



# Cotonou Infokit

## Regional Economic Partnership Agreements

*The EU-ACP Cotonou Agreement broadly reflects the European proposal to replace non-reciprocal preferences by free trade agreements, called Economic Partnership Agreements. As from 2008, the EU will start to treat ACP countries differently, on the basis of two criteria: their level of development and their regional integration projects. Many uncertainties however remain as to the shape of these future agreements.*

### EPA, REPA or FTA?

Initially termed Regional Economic Partnership Agreements (REPA) in the negotiating mandate of the European Commission, the agreements which Cotonou signatories have undertaken to negotiate as from 2002 are now called 'Economic Partnership Agreements' (EPA). However, there is little difference between a REPA and an EPA. The EU still wants to negotiate these agreements with regional groupings of ACP countries, and are in essence Free Trade Agreements (FTAs).

An FTA is a reciprocal preferential trade agreement, under which each party undertakes to abolish restrictions on imports from the other party, thus constituting positive discrimination towards one or several WTO members. The 'plus' of EPAs in relation to simple FTAs is the financial dimension - from the European Development Fund and the EIB - which accompanies them and which should facilitate their implementation.

### The Three EPA Principles

#### *Reciprocity*

The EU now grants almost free access to ACP products (see infokit 13), but the reverse is not true - ACP countries do not grant preferential treatment to European products. EPAs foresee that ACP countries will offer reciprocity, i.e. that they will progressively open their markets to European products. This is in line with the Euromed experience: Non-reciprocal trade preferences granted until recently by Europe to several countries of the Maghreb and Mashreq have been transformed into FTAs, with a view to forming Free Trade Area between Europe and the Mediterranean countries. However, agricultural products are excluded. Financial aid should compensate the costs of trade liberalisation and of the economic restructuring implied. ACP countries not wishing to sign a FTA with Europe would lose the benefit of their present preferences - except for Least Developed Countries (LDCs) - and instead would presumably benefit from the EU's Generalised System of Preferences (GSP) (see box).

#### *Regions*

The EU encourages ACP countries to sign free trade agreements, not individually but collectively as regional groups. This would limit the number of agreements (there are now 77 ACP countries) and contribute to sustaining regional integration efforts. It is up to the ACP countries to take the initiative to eventually entrust their negotiating mandate to a regional grouping.

### *Special treatment for LDCs.*

In accordance with EU proposals, the 39 least developed ACP countries (LDCs), in view of the special fragility of their economies, are not obliged to sign an EPA in order to retain their present level of access to the EU. If they do not wish to open their own markets to the EU, they can choose to keep existing non-reciprocal trade preferences and are assured that whatever happens they will continue to have free access to the EU market for 'essentially' all products from 2005 at the latest. If the project of 'Everything But Arms' of the Commission is adopted, then all LDC products, including agricultural products, could enjoy free access.

The intention of the designers of the EPA, whose principle was accepted at Cotonou, is thus to simultaneously attain several objectives. To strengthen integration between the ACP and the EU, to promote the economic liberalisation of ACP economies, to deepen their regional integration process, to increase access for European companies to their markets. These are all compatible with WTO rules and take account of the least developed economies. Can the EPAs succeed in hitting such a 'broad target'? In particular, can they attain the development goals of ACP countries? And how will the technical and political obstacles to application be surmounted?

#### **The EU's Generalised System of Preferences**

As in the case of Lomé and Cotonou, this is a non-reciprocal 'preferential' trade regime. But tariff and non-tariff reductions and exemptions are less generous, and rules of origin are stricter than for ACP imports. It covers fewer products (54 % of tariff lines compared to 95 % under Lomé) and notably excludes agricultural products. Finally, it is not negotiated but unilaterally offered by the EU, and can thus be unilaterally revoked. All developing countries benefit and it is relatively well-established within the WTO framework. Other developed countries, such as the US and Japan, also have their own GSPs. The EU GSP will be revised in 2004.

### **A Controversial Impact on ACP Countries**

The impact of the proposals on the development of ACP countries has been the subject of intense dispute during the negotiations. The defenders of the EPA emphasise their expected positive impact on:

the flow of direct European investments to the ACP countries;

the 'locking-in' of the trade liberalisation process in these countries;

the restructuring of ACP economies, by combining a modification of the framework of incentives for economic agents (propelling them towards a more efficient use of resources) with the financial and technical support of the EU.

However, in both ACP countries and Europe, certain analysts are sceptical, fearing that the EPAs will have several negative effects, including:

increasing the profit margins of European exporters, rather than lowering the prices to consumers and ACP importers;

a sharp reduction in customs duty revenues, which a diversification of fiscal receipts would not compensate in the short or even medium term;

pushing ACP countries to liberalise their trade regimes at a 'sub-optimal' rate as compared to what they would do unilaterally;

hindering the diversification of ACP trade with non-EU trade partners;  
complicate regional integration (by treating countries differently belonging to the same regional grouping);

strengthen the old Lomé reflexes which focus ACP attention on obtaining trade preferences (in Brussels) instead of adopting a more active stance, in particular within the multilateral trade system (in Geneva).

### **Technical Feasibility**

Several preconditions are needed to enable the negotiation and the establishment of EPAs. These include:

The effectiveness of ACP participation as regional groups depends on the *progress of regional integration processes* which need to take place in a very short time before the launch of the negotiations. To sign an FTA with the EU, a regional grouping must be an effective free trade zone or a customs union. Apart from SACU, very few ACP regions have reached this stage.

The *trade negotiation capacities* of ACP countries are very weak and those of the regions are almost non-existent and thus must be considerably strengthened if true negotiations are to be held. The EU's capacities are also insufficient to conduct several negotiations simultaneously with the ACP, in addition to other bilateral negotiations and of course those within the WTO.

### Why choose EPAs when other options keep the EU-ACP preferential regime and are compatible with the WTO?

The erosion of the relative value of preferences is inevitable and their impact on ACP development has been very weak. Why worry about keeping them? For two main reasons: The first is that without them, ACP countries, which are not LDCs would 'be moved into the EU's GSP,' and would thus see an increase in the absolute level of barriers to their exports and would face an increase in certain customs duties. The second reason is not economic. The EU, mainly the Commission and some Member States such as France as well as the ACP wish to retain a specific trade dimension to their cooperation, without which the partnership would appear to be weakened.

To render the preferential regime compatible with WTO rules, two solutions are on offer to signatories of the Cotonou Agreement:

Either transform non-reciprocal preferences into FTAs, while respecting certain rules contained within Article XXIV of GATT, or; Abolish the discriminatory character of preferences by extending the benefits to all developing countries (by retooling the GSP granted by the EU to all these countries).

In the negotiations, the EU opted for the first solution and carried the argument against a group of ACP countries who preferred the status quo, which the Europeans did not want. At Cotonou, the two parties undertook to negotiate reciprocal agreements, i.e. the EPAs. The second solution did not attract any party, since it amounted to renouncing a specific trade agreement between the ACP and the EU, which had symbolic value. Harmonisation with the GSP would actually imply the disappearance of the trade dimension in ACP-EU cooperation since all developing countries, ACP or not, would benefit from the same non-reciprocal preferences.

Another option which is still possible at least in principle, is for the EU to abolish trade preferences and to radically reduce its MFN tariffs to the benefit of the ACP and other WTO members, by means of a global offer to be made during the next multilateral trade negotiations. Such an ambitious liberalisation project would however need the agreement of all European actors within a framework which would go far beyond the renegotiation of its agreements with the ACP.

### The Political Feasibility of EPAs

In view of these difficulties, a strong political will is needed, on both the EU and ACP side, to put EPAs into place. What support can the ACP count on? They accepted the reciprocity principle in Cotonou, but with reticence. From a pragmatic point of view, the ACP seem to have a number of options including:

to give priority to political links with the EU and its member states rather than to sovereignty in trade policy matters;

to fear that the refusal of economic partnership proposed by EU will imply indirect sanctions (less aid);

to accept reciprocity in the hope of facilitating the preservation of other privileges (such as benefits of the commodity protocols), a particularly profitable calculation for countries with little trade with Europe (Caribbean, Pacific).

The consensus of the ACP group at Cotonou about 'fatalistic pragmatism' should be transformed in the coming months under the influence of a double phenomenon:

First, at the level of the ACP group, the study of options will probably continue to fragment their common position into different national and regional positions. The envisaged dismantling of the all-ACP trade regime requires that the

ACP group reaffirms its *raison d'être* without this trade pillar, which was so important until now.

Second, the various ACP actors whose interests are at stake - in particular the private sector (producers, exporters etc) and ACP civil society (consumers, trade unions, NGOs) - will endeavour to influence the position of their governments at national, regional and global level.

It is very difficult to have a clear idea of what situation will prevail after 2008. Certain ACP countries will choose not to negotiate and will 'keep Lomé.' Others will negotiate EPAs as regional groups, others will negotiate individually, others may try to obtain another type of agreement from the EU. (see infokit 13)

The *European case* is also complex. The Commission and its Member States are confronted with two indirectly opposing concepts:

the 'bilateralists' consider trade policy as a tool of foreign policy towards a given country or region. This is the vision which has inspired the EPA concept, as was the case with the EU-South Africa FTA (see box) or the Euro-Med Agreements, the agreements with Eastern European countries, etc. In fact, the concept of FTAs between Europe and its former colonies dates back from 1960. It failed then due to objections from the USA, resistance from French companies, and protectionist strategies by newly-independent african countries.

the 'multilateralists' think that European trade policy objectives must be pursued within the WTO framework, by directly influencing the establishment and application of world trade rules. They argue that the recent FTAs between the EU and Morocco, Tunisia, Mexico, and South Africa etc. fragment and undermine the multilateral trade system, and inspire a certain degree of scepticism.

It is up to the European Commission's DG Trade (rather 'multilateralist') to put in place a project (the EPAs) that was developed by a more 'bilateralist' DG Development. If DG Trade were to judge that EPAs were not the best way of trading with the ACP in the future, the EC could be tempted to free itself of its Cotonou commitments by, for example, invoking other undertakings within the WTO framework. So it is not certain that the enlarged Union, with a reformed Commission would still be devoted in 2008 to applying ambitious preferential trade agreements with the ACP.

### Is the EU-South Africa FTA a model EPA?

In 1999, the EU and South Africa signed a Free Trade Agreement. In contrast to the Euro-Med agreements, it covers agricultural products. Apart from the difficulties of the negotiations (four years and a number of changes on both sides) there are few lessons for the ACP. South Africa is neither an LDC nor even a developing country (at the WTO it has chosen to be considered as a developed country). It represents for the EU a political and economic challenge quite out of proportion with any other ACP, and finally its negotiating capacity and independence make it a case apart. Two elements however deserve attention:

Despite rhetorical efforts, the agreement barely considers the impact on South Africa's partners within SADC and above all in the Southern Africa Customs Union (SACU);

Members of SACU (Botswana, Lesotho, Namibia, Swaziland), having no barriers in their trade with South Africa are de facto already members of a sort of 'virtual EPA' with the EU, even though they did not take part in the negotiation of the agreement.

The European Centre for Development Policy Management (ECDPM) is an independent foundation that aims to improve international cooperation between Europe and countries in Africa, the Caribbean, and the Pacific (ACP). It does this through capacity building for policy management, the promotion of policy dialogue between ACP countries and Europe, and through the provision of information and facilities for knowledge exchange.

Designed for policy makers and practitioners in ACP and EU countries, the Cotonou Infokit brings together, in a readable form, information on the implementation of the new Cotonou Partnership Agreement. For further information on the infokit, please contact Kathleen van Hove (kvh@ecdpm.org).

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