paper by Alan Winters<sup>48</sup>, the EU could offer to lower its MFN tariffs to the level of Lomé, while the ACP group could offer to reduce many of their own tariffs on a MFN basis. This would be proposed as a package in the next round of multilateral talks, in exchange for MFN reductions, especially on products of interest for developing countries, from the US, Japan and other WTO members. Many WTO members outside the EU have fast-growing markets which could be interesting for the ACP who have products suited to these markets. A gradual dismantling of Lomé preferences for trade in goods, where the ACP, as WTO members, are involved in the negotiating process, would provide a more secure return than preferences, and could bring them improved access to other countries' markets.

ACP-EU trade cooperation under Lomé would then cover new areas, other than traditional barriers to trade in goods, and not currently fully covered by the WTO. These include services, export credit, harmonisation of customs rules, provisions for criminalisation of bribery, as well as technical barriers to trade (i.e. phytosanitary measures, anti-dumping, labour standards, stringent rules of origin etc.), which, rather than tariffs, will be the main barriers to trade in the future.

Finally, the negotiation of fundamental changes in ACP-EU trade relations will require sufficient time, whatever their nature. Time for the regional FTAs to form, implement, and adjust, and then for the EU-region negotiations to be completed, or for the GSP to be substantially revised, or for MFN reforms to pass through the WTO.

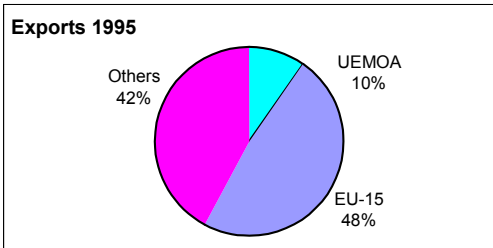
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<sup>48</sup> See Winters, 1998.

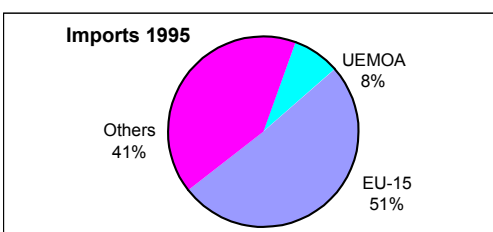
## Appendix 1. Exports and imports in selected ACP regional groups: average annual growth rates and regional distribution, 1980-1995<sup>1</sup>

### UEMOA

	EXPORTS			
	Annual growth rate			80/95
	80/85	85/90	90/95	
UEMOA	-3.8%	11.2%	-2.5%	1.4%
EU-15	-4.0%	-0.9%	3.5%	-0.5%
Others	-0.2%	5.4%	9.3%	4.8%
Total	-2.9%	2.4%	4.9%	1.4%

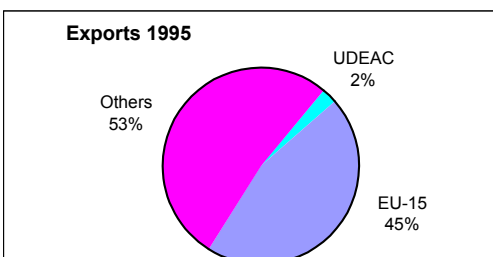


	IMPORTS			
	Annual growth rate			80/95
	80/85	85/90	90/95	
UEMOA	-3.8%	11.2%	-2.5%	1.4%
EU-15	-7.4%	7.9%	0.6%	0.2%
Others	-3.9%	-1.5%	12.0%	2.0%
Total	-5.8%	4.9%	4.1%	1.0%

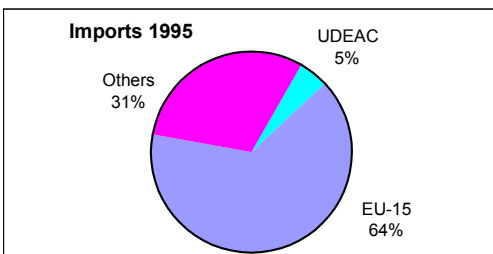


### UDEAC - CEMAC

	EXPORTS			
	Annual growth rate			80/95
	80/85	85/90	90/95	
UDEAC	-24.9%	28.1%	-0.1%	-2.7%
EU-15	6.0%	-0.5%	-4.5%	0.2%
Others	0.7%	5.1%	3.0%	2.9%
Total	3.1%	2.0%	-0.9%	1.4%



	IMPORTS			
	Annual growth rate			80/95
	80/85	85/90	90/95	
UDEAC	-24.9%	28.1%	-0.1%	-1.3%
EU-15	3.4%	-0.9%	-2.8%	-0.1%
Others	6.1%	-0.3%	-1.5%	1.4%
Total	3.2%	-0.1%	-2.3%	0.2%

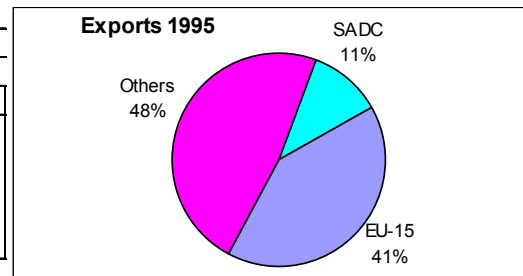


Note: calculations based on current US\$ figures.  
Source: IMF, 1997, Direction of Trade Statistics.

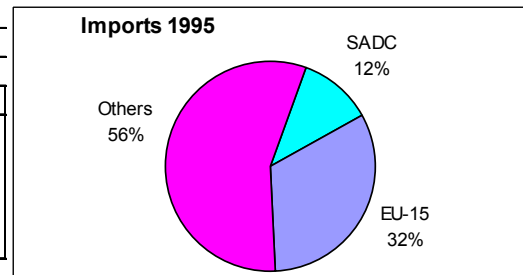
Appendix 1 (continued)

**SADC**

	EXPORTS			
	Annual growth rate			
	80/85	85/90	90/95	80/95
SADC	1,2%	19,7%	22,2%	14,0%
EU-15	-4,5%	9,8%	3,1%	2,6%
Others	-7,4%	6,8%	-0,1%	-0,4%
Total	-6,4%	8,2%	2,6%	1,3%

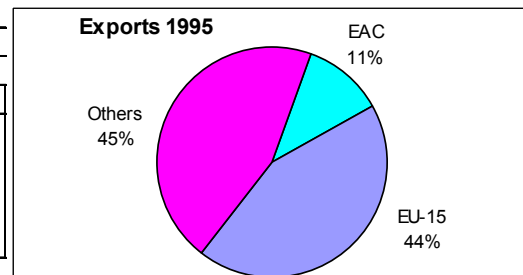


	IMPORTS			
	Annual growth rate			
	80/85	85/90	90/95	80/95
SADC	1,2%	19,7%	22,2%	14,0%
EU-15	-4,5%	-5,9%	23,4%	3,5%
Others	-10,5%	19,3%	-1,8%	1,6%
Total	-7,7%	10,7%	7,1%	3,0%

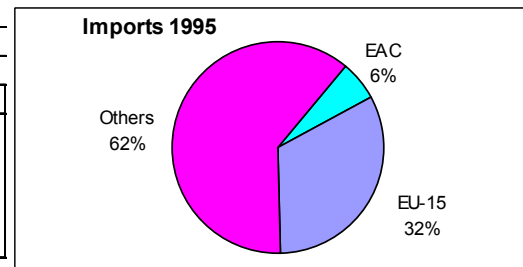


**EAC**

	EXPORTS			
	Annual growth rate			
	80/85	85/90	90/95	80/95
EAC	-10,8%	14,0%	7,6%	3,0%
EU-15	-1,0%	-5,3%	14,2%	2,3%
Others	-7,7%	-0,4%	14,3%	1,6%
Total	-4,9%	-1,3%	13,3%	2,1%



	IMPORTS			
	Annual growth rate			
	80/85	85/90	90/95	80/95
EAC	-10,8%	14,0%	7,6%	3,0%
EU-15	-7,8%	7,3%	2,7%	0,5%
Others	-7,4%	1,7%	17,4%	3,4%
Total	-7,7%	4,8%	10,7%	2,3%



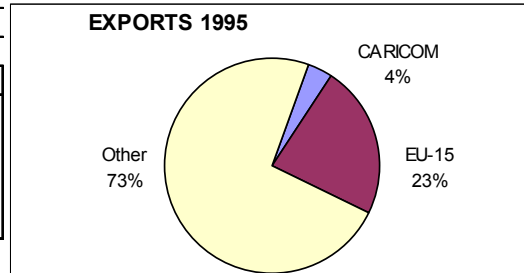
Note: calculations based on current US\$ figures  
 Source: IMF, 1997, Direction of Trade Statistics.



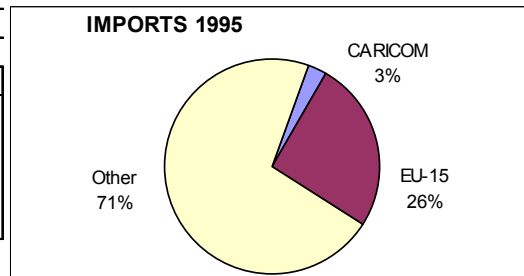
Appendix 1 (continued)

## CARICOM

	EXPORTS			
	Annual growth rate			
	80/85	85/90	90/95	80/95
CARICOM	-7,7%	2,5%	-11,5%	-5,7%
EU-15	-14,6%	4,7%	2,3%	-2,9%
Other	-14,4%	-0,1%	5,0%	-3,5%
Total	-14,0%	1,2%	3,3%	-3,5%



	IMPORTS			
	Annual growth rate			
	80/85	85/90	90/95	80/95
CARICOM	-7,7%	2,5%	-11,5%	-5,7%
EU-15	-4,9%	7,0%	9,9%	3,8%
Other	-6,8%	2,2%	0,3%	-1,5%
Total	-6,6%	3,0%	1,8%	-0,7%



Note: calculations based on current US\$ figures

Source: IMF, 1997, Direction of Trade Statistics.

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