

WTO and EPA Negotiations

For an enhanced coordination of ACP positions on agriculture



**Arlène Alpha
Benoît Faucheux
Bénédicte Hermelin
Vincent Fautrel**

www.ecdpm.org/dp70

Discussion Paper No. 70

December 2005



EUROPEAN CENTRE FOR DEVELOPMENT POLICY MANAGEMENT
CENTRE EUROPÉEN DE GESTION DES POLITIQUES DE DÉVELOPPEMENT

WTO and EPA negotiations: For an enhanced coordination of ACP positions on agriculture



**Arlène Alpha^a, Benoît Fauchoux^a
Bénédicte Hermelin^a et Vincent Fautrel^b**
(^aGRET et ^bCTA)

December 2005

www.ecdpm.org/dp70

Table of Contents

1. Introduction	5
2. Main objectives and issues of the agricultural trade of the ACP countries	7
2.1. Residual tariff barriers.....	7
2.2. Escalating customs duties.....	10
2.3. The erosion of trade preferences	11
2.4. Non-tariff barriers	12
2.5. The lack of competitiveness of ACP countries in comparison to non-ACP LDC competitors	14
2.6. Competition from imports on domestic markets.....	15
3. Contextual elements to be taken into consideration and which may affect the interests, objectives and negotiating strategies of the ACP countries: CAP reform, the EBA initiative.....	17
3.1 Impact of the CAP reform.....	17
3.2. The “Everything but Arms”» (EBA) initiative	19
3.3 The new Generalised System of Preferences (GSP)	21
3.4. Other bilateral or multilateral trade negotiations in which the ACP countries are involved.....	21
4. Principal lessons from previous free trade agreements concluded between the European Union and developing countries	22
5. Discussion on the issues involved in the WTO and EPA negotiations, the best options and links between the two rounds of negotiations, for each of the agricultural trade issues of the ACP countries	24
5.1 Reducing or eliminating residual tariff barriers.....	26
5.2. Avoiding escalating customs duties	28
5.3. Avoiding the erosion of trade preferences	29
5.4. Contending with non-tariff barriers.....	29
5.5 Improving the competitiveness of ACP countries in the face of competition from non-ACP developing countries	31
5.6. Limiting competition from imports on domestic and regional markets.....	33
6. Discussions on the speed and timing of the WTO and EPA negotiations and the potential impact on negotiating strategies	39
7. Consequences for technical assistance, aid, capacity-building, support in negotiations.....	43
8. Conclusion	44

1. Introduction

The African, Caribbean and Pacific (ACP) countries are participating in two parallel rounds of negotiations which are of crucial importance for their trade and agricultural policies. Most of them, as Member States of the World Trade Organisation (WTO)¹, have been participating in the renegotiation since 2000 of the agricultural agreement, implemented in 1995. After the failure of the Cancun conference in September 2003 to finalise a document on trade modalities, the document on which the Member States reached a consensus in July 2004, the so-called July framework agreement, is today used as the blueprint for the agricultural negotiations. In accordance with the timetable set out in article 20 of the agricultural agreement, the renegotiation is scheduled to be completed by the end of 2005, on the occasion of the sixth WTO ministerial conference in Hong Kong. This sixth conference is intended to put at end to the negotiation round launched at the fourth conference in Doha (Qatar) in November 2001, and described as the “development round”. The issues of the multilateral agricultural negotiations involve in particular the three pillars of the agricultural agreement: improving market access by reducing tariff and non-tariff barriers; the disciplines concerning the use of domestic supports so that aids granted to farmers do not distort markets; and the disciplines relative to export supports (export subsidies and other measures having equivalent effects).

Moreover, the ACP countries have been negotiating since September 2002 with the European Union (EU) to put in place Economic Partnership Agreements (APE) on 1st January 2008 between the ACP regions and the EU. These agreements constitute the commercial part of the Cotonou Accord, signed in 2000, which replaces the various Lomé Conventions applied since 1975. The trade regime under Lomé between the ACP countries and the EU was based on non-reciprocal trade preferences; the EU granted preferential access to exports from the ACP countries in comparison to other countries, while the ACP countries were not obliged in exchange to grant the same preferential access to the EU in comparison to their other partners. This regime was heavily criticised on numerous occasion in the 1990s because it did not respect the WTO rules² and its effectiveness in integrating ACP countries in world trade was contested. The EU therefore undertook to change its trade regime with the ACP countries to comply with the WTO rules, after having obtained an initial dispensation under Lomé IV-bis (1995-2000), followed by a second dispensation under Cotonou (2000-2007) on condition that it would request no more dispensations and that the second dispensation was only provisional pending total compliance by the EU-ACP trade regime with the WTO rules. The EPAs, as free trade areas between an ACP region and the EU, would thus introduce for the first time the principle of reciprocity in trade relations between ACP countries and the EU; such reciprocity could be asymmetric with less trade liberalisation by the ACP countries. The negotiating issues concern the products which can be excluded from the EPAs, the implementation timetable, as well as the development part of the EPAs.

¹ That is not the case for all the Pacific countries –see Annexe 1.

² First, it introduced discrimination between countries contrary to the Most Favoured Nation (MFN) principle of the WTO which stipulates that all trade advantages granted by one country, to another country or group of countries must automatically be extended to all WTO Member States. The only discrimination authorised by the WTO concerns the least developed group of countries, or all developing countries, which do not cover the ACP countries. Secondly, it did not respect the derogation to the MFN principle which authorises trade preferences to one country or a group of countries only when they are reciprocal, in the framework of a free trade area.

The two rounds of negotiations are being carried out at the same time in separate frameworks, the multilateral WTO forum for the agricultural agreement and the framework of bilateral relations between the EU and the ACP countries organised according to their regional integration areas for the EPAs. However, other than the fact that they require sufficient human and technical capacities to be carried out head-on, the difficulty of the exercise for the ACP countries lies in the interaction between the two rounds of negotiations. The EPA negotiations must ensure that the results produced comply with the WTO rules (since it was the non-compliance of the preceding trade regime with those rules which in part led to the reform). However, these negotiations are being carried out at the same time as the negotiations on the actual WTO rules. The WTO negotiation timetable is in addition fairly flexible and tends to become more elastic in line with the difficulties encountered in the negotiations, while the deadline of 1st January 2008 for the EPA negotiations seems firmer since it is the result of the second dispensation granted to the EU on the basis of the latter's commitment not to seek another dispensation. In this context, the EPA negotiations may progress more quickly and influence considerably the position of the ACP countries with regard to the multilateral negotiations.

In addition, the two rounds of negotiations are taking place against a backdrop marked by important changes in the EU's agricultural and trade policies, as well as other bilateral or regional rounds of negotiations involving the ACP countries. The reform of the European Union's Common Agricultural Policy (CAP) and its Generalised System of Preferences (GSP) with regard to all developing countries, which includes the Everything But Arms (EBA) initiative for the least developed countries (LDCs), undoubtedly have an influence on the WTO and EPA negotiations. The ACP countries must also take into consideration the parallel negotiations that they are conducting in the framework, for example, of their regional integration.

Finally, the ACP countries constitute a very heterogeneous group of countries. However, the problems as regards agricultural trade are different (while some countries are geared to exporting agricultural products, others, on the contrary, are net importers of agricultural products), levels of development and therefore "statuses" also different (more than half of the ACP countries have LDC status). The interests of the ACP countries in both rounds of negotiations may therefore diverge and make it difficult to establish a global ACP negotiating strategy.

In the light of these complexities, a certain number of questions need to be addressed by the ACP countries: how to approach the two rounds of negotiations? What negotiating strategy should they adopt bearing in mind that the potential interaction between the negotiations? To which round of negotiations should they give priority, in which round should they propose the most ambitious commitments and with regard to which negotiating points?

The aim of this paper is to discuss potential responses to those questions, while showing to what extent the WTO and EPA negotiations interact and can be linked. The issue for the ACP countries is to define a negotiating strategy which coordinates the two rounds of negotiations with a view to obtaining results which are in their best interests in the area of trade and agricultural policy.

In this paper, we present first of all the main objectives and issues for the agricultural trade of the ACP countries (chapter 2). The paper then sets out the contextual background of the WTO and EPA negotiations to be taken into consideration, and which can influence the interests, objectives and negotiating strategies of the ACP countries (chapter 3). After having identified the main lessons to be learned from the free trade agreements previously concluded between the EU and developing countries (chapter 4), chapter 5 endeavours to analyse, for each of the objectives and issues regarding agricultural trade previously identified, how the two rounds of negotiations are linked and, accordingly, to identify the

appropriate negotiating strategies to be adopted. The last two chapters (6 and 7) draw conclusions, on the one hand, regarding the speed and timing of the negotiations and, on the other hand, regarding needs in terms of technical assistance, capacity building and support in the negotiations.

2. Main objectives and issues of the agricultural trade of the ACP countries

Agriculture is a vital sector for the ACP countries. It is the main source of foreign currency for most of the ACP countries and the majority of the population (between 40 and 90%) depend directly on it for their subsistence. In addition, the EU is the main trading partner for the majority of the ACP countries, especially in Africa. That is why the current reforms of agricultural policies, such as the regional integration processes and now the EPA negotiations and agricultural negotiations with within the WTO, are crucially important for the ACP countries.

Two major problems can be distinguished concerning the agricultural trade of the ACP countries which are also the main issues at stake in the agricultural negotiations: (i) access to markets in developed countries and the EU in particular; (ii) the competition of imports from developed countries on national markets as well as the dynamics of regional trade. Substantial progress has already been achieved on access to markets in developed countries through successive tariff reductions. The residual tariff barriers which are an obstacle to ACP exports are now far more limited, however non-tariff barriers have increased (sanitary and phytosanitary standards, rules of origin), and structural supply constraints also limit very strongly the capacities of the ACP countries to position themselves on export markets. The problem of competition from imports from developed countries, and in particular EU countries, on the markets of the ACP countries is particularly acute. It concerns the conditions of access to markets in the ACP countries and therefore the measures that those countries can put in place to protect their markets from competition.

A. ACCESS TO THE MARKETS OF DEVELOPED COUNTRIES

2.1. Residual tariff barriers

Tariffs are still high despite the generalised reduction in customs duties

Globally, access to the markets of developed countries is open to exports from ACP countries. On markets other than those of the EU, the ACP countries can benefit from Generalised System of Preferences (GSP) put in place by most of the major developed countries (United States, Japan, Canada, etc.), to offer preferential, non-reciprocal access to all developing countries. They also benefit from the generalised reduction in customs duties applied in particular since the entry into force of the WTO agricultural agreement in 1995 and the disciplines that it imposes in the area of tariff reductions.

Customs duties however remain high on products which are very important for the ACP countries, despite the generalised reduction in customs duties (see table 1). The GSPs of developed countries exclude moreover the products that they consider as sensitive and which are also key products for the ACP countries. Thus the GSP of Canada

excludes among agricultural products poultry, prepared meat and fish, vegetables, fruit and juices, wine, etc. or imposes tariff quotas on products such as bovine meat, dairy products, cereals. The Japanese GSP is even more restrictive from the agricultural point of view: it excludes sugar, bovine meat, dairy products, etc. The improvement of access to the markets of developed countries other than the EU is therefore a key issue for the ACP countries.

Table 1. Customs duties in certain developed countries before and after the implementation of the Uruguay Round Agreements

	UE avant	UE après	Japon avant	Japon après	USA avant	USA après
Café vert	5	0	0	0	0	0
Fèves de cacao	3	0	0	0	0	0
Produits frais tropicaux	9	5	17	4	7	5
Sucre	297	152	126	58	197	91
Blé	170	82	240	152	6	4
Produits laitiers	289	178	489	326	144	93

Source: OECD. MFN duties

A European market which in theory is very open

On the European market in particular, overall the residual tariff barriers are lower than on markets in other developed countries. The EU claims as proof that it is the world's leading importer of food products. It imports alone more agricultural products from developing countries than the United States, Canada, Japan, Australia and New Zealand combined³. Since the creation of the WTO, the growth rate of agricultural exports from LDCs to the EU has doubled. It is important however to make a distinction between LDCs and non-LDC ACP countries.

For LDCs, the question of improved access to the European market through the removal of residual tariff barriers is no longer an issue, since the adoption by the EU of the Everything But Arms (EBA) initiative in 2001 offers duty-free and quota-free access (except for sugar, rice and bananas which are subject to the phased elimination of quotas – see section 3.2). Therefore, there are no longer any residual tariff barriers for LDC exports, including for products which are sensitive for the EU and are covered by specific protocols (see below). That does not mean that there are no more obstacles to LDC exports and impact studies have shown the limited effect of the initiative because of numerous limits such as rules of origin, sanitary and phytosanitary standards, safeguard measures, as well as the unilateral character of the initiative.

The non-LDC ACP countries also benefit from preferential access to the European market in the framework of the Cotonou Accord, in relation to non-ACP LDCs. In fact, the vast majority of agricultural exports to the European market are free of customs duties. Only approximately 7% of agricultural exports are still taxed under the Cotonou regime which has been in force since 2000. However, there are residual tariff barriers which can be divided broadly into two types: *ad valorem* duties (a percentage of the product's price) and specific duties (amount in euros per unit of measure, for example per 100 kg, tonne, number of parts, etc.). While certain products can benefit from a 100% reduction in *ad valorem* duties, they can still be subject to variable specific duties⁴. In 2000, 46% of

³ Source: French Ministry for Foreign Affairs.

⁴ Certain tariffs can be particularly complex, with both an *ad valorem* part and specific duties (Gallezot, 2003).

agricultural tariffs were expressed in specific amounts for imports under the Most Favoured Nation (MFN) regime, and 31% for imports benefiting from a preferential system (ACP, including LDCs and GSPs)⁵.

In general, residual tariff barriers apply to ACP agricultural products which are considered by the EU to be particularly sensitive, that is to say that could compete with EU products. For those products, the principle of a duty-free and quota-free European market, in the framework of the Lomé Conventions, is limited. The Cotonou Accord includes (Declaration XXII of Annexe V) provisions such as tax-free quotas, import "ceilings", seasonal duties for agricultural exports of the ACP countries. It also allows the ACP countries to request the registration of new agricultural products under the principle of tax and quota exemption. Applications must, however, be justified and registration is far from easy to obtain.

Box 1. Rice (Guyana, Surinam) and grapes (Namibia), examples of residual trade barriers for non-LDC ACP countries

For rice, access to reduced duties is authorised via two quotas:

- a quota of 125 000 tonnes for exports of rice in the husk
- a quota of 20 000 tonnes for exports of broken rice

A 65% reduction in duties is granted on these quotas, in relation to MFN duties; in other words, rice exports from ACP countries are subject to 35% of MFN duties, up to the quota limits. Guyana and Surinam, major exporters of non-LDC rice, are particularly affected by the existence of these residual tariff barriers.

Namibian grapes are subject to residual tariff barriers (quota of 800 tonnes duty-free) while it enters the European market at a period when it does not compete with any production of similar quality in the EU. The dismantling of residual tariff barriers would, on the contrary, enable Namibia to achieve large-scale gains in terms of employment and income.

Source: Agritrade.

Moreover, the Cotonou Accord has reaffirmed the product protocols existing under Lomé for sugar, bovine meat and bananas (protocols 3, 4 and 5 respectively of the Cotonou Accord)⁶. For the non-LDC ACP countries these protocols represent quantitative restrictions accompanied sometimes by residual duties. They authorise a certain quota of exports from ACP countries with reduced or zero customs duties, for sugar and beef, enabling the ACP countries to benefit from the European domestic price (higher than the world price and stable).

Product protocols

Sugar

*Duty-free up to the quota limit
European domestic market price*

Bovine meat

*Specific duties of 8% up to the
quota limit
European domestic market price*

Bananas

Duty-free up to the quota limit

Customs duties are thus applied, inter alia, on dairy products, eggs, fresh and frozen vegetables, oleaginous fruit, bananas (above the tariff quotas), other fresh and dried fruits, cereals, starches, animal fats, sugar (except for cane sugar, covered by a

⁵ Gallezot, 2003.

⁶ The rum protocol has been cancelled. Some other products (dairy products, fresh vegetables such as carrots and lettuces, fruit juices for example) were moreover subject to customs duties under the Lomé Conventions.

protocol), chocolate, fruit juices, albumin and animal food. By way of example, among dairy products, milk (non-condensed unsweetened milk) from ACP countries is taxed at 11.5 EUR/100kg (compared with 13.8 EUR/100kg MFN duty); yoghurts (whether or not flavoured) are not subject to ad valorem duties (in comparison to MFN duties and the GSP), but are still subject to the same specific duties as for other countries, which range from 12.4 EUR/100kg to 168.8 EUR/kg depending on the product. In the same way, ad valorem customs duties on chocolate are zero but specific duties vary.

The average level of residual tariff barriers applied to agricultural exports from the ACP group (including LDCs) on the European market has been estimated at 5.3% on 98.1% of imports receiving preferential treatment⁷. This estimate must be compared with that of countries under GSP (17.9% of protection on average on 19.8% of imports covered by the preferences system) and MFN (average protection rate of 20.7%) regimes. Although the residual tariff barriers for non-LDC ACP countries are therefore far lower than for other countries⁸, the issue is still important for certain ACP products for which access to the European market could be improved considerably.

2.2. Escalating customs duties

Customs duties applied to agricultural products from the ACP countries are generally applied to high added value products, while primary products or semi-processed products are subject to zero duties. Customs duties escalation, that is to say increasingly higher levels depending on the degree of processing of products, is evident on markets in certain developed countries concerning MFN and GSP duties (table 3).

Table 2. Escalating MFN and GSP customs duties for coffee and cocoa in Japan and the EU

	Japan		EU	
	MFN duty	GSP duty	MFN duty	GSP duty
Unroasted coffee	0%		0%	0%
Roasted coffee	12%		7.5%	2.6%
Cocoa beans	0%	0%	0%	0%
Non-defatted cocoa paste	5%	3.5%	9.6%	6.1%
Defatted cocoa paste	10%	7.0%	9.6%	6.1%
Unsweetened cocoa powder	12.9%	10.5%	8%	2.8%
Sweetened cocoa powder	15%	12.5%	8%	2.8% to 4.5%
Chocolate	21.3%	12.5%	8.3%	4.8%

Source: Japanese Ministry for Foreign Affairs, in Gret (to be published in 2005), Impact on agriculture of the CEMAC+STP of an EPA with the EU; European Commission Export Help Desk.

On the European market, exports of processed products from non-LDC ACP countries (those classified as LDCs are not concerned) are not subject to tax in the same way owing to trade preferences granted to them (see the example of cocoa in table 3).

⁷ A study carried out by the INRA emphasises the difficulty of the exercise and indicates that estimates differ considerably between studies according to the type of data used, in particular between the WTO customs bindings and the actual customs duties applied (Gallezot, 2003).

⁸ The preferential tariff for ACP countries is even more important for products subject to tariff peaks (11% on average versus more than 40% for the MFN). Gallezot (2003).

Table 3. Customs duties on cocoa-based products entering the EU

	<i>Cocoa beans (SH 18010000)</i>	<i>Cocoa paste (SH 18031000)</i>	<i>Cocoa butter (SH 18040000)</i>	<i>Cocoa powder not containing added sugar (SH 18050000)</i>
<i>ACP (Ivory Coast, Ghana, CEMAC + STP, Nigeria)</i>	0%	0%	0%	0%
<i>Brazil</i>	0%		7.7%	8%
<i>Equator – GSP +</i>	0%	9.6% or 0%	4.2% or 0%	
<i>Indonesia – GSP</i>	0%		4.2%	2.8%
<i>Malaysia – GSP</i>	0%		4.2%	
<i>Peru – GSP +</i>	0%		4.2% or 0%	
<i>Singapore</i>	0%		7.7%	
<i>Thailand</i>	0%		7.7%	
<i>Turkey</i>	0%		0%	

Source: Gret (to be published in 2005), Impact on the agriculture of the CEMAC+STP of an EPA with the EU.

However, certain high added value products may be taxed when they include in their composition products that are sensitive for the EU, such as sugar. Thus fresh and dried mangos exported from ACP countries to the EU are admitted duty-free, whereas they are taxed at € 15 per 100 kg when they are conserved with sugar and mango juice is taxed at € 12.9 per 100 kg⁹. Likewise tinned pineapples are subject to prohibitive import duties, including for LDCs in the framework of access restrictions on sugar exports (see EVBA initiative, section 3.2).

For countries which are heavily dependent on trade with the EU, which is the case of African countries in general (but not of Caribbean and Pacific countries), this tariff structure can contribute to continuing primary specialisation, at a time when the emphasis is on the need to create added value for agricultural products.

2.3. The erosion of trade preferences

In the framework of the Lomé Conventions since 1975, and even today under the Cotonou Accord up to December 2007, the ACP countries benefit from non-reciprocal trade preferences on the European market in comparison to their non-ACP LDC competitors. The effectiveness of these trade preferences is contested to the extent that they have not made it possible to halt the overall marginalisation of ACP countries in world trade and even on the European market. While the ACP group has been enlarged, the share of its exports on world markets has gone from 3% at the beginning of the 1970s to 1.5% today; and the share of ACP countries in European imports has fallen over twenty years from 8% to 3%, mainly in favour of Asian countries which however do not benefit from trade preferences. However, certain ACP export sectors have undoubtedly benefited from the advantage that this system gave them. Although ACP agricultural exports (excluding Protocols) grew by 43% during the period from 1988 to 2000, the sectors benefiting from a preferential margin of more than 3% increased their exports by 60%. Growth rates are particularly strong for the following non-traditional products: flowers (+230%), vegetables (+132%), prepared fish (+110%), tobacco (+83%) and prepared vegetables and fruits (+70%).

⁹ PwC/GRET/Forum for Africa: Sustainability Impact Assessment (SIA) of the EU-ACP Economic Partnership Agreements. Phase 2. July 2005.

However, over the years, the preferences of the ACP countries in comparison to their non-ACP competitors have declined for several reasons:

- a) the multilateral liberalisation process promoted by the WTO with a generalised reduction in tariffs (Most Favoured Nation principle),
- b) the signature between the EU and other trading partners of bilateral free trade agreements (FTA) introducing tariff reductions,
- c) the CAP reform decided in June 2003,
- d) the EBA initiative in 2001, and
- e) the new Generalised System of Preferences (GSP) put in place in July 2005 (including the EBA initiative)

The impact of these different processes varies from one product to another and therefore from one country to the next. The multilateral trade liberalisation process leads inevitably to a reduction in the preferential margins of the ACP countries. However, the other processes are at least as important and the generalised reduction in tariffs reinforces the erosion resulting from the CAP reform (which reduces European prices to world levels – sugar and beef being the most significant examples of that, see section 3.1) and the multiplication of FTAs signed by the EU which offer preferences to a growing number of regions and countries¹⁰.

The main effect of the decline in preferences has been to reinforce competition between ACP countries and non-ACP LDCs for access to the European market, resulting in lost market share and a drop in export revenues for the ACP countries.

2.4. Non-tariff barriers

Rules of origin

The rules of origin applied by the EU to exports from developing countries are particularly strict. This question affects specifically LDCs since the rules of origin of the EBA initiative are those of the GSP¹¹. These rules which include aggregation rules and sufficient processing criteria are stricter than those applying in the framework of the Cotonou Accord. Thus, a recent study carried out by IDS (University of Sussex) indicates that the rules of origin which are applied can impose on LDCs up to 60% of local added value as an eligibility criterion.

Although the wish to avoid risks of re-exportation¹² seems to be a legitimate concern, the rules of origin, imposed on products from LDCs seem too rigid to enable those countries to benefit properly from the EBA initiative. For example, LDC food exports, where the import packaging represents an important element in the cost of the finished product, may be considered as not respecting the rules of origin and be taxed accordingly. The issue for LDCs in particular is therefore to obtain a revision of the EU rules of origin

¹⁰ That is the case for example of the FTA concluded on trade in fruits and vegetables with the Mediterranean countries. The EU has also reinforced its relations with the Mercosur countries (Brazil, Argentine, Uruguay and Paraguay), Mexico, Chile and, to a lesser extent, Asian countries. See CTA-ECDPM *In*Brief “Comparing EU FTAs – Agriculture”, Bettina Rudloff and Johannes Simons.

¹¹ As the initiative is part of the GSP, the EBA has no specific rules. Europa Internet site.

¹² This risk provoked strong resistance in the preparation of the EBA initiative, in particular among sugar and rice manufacturers. They feared that LDCs would import untreated rice, process it and export all their production to the EU relying on the rules of origin, while at the same time importing sufficient volumes for their domestic consumption needs.

applied to their exports with a view to achieving greater flexibility, thereby enabling them to benefit fully from preferences.

Quality standards and SPS

The reduction in tariff barriers introduced in the multilateral framework of the WTO as well as in the bilateral framework of free trade agreements has facilitated access to the markets of developed countries for the ACP countries. However, at the same time, non-tariff barriers have developed and are becoming today the real obstacles to access to markets in developed countries, in particular for fresh products. Notifications of technical measure (different types of standards, technical obstacles to trade) as conditions of access to markets increased from 300 in 1980 to 3000 twenty years later, while at the same time customs duties were reduced regularly¹³.

For the ACP countries, the adoption and implementation of European SPS standards which in general tend to be stricter than international standards¹⁴ are an additional difficulty and a major challenge. In this regard, a recent study commissioned by the CTA in 2003 has revealed that "some 17 ACP countries represented approximately 83% of the ACP exports in the areas of products likely to be the most affected by the SPS measures", horticultural products and fisheries being the most at risk. One of the main conditions of access to the European market is that agricultural exports should not exceed the Maximum Residual Limits (MRL) for pesticides fixed by the European Commission¹⁵. Moreover, there is a risk that access to the European market will become even more difficult with effect from 1st January 2006, the date of the application of the new European regulation on the control of foodstuffs. This new regulation is above all an internal European Union regulation, but the Commission has stressed that it also applies to third countries wanting to export to the European market. The basic principle is that any product entering the European market must satisfy or be equivalent to EU standards. The new generalised regulation makes it compulsory for food companies to apply the HACCP (hazard analysis critical control points) principles. The EU also requires, in the framework of the new regulation, the competent authorities of exporting countries to ensure that products exported to the European market satisfy the standards in force on that market. That means in theory that even if an ACP food unit satisfies European standards, it can only export its products to the European market if the competent authority of the country where the unit in question is established is recognised by the Commission's services, in this case the Food and Veterinary Office (FVO). This raises important questions for the public institutions of the ACP countries, with potentially very high costs imposed on the private sector because of a lack of resources and capacities at public sector level.

If the new European regulation creates a certain number of important constraints for ACP exporting countries, the codes of conduct adopted for the future by the large food retail chains in Europe (e.g. Eurepgap) very often go further than the Community legislative texts and are a major problem for SMEs and SMIs of the ACP, and African in particular, food industry.¹⁶

¹³ In Gret (to be published in 2005), Impact on agriculture of the CEMAC+STP of an EPA with the EU.

¹⁴ See CTA-ECDPM *In*Brief on "EPAs and SPS issues", Martin Doherty. See also Le Bigot and Ribier (2004) who present a comparison product by product of the EU regulation on MRL and that of the Codex Alimentarius.

¹⁵ MRL are the maximum authorised residual concentrations of pesticides, that is to say considered as acceptable in foodstuffs in terms of human health.

¹⁶ By way of example, the new European regulation does not impose total traceability for third countries (including ACP countries), whereas the Eurepgap code makes such traceability compulsory.

2.5. *The lack of competitiveness of ACP countries in comparison to non-ACP LDC competitors*

The lack of competitiveness of the ACP countries results from their high production costs and more generally their production constraints. Competition from non-ACP LDCs on European markets is particularly strong from Asian and Latin American countries, and in the area of traditional tropical type products such as coffee and cocoa. The example of processed mangos (see table 4) illustrates the lack of competitiveness of the West African ACP countries.

Table 4. Competitiveness of processed mangos

	Interest rate	Labour costs (US\$)	Price of fresh mangos (FOB US\$)
<i>Mexico</i>	10	244.65	513.05
<i>Brazil</i>	17	245.9	490.83
<i>India</i>	11	42.07	463.55
<i>Philippines</i>	11	137.76	861.40
<i>South Africa</i>	11	859.48	378.24
<i>West Africa</i>	19	304.10	609.97

Source: Laborstat and French Ministry of External Trade; in SIA West Africa, phase II.

Even if improvements have been and can still be made in terms of ACP access to the markets of developed countries, the difficulty for ACP countries is to be able to take full advantage of these opportunities owing to the structural constraints that affect trade potential, in particular for the least developed African countries. These structural constraints also affect production capacities (unfavourable climatic conditions, problems of access to land, productivity, etc.), as well as processing capacities (unsuitable equipment and technologies) and commercialisation.

Public infrastructure weaknesses (the poor state of roads and rail networks) result in high transport costs and can be bad for the quality of fresh products (fruit and fresh vegetables for example), including hygiene problems (frozen meat without suitable means of transport). Likewise, the shortcomings in public utility services, such as water and electricity, are a handicap to the competitiveness of products. The absence or lack of reliability of information systems, the lack of financing and capital (weakness of financial services, levels of investment) and the low productivity of labour (because of the poor quality of human resources due to the state of the health and education systems) are also negative factors. Finally, institutional shortcomings can be a source of corruption, fluctuating exchange rates and high levels of inflation. They also undermine the capacity to carry out the necessary checks and certification with regard to compliance with European sanitary and safety standards.

The challenge for the ACP countries is therefore to reinforce their production, processing and commercialisation capacities by addressing all these aspects in order to improve their competitiveness and be able to compete with non-ACP LDCs, such as Brazil, in accessing the markets of developed countries. This challenge concerns in particular the possibility of putting in place agricultural policies that are sufficiently strong and effective.

B. COMPETITION FROM IMPORTS ON DOMESTIC AND REGIONAL MARKETS IN THE ACP COUNTRIES

2.6. Competition from imports on domestic markets

Competition which is even stronger because it is unfair

Numerous ACP countries suffer from the competition of imports with their local production and in consequence the dynamics of the development of their local and regional markets. The competition from imports may be due to the strong competitiveness of the products imported, based on levels of productivity and comparative advantages superior to those of the ACP countries. It may also be due to the absence of a consumer market for by-products (e.g. cuts of poultry not used in Europe and exported at low cost to West and Central Africa).

However, the competitiveness of imported products is sometimes distorted when it is maintained by aids to producers and exporters enabling them to sell their products at dumping prices, that is to say at less than their cost of production (case of wheat from the United States and the EU); competition is then unfair. The ACP countries do not have the possibility to use such aids, since either structural adjustment programmes and the WTO rules do not allow such, or they do not have sufficient budgetary resources. For example, no ACP country has notified export subsidies. There is in fact a tendency for exports, in particular from the African ACP countries, to be taxed. It is important to emphasise that the production and export support measures used in North countries contribute to the destabilisation of world markets by encouraging over-production, lower prices and price volatility¹⁷.

Low protection possibilities

Moreover, the tariff protection of the ACP countries vis-à-vis imports has proved to be insufficient. It must be borne in mind that in the framework of SAPs, the conditions included converting non-tariff barriers into customs duties (tariff rates) and reducing strongly tariffs. A number of ACP countries therefore had very low tariffs at the time of the 1995 agricultural agreement. That agricultural agreement provided for reductions in tariffs for developing countries (except the LDCs) on the basis of the tariff lists determined at the end of the Uruguay Round. However, most of the ACP countries which had not consolidated their tariffs before the Uruguay Round chose the option of ceiling rates. In Africa, tariffs were consolidated in a relatively standard way at high levels. That option was the one which gave them the greatest flexibility; as most of the tariffs were at low levels because of the SAPs, the possibility to consolidate their tariffs at ceiling rates gave them the possibility, if necessary, to increase their tariffs subject to those limits. However, the tariffs generally applied remain below the tariff ceilings; in other words developing countries do not use the possibility that they have to increase their tariffs (see table 5). Moreover, certain ACP countries, such as those of the UEMOA¹⁸, implemented important tariff decommissioning when they applied the

¹⁷ These policies are not solely responsible for the phenomena of falling and volatile prices of agricultural raw materials on world markets. These phenomena also concern markets for tropical products such as coffee and cocoa where it is the supply policies of the producing countries which are called into question and not the policies of North countries.

¹⁸ Union Economique et Monétaire Ouest Africaine (West African Economic and Monetary Union).

common external tariff (CET) determined in the framework of their regional integration process.

Table 5. Customs duties consolidated at the WTO by certain ACP countries for agricultural products

Countries	Consolidated customs duties	Additional consolidated customs duties	Total consolidated tariffs	Rates effectively applied
Benin	60%	18%	78%	
Burkina Faso	100%	50%	150%	
Cameroon	80%	230%	310%	24.5%
Ivory Coast	15%	200%	215%	20%
Ghana	98%	0.2%	98.2%	22%
Kenya	100	0%	100%	44%
Maurice	120%	17%	137%	52%
Mozambique	100%	300%	400%	

Source: WTO.

A major fear for the ACP countries is that they will be obliged to reduce further their customs duties, as is provided for in particular in the introduction of reciprocal trade preferences in the framework of the EPAs. One of the consequences would be to make imported European products more competitive than local ACP products, which would have negative effects for emerging industries, notably as regards subsidised products such as beef, dairy products, cereals. This risk is particularly high in the case of tomato purée in the CEMAC zone, beef and tomato purée in West Africa, dairy products in the Caribbean countries and cereals in East and South Africa. These potential risks explain the current discussions of the ACP countries at both multilateral and bilateral levels on the need to use two types of protection: on the one hand the designation of special/sensitive products to be excluded from the liberalisation process and, on the other hand, putting in place safeguard systems.

Competition from EU imports with regional trade

Certain ACP regional integration areas have adopted a Common External Tariff (CET) which protects them from imports, all sources combined. In the UEMOA area, however, the CET, as defined, is today increasingly disputed since it is considered to be too low to limit imports, with as a result harmful consequences for domestic and regional markets. The signature of an EPA abolishing customs duties imposed on EU imports would potentially accentuate the phenomena of competition with regional markets. Certain countries would prefer to import European products that have become cheaper with zero customs duties, rather than continue to obtain them from their regional partners (diverting trade).

3. Contextual elements to be taken into consideration and which may affect the interests, objectives and negotiating strategies of the ACP countries: CAP reform, the EBA initiative

3.1 *Impact of the CAP reform*

The CAP reform of 26 June 2003 follows the first wave of reforms, which started in 1992, and consists chiefly in decoupling supports to producers with the introduction of a single payment per farm. This approach is intended to reduce the domestic price of EU agricultural products, without threatening agricultural income. This reform which marks the gradual abandonment of intervention prices guaranteeing a Community price far higher than the world market price, thus enables the EU to comply with the WTO disciplines. Sectoral reforms, including those with regard to cereals (initiated in 1992), rice, bovine meat, dairy products, oleaginous products have also been decided. The main objective of the reform is above all to reinforce the competitiveness of the European food sector on export markets.

By reducing the difference between the EU market price and world market prices, this reform process helps to reduce the need for the EU to use protective customs duties and export refunds. It is an important element in the proposals made by the EU to the WTO with regard to reducing export refund expenditure and customs duties. The CAP reform can therefore be seen as the mainspring of the EU position in agricultural negotiations at the WTO and not the opposite.

For the ACP countries this reform has several types of consequences:

- > a reduction in the domestic European price on which they could rely in the framework of the sugar and bovine meat product protocols, and therefore a reduction in their export revenues (see box 2 on the reform of the common market organisation for sugar).
- > an additional erosion of the preferential margins granted to the ACP countries in relation to non-ACP countries. As indicated above, by reducing the guaranteed prices to European producers to bring such prices more into line with world prices, the EU has less need of high customs duties to protect its market. It is therefore more willing to reduce its customs duties. A direct consequence of this reduction of European customs duties is an erosion of the preferential margins of the ACP countries. The erosion of preferences is already significant in the beef sector following the 1999 reform. The same applies as regards ACP rice following the June 2003 reform, which implies a 50% reduction in the Community intervention price.
- > increased competition from EU imports on ACP markets given the reduction of European prices to world levels. That is the case for example of the cereals sector. By reducing prices and therefore the difference between European and world prices, European producers and processors will find it easier to export processed agricultural products. Once the reform has been completed, it should reinforce the price competitiveness of European agricultural products and boost the competitiveness of these exports on ACP markets. It is important, however, to emphasise that changes in the Euro/Dollar exchange rate in recent years have strongly influenced the price competitiveness of European products and are therefore a key element of the analysis.

Box 2. The reform of the Common Market Organisations (CMO) for sugar and bananas

Case of sugar: the sugar reforms follows the condemnation by the WTO of the European sugar regime. Discussions on the reform started in 2002, and on 22 June 2005 the European Commission presented a revised proposal. The European support price would be reduced considerably (by 39%, from 632 euros/t to 385.5 euros/t) and the sugar intervention price (currently 632 euros/t, i.e. more than three times higher than the world price) would be replaced by a reference price to be used in particular to trigger private storage systems, determine border protections and the guaranteed price for preferential imports. The reform maintains the ACP sugar protocol (purchase of quotas of sugar from ACP countries on duty-free basis) but the European domestic price from which they benefit will be reduced to the Community reference price and refining aid will be abolished. Moreover, the Commission has proposed a specific "Action Plan" to help ACP countries to adapt to the new market conditions (improvement of the competitiveness of sugar production where it is still viable, support for diversification). For LDCs in particular, the EBA initiative provides for imports with zero duties with effect from October 2009 (no quota) and the Commission has undertaken to ensure that the price at which sugar will be bought from LDCs will not be less than that guaranteed to ACP countries in the framework of the protocol. The Commission considers that if the European intervention price for sugar was reduced by 25%, ACP sugar exporting countries would lose some 300 million euros a year in revenues; however, the proposed Commission reduction in June 2005 is 39%.

Case of bananas: the CMO for bananas has been reformed on several occasions following complaints filed by Latin American countries with the WTO dispute settlement body. Today, the ACP banana exporting countries still have duty-free access to the European market up to the limit of their tariff quotas, while bananas from other sources ("dollar bananas" from Latin America,) are taxed, which is relatively low up to the limit of their quota and very high above that limit. With effect from 1st January 2006, a purely tariff-based system will replace the current system of tariff quotas by zones of origin (including for LDCs in the framework of the EBA initiative). The idea is to enable ACP bananas to continue to benefit from a preferential margin by applying a single customs duty for banana imports from non-ACP third countries, with ACP imports continuing to be duty-free. The overall objective is to prevent banana producing ACP countries from losing market share to the major Latin American producers. However, the level of tariffs to be applied has give rise to heated discussions. The customs duty notified at the beginning of 2005 by the EU to the WTO to enter into force in 2006 is € 230 per tonne. The Latin American countries consider that this tariff is too high and have asked that it should not exceed the current € 75 tariff quota for dollar bananas. Conversely, the two principal African exporting countries, Cameroon and the Ivory Coast have asked that the future customs duty should not be less than € 275 per tonne. The tariff of € 230 per tonne proposed by the EU was formally rejected on 1st August 2005 by the arbitrator appointed by the WTO. Following that decision, the EU published on 12 September 2005 a press release announcing an MFN tariff of 187 euros per tonne. Although the Commission considers that its new proposal meets the criticism set out in the WTO decision, the Latin American spokespersons have declared that they are not satisfied. The ACP representatives are also dismayed by the new proposals. On 27 October 2005, a second decision of the WTO arbitrators rejected the EU proposal of an MFN tariff of € 187 per tonne, considering that such a level would not lead to total access to the European market being maintained for Latin American producers.

What is at stake is the differences in competitiveness of dollar bananas and ACP bananas (mainly African since it is very unlikely that Caribbean produced bananas can support the competition) which are based on production costs but also the relative efficiency of the internal commercialisation channels and the cost of international freight.

Source: GRET (to be published in 2005), CTA –Agritrade.

Table 6. ACP countries benefiting from product protocols

	Bananas	Bovine meat and veal	Sugar	
Africa	Cameroon Cape Verde Ivory Coast Madagascar Somalia	Botswana Kenya Madagascar Namibia Swaziland Zimbabwe	Congo Ivory Coast Kenya Malawi Mauritius Madagascar	Swaziland Tanzania Uganda Zambia Zimbabwe
Caribbean	Belize Dominica Grenada Jamaica St. Lucia St. Vincent Surinam		Barbados Belize Guyana Jamaica St. Christophe & Nevis Surinam Trinidad & Tobago	
Pacific			Fiji	

Note: the countries underlined in bold are LDCs.

Source: Dunlop, What future for Lomé's commodity Protocols, ECDPM discussion paper number 5, June 1999.

In conclusion, over the short and medium-term, the CAP reform is a key element in trade relations between the EU and the ACP countries. Its effects for the ACP countries are important, in terms of reduced export revenues for the ACP products covered by protocols, heightened competition on ACP markets (via an expected improvement in the price competitiveness of European products) and an erosion of ACP preferential margins (via the decline in MFN and GSP duties made possible by the reduction in domestic prices).

3.2. The “Everything but Arms”» (EBA) initiative

This initiative, signed in February 2001, entered into force in March and grants duty-free access free for all ACP exports, without any quantitative restrictions, to the European market, except for arms and munitions. For certain products, the implementation is gradual, up to 2006 for bananas and 2006 for rice and sugar (Box 3).

This EBA initiative has three types of consequences as regards trade preferences for the ACP countries:

- > an erosion of preferences for LDC ACP countries (40 countries in total¹⁹) in comparison to the non-ACP LDCs. The advantages from which only ACP countries benefited in terms of access to the European market have now been extended to non-ACP LDCs.
- > improved preferences for LDC ACP countries in comparison to non-LDC ACP countries, in particular when the initiative will apply to products covered by protocols. From 2009 for sugar, the LDC ACP countries which were limited in the same way as non-LDC ACP countries by quotas in the framework of the sugar protocol, will be able to have free access to the EU market. For rice also (which is not covered by a

19 Burkina Faso, Sudan, Senegal, Mauritania, Mali, Niger, Chad, Cape Verde, Gambia, Guinea-Bissau, Guinea, Sierra Leone, Liberia, Togo, Benin, Central African Republic, Equatorial Guinea, Sao Tomé and Príncipe, Democratic Republic of the Congo, Rwanda, Burundi, Angola, Ethiopia, Eritrea, Djibouti, Somalia, Uganda, Tanzania, Mozambique, Madagascar, the Comoros, Zambia, Malawi, Lesotho, Haiti, the Salomon Islands, Tuvalu, Kiribati, Vanuatu and Samoa.

protocol), LDC ACP countries will have quota-free access, and will therefore be at an advantage compared with non-LDC ACP countries from 2009. Banana exports from LDC ACP countries will have duty-free and quota-free access from 2006, while those of the other ACP countries will be taxed, although at a level (not yet determined) below that applied to non-ACP exports.

- > in the case of an EPA signed between the EU and regional blocs combining LDCs and non-LDCs, these two ACP sub-groups will have the same conditions of access to the European market. That will mean for the LDC ACP countries an erosion of current preferences in comparison to non-LDC ACP countries.

Box 3. The impact of the EBA initiative

The EBA initiative concerns 49 LDCs. Except for arms and munitions, only bananas, sugar and rice imports were not totally liberalised when the initiative was implemented in March 2001. During the transitional period rice and sugar imports will be free of customs duties up to the quota limit and tariffs on exports outside the quota will be reduced progressively. For bananas, the intention is to abolish quotas and introduce a single tariff system in 2006. For the three products, free access will be implemented in several stages:

- Rice: duties reduced by 20% on 1st September 2006, by 50% on 1st September 2007 and by 80% on 1st September 2009. Total suspension on 1st September 2009.
- Bananas: total suspension on 1st January 2006.
- Sugar: duties reduced by 20% on 1st July 2006, by 50% on 1st July 2007 and by 80% on 1st July 2008. Total suspension on 1st July 2009.

Several studies have endeavoured to assess the interest and real impact of such an initiative for LDCs as well as the effects for non-LDC ACP countries. They highlight the following elements, which tend to reduce both the interest and its impact:

- Unlike the Cotonou Accord, the EBA initiative is not a negotiated agreement and can therefore be amended at any time unilaterally by the EU.
- The initiative includes a safeguard clause which authorises the EU to withdraw its preferences in the event of an increase of LDC exports to "unusual levels".
- Supply constraints may prevent LDCs from benefiting fully from the initiative which will therefore not necessarily be able to halt the trend towards marginalisation of LDC imports on the European market.
- Only those products for which LDCs pay import taxes will be affected (for example beef, cheese, maize, bananas, rice, sugar). Those products are strongly protected under the protocols for bananas, sugar and bovine meat, and by quota systems for the others.
- The most significant improvements in terms of market access will concern the non-ACP LDCs in comparison to the LDC ACP countries to the extent that the former receive fewer preferences than the latter. Thus, Bangladesh (for rice, sugar, molasses), Myanmar (for rice and sugar) and Cambodia (for rice) should benefit from considerably improved access to the European market. However, the LDC ACP countries are potentially important beneficiaries to the extent that their imports are approximately 95 million euros compared with 361,000 euros for non-ACP LDCs.
- The non-LDC ACP countries may face increased competition from LDCs in gaining access to the European market. That may be the case for Mauritius with regard to molasses and Zimbabwe as regards bovine meat.
- Certain LDCs may be able to take advantage of the initiative to refocus their exports on European markets. That may be the case for the Sudan (beef and maize), Uganda (maize) and Malawi (rice).

Source: CTA –Agritrade. Among the studies carried out on the impact of the EBA initiative, the following study in particular is noteworthy: "The impact of the EU's Everything but Arms' proposal: A report to Oxfam: Final Report", Oxfam, Christopher Stevens and Jane Kennan, January 2001, Institute of Development Studies

3.3 The new Generalised System of Preferences (GSP)

The Generalised System of Preferences (GSP) of the EU offers reduced customs duties even totally duty-free access to imports from 178 developing countries and territories to the European market. A new GSP entered into force on 1st July 2005 and applies up to 31 December 2008²⁰. This GSP provides for:

- > A general system;
- > A special system to encourage developing countries to adopt sustainable development and good governance measures (GSP +);
- > A special system in favour of LDCs (Everything but Arms initiative - EBA).

The general system provides for a suspension of customs duties for so-called "non-sensitive" products and a reduction of customs duties of 3.5% or 20 % for sensitive products (the list of sensitive products is determined by the Commission). The special system (GSP +), provides for a suspension of customs duties for almost all products, sensitive and non-sensitive products alike. It is accessible to a specific list of countries, subject to ratification and the implementation of certain international conventions governing human rights, workers rights, the environment and principles of good governance. LDCs continue to benefit from the EBA initiative (see previous section).

3.4. Other bilateral or multilateral trade negotiations in which the ACP countries are involved

Other than the contextual elements referred to above, most of the ACP regions are involved in parallel negotiations concerning their regional integration area or sometimes the signature of free trade agreements with third countries. That is the case for example of the Caribbean region which must reinforce its regional integration process with the creation of the CARICOM Single Market and Economy, CSME, at the same time as negotiating the Trade Area of the Americas Agreement, FTAA, which include different agreements: the free trade agreement with Mexico, the GSP for the Andean and Central American countries, the United States and Canadian MFN regimes. The difficulty is obviously reconciling and coordinating all these agreements. The timetable and issues of these parallel negotiations certainly have an impact on the EPA and WTO negotiations.

²⁰ Regulation (EC) n° 980/2005 of 27 June 2005, published in the Official Journal of the EU L169 of 30 June 2005

4. Principal lessons from previous free trade agreements concluded between the European Union and developing countries

The European Union's trade in agricultural products in the framework of free trade agreements (FTA) is far from being totally liberalised. The EU and its trading partners maintain a certain number of tariff barriers which limit market access. This is linked to the fact that the agricultural parts of the FTAs signed by the EU must take into account, on the one hand, the potentially negative effects of the liberalisation of trade and, on the other hand, national interests and pressures to limit access to the European market.

On the basis of the FTAs signed with the seven Mediterranean countries (Euro-Med) and the FTAs signed with South Africa, Mexico and Chile, the EU uses six instruments to liberalise agricultural trade so that countries can have more advantageous access to the market than that granted to countries with MFN status:

- > Complete and/or partial tariff reductions for products subject to *ad valorem* rates or specific taxes. It is to be noted that for the EU, tariff reductions are often linked to MFN duties whereas for its trading partners, the reduction applies to tariffs actually in force, and not to WTO consolidated tariffs (higher). Certain FTAs do not specify the tariff reduction, but a final tax which will be applied to imports from the EU.
- > Tariff quotas for products exempt from total tariff reductions. These quotas are tariff reductions for defined quantities of imported products. The quotas are determined according to the needs of the different parties: depending on seasonal limits and necessary quantity adjustments. These adjustments are made by applying a fixed annual rate, or determined every year when the agreement is revised.
- > Safeguard clauses, either common to all products or special clauses. These clauses are intended to provide protection against increases in volumes of imports or against a fall in prices of imported products.
- > The origin of agricultural products rule.
- > Flexible adjustments for access to the market of the trading partners, made possible via two clauses:
 - The revision clause by which the partners undertake to examine the possibilities of deepening the liberalisation of agricultural products, taking into account the sensitivity of agricultural trade and domestic internal agricultural policies.
 - The flexibility clause which allows the partners to modify the agreement if one of the parties modifies its domestic agricultural policies.
- > Other specific duties can also exist, but they are not common to all the FTAs.

Moreover, there are two different approaches to the liberalisation of agricultural trade via the FTAs signed by the European Union:

- > First of all, it is possible to specify the products benefiting from preferential access (EURO-MED). This positive list type of approach limits the general scope of the FTA and limits it to certain products. It defines the first stages in the liberalisation process, but does not set any guidelines for the process as a whole. Flexibility as regards adopting new increased trade liberalisation measures is ensured by a revision clause.
- > The other approach consists in fixing the timetable for the liberalisation process as a whole (South Africa, Mexico, Chile and Lebanon for imports into the EU). In this

approach certain products are excluded from the liberalisation process and benefit from preferential access, essentially up to the limit of tariff quotas. The adoption of different timetables or exemptions for various groups of agricultural products, and the restriction of access to markets via tariff restrictions, make it easier to control the liberalisation process. The revision clauses provide additional flexibility for products exempted (for the time being) from trade liberalisation.

Consequently, although trade liberalisation is the main objective of these agreements, it appears that a certain number of products remain excluded from this process, owing to the implementation of various market protection measures, in particular the application of tariff quotas for certain products.

In all the FTAs in which the EU participates, it can moreover be seen that the choice of products subject to quotas or a total tariff reduction reflects the level of domestic protection given to the products in question and the existence of surpluses for the respective products. It can in fact be said that:

- > High domestic protection leads to a limited willingness to reduce customs duties, since that could undermine high domestic.
- > High domestic protection for certain products, together with a production surplus, implies stronger import restrictions, for example by not extending tariff quotas.
- > Surpluses produced by the EU thanks to domestic protection, and which then need to be sold, encourage the EU to improve its access to the markets of its trading partners.

An analysis of the various FTAs signed by the EU therefore shows that the EU excludes a certain number of important products from the free trade principle. The protection and aids from which certain agricultural products benefit at national level within the EU are undoubtedly the decisive factor in the choice of the exceptions. In the case of the so-called sensitive products, important tariff reductions are made by putting in place preferential access, but up to the limit of the quotas. On the other hand, imports above that quota are heavily taxed. Accordingly, imports of sensitive products are limited, via the introduction of tariff quotas. This example shows once again that the CAP reform is the driving force which influences the position of the EU in its agricultural trade negotiations, with all concessions by the EU being linked to the progress of the reform.

5. Discussion on the issues involved in the WTO and EPA negotiations, the best options and links between the two rounds of negotiations, for each of the agricultural trade issues of the ACP countries

After having identified the key issues for the agricultural trade of the ACP countries and the other factors that could influence the agricultural negotiations conducted by the ACP countries, this chapter presents the way in which both the WTO and EPA negotiations may respond to those challenges, and above all how the two rounds of negotiations are linked in this regard. The resultant proposed negotiating strategies therefore address the negotiations as a whole. In this regard, it is important to emphasise that the commitments entered into by the trading partners in the framework of bilateral negotiations for a free trade area are generally more far-reaching than in a multilateral framework. The Most Favoured Nation principle which prevails at the WTO obliges the Member States to be more prudent in multilateral negotiations than in a bilateral framework.

Moreover, the timetable for the EPA and WTO negotiations is crucial in the negotiating strategy. It was originally intended that the Doha Round negotiations would be completed at the sixth WTO ministerial conference in December 2005 in Hong Kong. The EPA negotiations must of necessity be completed by 31 December 2007 since it is very difficult to see how the EU could obtain a third dispensation within the WTO for its non-reciprocal system of trade preferences. In theory, this difference in deadlines is an incentive to give priority to the WTO negotiations and negotiate in that forum the maximum room for manoeuvre to ensure a favourable framework for the EPA negotiations whose results must respect the multilateral WTO framework²¹. However, the WTO deadline seems to be somewhat flexible as a result of the difficulties in making progress in the negotiations, and it may be relevant on certain subjects to give priority to the EPA negotiations.

Finally, it must be borne in mind that at the WTO, the definition of a negotiating strategy depends in particular on the creation of coalitions between countries with common interests in order to carry more weight in the negotiations. The scope of these coalitions can vary according to the subjects involved. The ACP countries can constitute a group as such in the WTO negotiations. However, certain ACP countries are also members of diverse groups, even several groups at the same time: the G33, G90, G10 (see box 4). Finally, it must be borne in mind that the Least Developed Countries (LDC) are the only group of countries recognised by the WTO. Those countries are not subject to any reduction commitment.

²¹ Bridges, Alex Werth's article, April 2003

Box 4. The various negotiating groups at the WTO

The first is that of the major agricultural exporting countries, including notably the United States and Europe. These countries give very strong support to their agriculture and want to continue to do so, while competing to conquer expanding markets.

The second group is that of agricultural exporting countries that give little support to their agriculture. They are grouped together in the Cairns Group²². They consider that agricultural supports lead to unfair competition on world markets and prevent them from capitalising on their comparative advantages. They are calling for the total liberalisation of agriculture.

The third group of countries is far more heterogeneous and brings together a large proportion of developing countries. They agree on the need for greater discipline in the area of agricultural policy in developed countries, better access to their market, and for developing countries, greater flexibility as regards agricultural policy.

Modification of coalitions as discussion progress

The European Union and the **United States**, even if there is still a tendency to highlight their divergences, continue to defend certain common interest, such as the possibility to continue to support their agriculture and improved access to expanding markets.

The **Cairns Group** is a coalition that has declined in importance since the last ministerial conference in Cancun. Several developing countries that were members of the Cairns Groups²³ have joined the G20 or the G33 (see below). Australia and Canada, which were among the driving forces behind the Group, speak with increasing frequency in their own name.

Moreover, the last ministerial conference in Cancun saw the emergence of new country groupings.

First of all, the most developed developing countries, such as Brazil, India, China and South Africa, as well as 15 other developing countries, have created the **G20**²⁴, whose main objective is the abolition of export subsidies used by developed countries. The influence of this group has increased in recent months. Its knowledge of the negotiation issues is very solid and it has put forward astute proposals and counterproposals.

The LDCs, the African Union and the ACP countries are grouped together in the **G90** in order to defend the right to protect their agriculture and to support fully the Cotton Initiative²⁵. Even if there is a real convergence of interest between these countries, they sometimes find it hard to adopt common positions. The various sub-groups prefer to speak in their own name.

More recently, at the time of the approval of the July 2004 framework agreement, two new coalitions emerged, the G10 and the G33.

The **G10**²⁶ brings together countries that are net importers of agricultural products and which protect strongly their agriculture. These countries have formed this coalition to defend the right to continue to protect their agriculture, in particular by highlighting its role in terms of "multifunctionality".

The **G33** brings together countries, notably Indonesia, and including developing countries such as Cuba, Kenya, Nigeria, Turkey, Pakistan and the Philippines. The G33 is notably committed to defending the concept of special products for which they want special treatment in relation to the tariff reduction requirements, in order to be able to satisfy their needs for food security, guaranteed means of existence and rural development.

²² Cairns Group: South Africa, Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Fiji, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, Thailand, Uruguay.

²³ The countries are: Argentina, Bolivia, Brazil, Chile, Guatemala, Indonesia, Paraguay, Philippines, Thailand.

²⁴ G20: Argentina, Bolivia, Brazil, Chile, China, Cuba, Egypt, Guatemala, India, Indonesia, Mexico, Nigeria, Pakistan, Paraguay, Philippines, South Africa, Tanzania, Thailand, Venezuela, Zimbabwe.

²⁵ See note on cotton.

²⁶ G10: Switzerland, Bulgaria, Taiwan, Iceland, South Korea, Japan, Israel, Liechtenstein, Mauritius and Norway.

It is to be noted that there are cross-groupings, with certain countries belonging to several groups, and expressing themselves within such and such a group depending on the items discussed. If the groups themselves seem stable, their composition is subject to change.

A) ACCESS TO THE MARKETS OF DEVELOPED COUNTRIES

5.1 Reducing or eliminating residual tariff barriers

In the WTO negotiations, the question of the reduction or elimination of the residual tariff barriers with which the ACP countries are confronted on the markets of developed countries concerns the market access part of the agricultural agreement. The issues involved in the negotiations are the tariff reduction formula to be used, the possibility of increasing tariff quotas²⁷ and the way in which the WTO Member States can protect a certain number of products that they consider as sensitive.

In July 2004, the framework agreement on which the WTO Member States had reached an agreement provides that developed countries (but also developing countries) should open their markets further using a phased tariff reduction formula (Annexe A of the agreement). Such a reduction is likely to reduce or even eliminate tariff peaks and customs duty escalation. The ACP countries which are likely to profit from this new opportunity with regard to access to the markets of developed countries are essentially those that have an export structure that is relatively diversified in terms of products and export markets (that is the case of East and Southern Africa for example).

However, the opportunities of substantially improved access to the markets of developed countries must be qualified by the fact that, according to the framework agreement, those countries have the possibility like all Member States to designate a certain number of "sensitive" products, for which there can be some "flexibility" as regards tariff reductions. The framework agreement also provides, in addition to tariff reductions, for an increase in tariff quotas, but for the ACP countries the majority of whose exports are to the EU, this increase does not provide better access to the European market since they benefit from the existence of product protocols and preference systems in relation to non-ACP countries.

The EPA negotiations rightly seek to eliminate the residual tariff barriers on the European market for the ACP countries that are subject to them, that is to say the non-LDCs. In other words, a possible EPA scenario is the 100% liberalisation of the European market. Thus, the European Commission submitted to Committee 133²⁸ a proposal intended to grant, at the time of the entry into force of an EPA, the ACP countries access to the EU market equivalent to that granted to an LDC under the EBA initiative; which seems to indicate that the Commission is willing to dismantle all residual tariff barriers on non-LDC ACP exports in the framework of an EPA. However, as was noted above, the residual agricultural tariff barriers concern sensitive products in the framework of the CAP. Even if the EPA scenario of complete liberalisation by the EU is often advanced, the negotiations for the liberalisation of sensitive agricultural products are likely to be difficult and there is no reason to believe that this scenario will effectively be the one chosen. In addition, based on the experience of previous free trade agreements signed between the EU and developing countries, liberalisation by the EU is never total.

²⁷ The principle of tariff quotas consists in granting an exemption from customs duties, or lower customs duties, on certain import quota. Products which are imported in a quantity higher than that quota are subject to higher customs duties.

²⁸ Committee 133 is the main EU committee charged with trade issues (CTA-Agritrade).

If the non-LDC ACP countries decide not to sign an EPA, the Cotonou Accord provides for access to the European market to be governed by an alternative system, to be determined. As the only alternative to free trade agreements authorised at the present time by the WTO is the Generalised System of Preferences granted to all developing countries, it is very likely that the latter system will be the only option. This system is in principle less favourable for ACP countries in terms of access to the European market than an EPA which can offer totally duty-free and quota-free access. That is, however, the subject of numerous discussions following the publication of an article by IDS (University of Sussex) tending to show that the inclusion of the ACP countries in the GSP+ could lead to more important economic gains than an EPA, on condition that the EU is also willing to extend to the rules of origin of the GSP the Cotonou type arrangements in the area of consolidation. The erosion of preferences which would result from such inclusion would not any event be as significant as all that (it requires a detailed analysis, country by country and product by product to be able to measure it). However, even if a status different from that of the EBA initiative (other developed countries have a GSP, which is not the case of EBA), the GSP is not the result of negotiations with developing countries, unlike the EPA negotiations; moreover, the EU unilaterally modified its GSP in July 2005. In addition, as the GSP concerns all developing countries, the ACP countries would lose the trade preferences that they currently have in comparison to non-ACP LDCs if they opted for the GSP rather than an EPA²⁹. However, the conditions of the GSP+ tend to be close to free access since almost all products are covered, including sensitive products. The erosion of margins for non-LDC ACP countries is therefore already a reality with the GSP +, provided that the countries listed respect the eligibility criteria to benefit from this system.

For the LDC ACP countries, as access to the European market is already duty-free and soon to be quota-free (EBA initiative), the signature of an EPA would not seem to add anything. On the contrary, an EPA could result for those countries in an erosion of preferences in relation to non-LDC ACP countries since, as was noted above, the latter will in the future benefit from the same conditions regarding access to the European market. In addition, the LDC ACP countries will be obliged to open their markets to imports from the EU, which they are not obliged to do under the EBA initiative. This therefore raises the question of what would be the point for the LDC ACP countries in withdrawing from an EPA negotiated regionally. However, as regards tariff barriers, it must be borne in mind that this initiative is unilateral and can therefore in theory be called into question at any time by the EU; the signature of an EPA would from this point of view be a better guarantee of free access to the European market and could as such favour longer term investments.

In terms of negotiating strategy, it would be a double-edged sword for the ACP countries to adopt an aggressive position on the reduction of tariffs in the WTO forum. By pushing the developed countries to apply a tariff reduction formula which eliminates residual tariff peaks as well as tariff escalation, the ACP countries would obviously have better access to the markets of developed countries. That implies in particular that the tariffs included in the upper band of the phased formula are not too heterogeneous and that the rate of reduction applied to that band is sufficiently high to avoid the risk that, even when reduced, certain tariffs would still be too high. However, vis-à-vis the EU market which is the main trading partner of the African region compared with the Caribbean and Pacific regions, such a strategy has perverse effects. Any additional reduction of the tariffs of developed countries in a multilateral framework leads in fact to an erosion of the trade

²⁹ The current ACP preferences differ according to the products and it is difficult to estimate the average level of tariffs linked to those preferences in relation to that existing with the GSP. Such an estimate would require a very in-depth study. Table 3 on cocoa shows however the difference between European tariffs applied to ACP exports in relation to exports under GSP, GSP + and MFN status.

preferences of the ACP countries in relation to non-ACP countries on the European market. The negotiating strategy of the ACP countries at multilateral level must therefore ensure that the planned generalised reduction of customs duties does not result in an additional erosion of their trade preferences, which would negate the potentially positive effects of better access to the markets of developed countries.

In addition, it follows from the above that the question of sensitive products as a means of lifting in part the liberalisation effort can play a part in both the WTO and EPA negotiations. It is a kind of ultimate residual tariff barrier for exports of the ACP countries to markets in developed countries (and of the non-LDCs on the European market in particular) despite the reduction of tariffs. The ACP countries must ensure that the flexibility authorised in the application of the tariff reduction formula at the WTO does not destroy the efforts made by developed countries to open markets. For the non-LDC ACP countries, as for LDCs vis-à-vis markets other than the EU, the designation of sensitive products in the framework of the WTO negotiations is an important issue. The EU proposals to the WTO regarding sensitive products are particularly important for the EPA negotiations since they can foreshadow the exclusion of sensitive products in the framework of EPAs by the EU. The attention of the ACP countries must focus in particular on:

- the definition of sensitive products. That may be a certain percentage of tariff lines (G10 proposal, United States proposal - 1%, October 2005), or alternatively a number of tariff lines (EU proposals on 160 sensitive products out of 2000 registered with the WTO).
- their treatment: reduction of lower customs duties (United States, EU proposal), exclusion of the formula of phased reductions and integration in a separate box, longer reduction implementation period (G10 proposal).
- offsetting this flexibility by increased tariff quotas in order to ensure improved market access, even for sensitive products (EU proposal). The lessons drawn from the free trade agreements (FTAs) previously signed between the EU and other trading blocs show in this regard that the exclusion of sensitive products from these FTAs is achieved by granting preferential access to the EU market up to the limits of the tariff quotas granted for excluded products.

5.2. Avoiding escalating customs duties

The WTO framework agreement of July 2004 provides for the question of escalating customs duties to be treated using a formula to be agreed. Negotiations should therefore focus on the definition of this formula so that this question can be dealt with in operational terms. For the European market in particular, the signature of an EPA would facilitate, as for residual tariff barriers, the elimination of tariffs on all ACP products, whether or not they are processed, and avoid tariffs being applied to high added value products incorporating sensitive products such as sugar. However, this will depend on the way in which the sugar protocol is treated in the EPA negotiations (integrated in each EPA or in the form of a *stand alone agreement*). There is also the question of designating sensitive products by the EU in the WTO and EPA negotiations which would reduce the progress achieved as regards market access.

5.3. Avoiding the erosion of trade preferences

At the WTO, the demand of the G90 countries to treat this subject was integrated into the July 2004 framework agreement. The agreement recognised in the Special and Differential Treatment (SDT) section relating to market access the importance of long-standing trade preferences and states that the “erosion of preferences will be treated on conditions to be agreed”. The negotiations must therefore in the future focus on the implementation in concrete terms of this provision. The agreement refers for that to an article in the first modalities proposal of March 2003³⁰. The article stipulates that “in the implementation of their tariff reduction commitments, the participants undertake to maintain, as far as is technically feasible, the nominal tariff preference margins () that they grant to their developing country trade partners.” It is proposed that for products exported by the ACP countries, and which are of vital importance, the reduction of tariffs affecting non-ACP countries should be spread over a longer period. In addition, all quota duties for these products will be eliminated.

In the EPA negotiations with the EU, maintaining trade preferences is also a key issue and is linked to the reform of the CAP, as well as to the EPA alternatives, namely the EBA initiative and the GSP. If the LDC ACP countries decide to remain with the EBA initiative, while the non-LDC ACP countries sign an EPA, they will lose their trade preferences in relation to the latter (that is if the EPA negotiations culminate in the total liberalisation of the European market). If they decide to sign an EPA with the non-LDC ACP countries, the common issue is to maintain trade preferences in relation to non-ACP countries. The EPA negotiations must then take into account the reform of the CMO sugar and bananas which is likely to favour countries such as Brazil to the detriment of the ACP countries. The consequences would be particularly harmful for the ACP countries which are strongly dependent on these products: Mauritius for sugar in Africa, the Caribbean countries for sugar and bananas, and Fiji for sugar in the Pacific. The EPA negotiations must also take into consideration the GSP + reform.

As regards negotiating strategy, it can be seen that an aggressive position on the reduction of customs duties in the WTO negotiations contradicts a position seeking, on the contrary, to maintain preferences, and possibly to improve them for non-LDC ACP countries in the framework of the EPA negotiations. That implies for the ACP countries that they should not promote a generalised reduction of duties at the WTO, or at least that they should designate the products for which preferences are important (products covered by a protocol for example), but also that they should be more aggressive in the EPA negotiations. The question of offsetting the losses linked to the CMO reform leading directly to an erosion of preferences could, for example, be part of the negotiations.

5.4. Contending with non-tariff barriers

Rules of origin

In the framework of the WTO, this question is treated in the agreement on rules of origin, which aims to harmonise the rules of origin and ensure that the rules do not create in themselves unnecessary obstacles to trade. Used in an abusive way, the rules of origin can in effect be trade policy instruments. However, the EPA negotiations seem to be a far more appropriate forum for addressing this issue. The rules of origin are particularly strict for the GSP and therefore for the EBA initiative. Since the signature of an EPA is not obligatory for the LDC ACP countries, the EPA negotiations must address the

³⁰ Paragraph 16 of the document TN/AG/W/1/Rev.1.

alternatives, namely the GSP, including the EBA initiative for the LDC ACP countries. It is important, in order for these provisions to be true alternatives comparable to the EPA with regard to access to the European market, that the rules of origin should be revised and made less restrictive³¹. For the LDC ACP countries in particular, the question of a dispensation to these rules could be raised in order to take into account their structural supply constraints.

Quality and SPS standards

At the level of the WTO, the agreement on sanitary and phytosanitary measures (SPS agreement) concerns all the rules which govern the formulation and implementation of the SPS measures applying to international trade. The agreement specifies that although WTO members have the right to fix the standards that they consider appropriate for the protection of their citizens, such standards limit as far as possible any constraints on trade. Its aim therefore is to regulate the use of standards in order to avoid protectionist excesses. However, it does not define the content of such measures and refers to international standards established by specialised institutions. The definition of the content of the SPS standards is for the Codex Alimentarius Commission in the case of human health, the International Office for Epizootics for animal health and the International Convention for the Protection of Plants. WTO members are also authorised to put in place stricter national standards than these international standards, but they must justify such on scientific grounds.

Concerning quality standards, the agreement of technical barriers to trade (TBT agreement) covers all the specific characteristics of a product, such as size, appearance, functions, performance; the way in which it is packed or labelled. In this case, it might be more appropriate to draw up technical regulations on production methods rather than on the product's intrinsic characteristics (in the case of biological products for example).

The SPS and TBT agreements impose de facto very strong constraints on countries exporting agricultural products. First, the ACP countries do not have the technical, financial and human resources to apply increasingly complex standards. Secondly, they participate only to a limited extent in drawing up such standards. Their interests and specific characteristics are rarely taken into consideration. Recognising the difficulties of developing countries to comply with the SPS and TBT measures put in place by developed countries, the WTO provides in the framework of the special and differential treatment arrangements for technical assistance to be made available to developing countries. In the event that the implementation of new measures by a developed country has the effect of reducing substantially access to its market, the developed country in question must provide technical assistance. In addition, when new measures are decided, developing countries have a longer period to put them in place.

In the EPA negotiations, the question of standards is explicitly included in the roadmap of the EPA negotiations between the ACP regions and the EU. The question of standards is extremely sensitive in Europe since it concerns the increasing demands of consumers. It is therefore very difficult to imagine that the EU could revert to less restrictive standards.

³¹ See on this subject the article by Dr Chris Stevens: "Le SPG: une solution au problème de Cotonou et des APE", *Eclairage sur les Négociation* vol.4 N°4, July-August 2005; see also Stevens, C. and Kennan, J. 2005. GSP Reform: a longer-term strategy (with special reference to the ACP. Report prepared for the UK Department for International Development. Brighton: IDS (http://www.ids.ac.uk.ids/global/pdfs/CS_GSPrs05.pdf).

The negotiating strategies³² for the ACP countries at international and European levels appear to be very complementary. At international level, the issue for the ACP countries is above all within the international organisations which determine the content of standards, by trying to be more closely involved to draw attention to their interests and concerns, than within the WTO concerning the SPS and TBT agreements. In the EPA negotiations, the negotiating strategy must focus on capacity building to comply with standards as well as with regard to administrative procedures for SPS certification; this concerns the development part of the EPAs. To date, little progress has been achieved on this aspect and the ACP countries should adopt a more proactive approach in order to benefit in the framework of an EPA or its alternatives from adequate technical assistance. The advantage for the ACP countries of giving priority to the EPA negotiations on this question is also to be able to benefit from assistance for the standards of their main trading partner, which overall are stricter than those of their other partners.

5.5 Improving the competitiveness of ACP countries in the face of competition from non-ACP developing countries

At the WTO, the negotiations on domestic agricultural supports can represent an opportunity for the ACP countries to be able to put in place policies to overcome their structural supply constraints and thus improve their agricultural competitiveness. It must be borne in mind that agricultural support in these countries has been considerably reduced following the liberalisation measures implemented in the framework of the structural adjustment programmes (reduction of customs duties, elimination of price controls, etc.). Today, the ACP countries have little room for manoeuvre to be able to re-use internal supports. The only supports that they can use are those of the green box, or those based on a strong budgetary capacity, which are not available to ACP countries. Concerning amber box supports, although developing countries have fewer reduction commitments and longer implementation periods in the framework of the special and differential treatment (SDT) arrangements, most ACP countries have already strongly reduced or even eliminated the use of such supports and they can no longer re-introduce them. Although LDCs are exempted from reductions by the SDT, they are not in a position to increase the use of such supports because of their budgetary constraints. It is to be noted that these budgetary constraints will be even stronger with the signature of an EPA, if no far-reaching tax reforms are implemented to offset the elimination of customs duties (development of internal taxation, improvement of tax collection, etc.). It is important to emphasise in this regard that, unlike the SPS and TBT agreements, the SDT of the agricultural agreement contains no provisions relative to technical and financial assistance for developing countries, except solely for the Marrakech Decision which has never been applied. It should be more closely linked to the development objectives of developing countries.

³² See CTA-ECDPM InBrief on “EPAs and SPS issues”, Martin Doherty, not yet published.

Box 5. The classification of internal supports in the WTO agricultural agreement

The agricultural agreement classifies the various types of support in “boxes” depending on the degree to which they distort trade. The only supports which can be increased are green box supports, considered as causing the least distortion to trade. They are mainly supports that are not linked to production volumes or prices (research, training, popularization, plant protection, animal welfare, food security stocks, protection of the environment, etc.). Amber box supports are deemed to cause particular distortion to trade and are subject to reduction. These supports involve mainly price support measures intended to maintain domestic prices at a higher level than on international markets in order to guarantee a certain level of income for producers (stabilisation and equalization funds for example). Blue box supports correspond to measures to limit supplies (for example letting land lie fallow).

The framework agreement of July 2004 stipulates that the global level of domestic supports causing distortion³³ must be reduced substantially, using a phased formula, and that the reductions should be made on the basis of consolidated levels. Most domestic supports which have been notified³⁴ are below consolidated commitment levels. For the ACP countries, the application of a phased formula would limit their room for action. However, to the extent that once again the agreement states that developing countries are treated in the framework of the SDT, the issue for negotiation by the ACP countries could be, for example, to be authorised not to reduce the aggregate level of support or, on the contrary, even to increase it.

The other negotiating point on domestic supports concerns the *de minimis* clause. This clause allows Member States for the time being to avoid the obligation to reduce amber box supports up to a limit of 5% of the value of agricultural production for developed countries, and 10% for developing countries. The July 2004 framework agreement provides for this percentage to be reduced. The negotiating issue for the ACP countries is therefore to be authorised not to reduce the *de minimis* limit on the grounds that in their case producers have limited resources and are involved in subsistence farming.

The EPA negotiations are a forum that is particularly suited to aggressive negotiating strategies by the ACP countries on this subject. The development part of the EPAs is in fact supposed to focus on capacity-building for the ACP countries to help them improve their competitiveness.

³³ This represents the total level of support of the consolidated amber box (all the supports of this box are measured by the “total consolidated final aggregate measure of support (AMS), plus the authorised *de minimis* level and the blue box.

³⁴ That is to say the supports that a given country uses and that it must report to the committee on agriculture.

B) COMPETITION FROM IMPORTS ON DOMESTIC AND REGIONAL MARKETS IN THE ACP COUNTRIES

5.6. Limiting competition from imports on domestic and regional markets

Limiting access to the markets of ACP countries

In the WTO and EPA negotiations, the ACP countries must undertake to reduce their customs barriers with a view to liberalising trade. However, at the same time they have the possibility to exclude a certain number of products from the liberalisation process through, on the one hand, the Special and Differential Treatment (SDT) granted to developing countries at the WTO and, on the other hand, through the asymmetric reciprocity – authorised at the WTO by article XXIV– in the EPAs.

- Applying a specific tariff reduction formula

The WTO framework agreement of July 2004 provides for new tariff reductions for all Member States, but developing countries have smaller reduction commitments in the framework of the SDT. The issue for non-LDC ACP countries – LDCs being exempt from reduction commitments – is more precisely to be able to apply a specific tariff reduction formula. Relying on the July agreement which stipulates that the tariff reduction formula must take into account the diversity of the tariff structures of the various developed countries and developing countries, the G33 has declared³⁵ in this regard that any formula establishing common thresholds for developed countries and developing countries would be unacceptable. Countries which have used tariffs consolidated at ceiling rates, as well as those which apply customs duties consolidated at a low level, must propose specific tariff reduction modalities.

- Designating special products

In addition to sensitive products which concern all the WTO Member States, developing countries have “flexibility” under the SDT to designate an “appropriate number” of “special products”, based on reasons of food security and rural development. The concrete arrangements for the implementation of this flexibility (exclusion from the tariff reduction formula, lower tariff reductions, etc.) have still to be determined. For the ACP countries – once again non-LDC ACP countries – it is important that the criteria or indicators used to determine the treatment applied to the special products designated are different from those of sensitive products; otherwise the distinction made between the two types of products would be meaningless. The notion of special products calls for a more ambitious treatment than that of sensitive products having regard to the reasons used to justify them. The ACP countries have several options based on existing practices in some of these countries: exclusion of special products from all tariff reductions (in comparison to a smaller tariff reduction for sensitive products), possible tariff rearmament, the possibility of import quotas, more or less long quota periods, etc.

- Having special safeguard measures

The WTO authorises the use of special safeguard measures by countries to protect themselves against massive imports or an important reduction in the price of imports by applying additional customs duties on the products concerned (“temporary tariff rearmament”). However, the safeguard measures which exist at the current time are too burdensome and difficult to implement in developing countries. They are therefore de

35 11 October 2005.

facto more or less reserved for developed countries. Only three members of the SADC (Botswana, Namibia and Swaziland) have reserved the right to apply the special safeguard measure in their notification for certain specific products.

The Jul 2004 framework agreement also provides that a special safeguard mechanism (SSM) may be used by developing countries. The negotiating strategy of the ACP countries should be to promote a simplification of the safeguard mechanism, which implies adopting a position on the following points: trigger criteria (price and/or volume threshold), triggering mechanism (automatic or specific procedure), duration, eligible products and in particular the link with sensitive and special products and finally the content (additional customs duties or other possibilities, such as quantitative restrictions). The possibility of limiting imports by seasonal quotas for example, even by way of temporary bans, appears particularly necessary when the implementation of additional customs duties proves to be insufficient to halt the harmful effects of imports on local production. That is the case for example with cuts of poultry imported into West Africa and Central Africa where only tariff peaks of 400% would suffice to limit the effects of competition.

- *Excluding products from the EPA*

The signature of an EPA between the ACP countries organised in regional integration areas and the EU can potentially accentuate the effects of competition from EU imports on ACP markets. It implies in effect that the ACP countries open further their frontiers to European imports by reducing substantially the customs duties that they apply to such imports. It is to be noted that the non-signature of an EPA by ACP countries having decided to remain within the scope of the EBA initiative for LDCs or to switch to another regime for non-LDCs (probably the GSP), would not protect them from the competition of EU imports. They can be subject to such competition via the phenomena of re-exportation at regional level: ACP countries from the same regional integration area having signed an EPA can import European products at zero duty rates then export them to neighbouring countries without those products being taxed in the framework of a regional free trade area.

However, the EPA negotiations also concern the possibility for ACP countries to reduce their customs duties to a lower level than that of the EU by excluding from the liberalisation process a certain volume of trade with the EU. This possible asymmetry in the degree of liberalisation is based on article XXIV of the GATT, concerning customs unions and free trade areas. This article derogates to the Most Favoured Nation (MFN) principle, that is to say non-discrimination. It stipulates that a country or a group of countries, can grant preferential trade treatment to another country or group of countries, when the relations between those countries or groups of countries are governed by a free trade agreement or a customs union, therefore when there is reciprocity of trade preferences.

The problem of article XXIV is that it remains very vague on the definition of a free trade agreement or a customs union, and indicates simply that this agreement must concern a substantial part of the trade and be implemented over a reasonable period. The two terms, namely a "substantial share" of trade and a "reasonable period", are open to interpretation.

Box 6. Article XXIV

The GATT agreement recognises, in article XXIV, that the setting up of customs unions or free trade areas facilitates free trade and that it is therefore desirable to develop such trade agreements. In particular the most favoured nation rule is not infringed by a free trade or customs union agreement.

Paragraph 8.a) specifies the definition of a customs union or a free trade area. A free trade area “shall be understood to mean a group of two or more customs territories in which the duties and other restrictive regulations of commerce are eliminated on substantially³⁶ all the trade between the constituent territories in products originating in such territories”.

The interpretation given to this article by the EU and which it has used in the previous free trade agreements (FTA) signed with developing countries is as follows:

- > “substantially all the trade” is understood to mean 90% of all trade between the FTA partners (including industrial goods and services). In other words, there is an FTA when the sum of all trade flows free of customs duties and non-tariff barriers represents 90% of all the trade flows, without being able to exclude whole sectors. Thus, the FTA signed between the EU and South Africa in 1999 covered 90% of the trade flows between the parties, with the EU market being opened to 94% of South African imports and a liberalisation of the South African market to 86% of imports from the EU. This interpretation of article XXIV has not been contested at the WTO.
- > “reasonable period” for the implementation of the FTA implies a period not exceeding 12 years.

According to Davenport (2002), by using this interpretation, the EU retains the possibility to maintain protected sectors in FTAs, which are for example sensitive agricultural products and processed food products. Table 7 shows the final level of liberalisation decided in several previous bilateral agreements.

Table 7: Share of liberalised trade (not subject to tariff and non-tariff barriers) as a percentage

	Imports from the EU		Partner		Total trade	
	1998	1999	1998	1999	1998	1999
EU-Tunisia Mediterranean Agreement	95.2	92.9	95.4	96.7	95.3	95.0
EC-Egypt Cooperation Agreement	85.7	84.5	100.0	100.0	96.4	96.4
EC-Turkey Customs Union	86.4	86.9	97.6	97.6	93.3	93.1
EC-Hungary Europe Agreement	92.7	93.5	98.5	98.8	95.8	96.3
EU-South Africa Trade, development and Cooperation Agreement	90.2	91.1	91.1	90.3	90.7	90.7

Source: Davenport, 2002

On that basis, one of the conclusions drawn by Davenport is that if the ACP countries succeed in negotiating EPAs so that the liberalisation covers 90% of all six digit products in the chapters of the customs classification (SH-2), the liberalisation will then be broader and include “protected” sectors.

One of the most frequently evoked EPA scenarios corresponds to an asymmetric liberalisation of 100% by the EU and 80% by the ACP countries (i.e. approximately 90%

³⁶ Word underlined by the authors.

of the total trade flows between the two parties). That would amount for the ACP countries to excluding 20% of their trade flows with the EU, bearing in mind that it is impossible for them to put all the agricultural trade flows in that 20%. The challenge for the ACP countries is to obtain overall the greatest asymmetry possible in the EPAs, with effectively 100% liberalisation by the EU and the lowest possible liberalisation by them, as well as the longest possible implementation period. An EPA is only interesting for the non-LDC ACP countries if they can achieve the same level of preferences as LDCs in the framework of an EBA initiative, which implies duty-free and quota-free access, including on sensitive products, for the EU. In addition, the fact that the degree of asymmetry in the liberalisation is in favour of the ACP countries, does not imply a lesser liberalisation effort by them than the EU. On the contrary, it must be remembered that only 7% of non-LDC ACP products are still taxed by the EU – even if it concerns sensitive products for which it will not be easy to eliminate taxes – while most EU products are taxed by the ACP countries. To protect their interests and ensure that the compromise which will result from the EPA negotiations complies with WTO rules, it is indispensable for the ACP countries to clarify the content of article XXIV. In this context, the EPA negotiations depend on the negotiations which will be conducted at the WTO on article XXIV. However, any progress achieved in the EPA negotiations on the redefinition of this article may also be a negotiating position at the WTO.

- *Redefining article XXIV of the GATT*

The negotiating strategy of the ACP countries in order to avoid the risk linked to an EPA of an increase in competition from EU imports on their markets, could therefore be to make as much headway as possible in the EPA negotiations so as to take a negotiating position to the WTO on article XXIV. That position could be supported by the ACP Group as a whole, and possibly jointly with the EU. It should be borne in mind that at the WTO ministerial conference in Cancun (2003), the ACP countries had already requested a more flexible interpretation of article XXIV, in the event that a free trade area is concluded between countries having very different levels of development, which is the case of the EPAs³⁷. That request was reiterated in the framework of the preparations for the sixth WTO conference which is due to be held in Hong Kong in December 2005.

Moreover, the designation of sensitive products and special products in each of the ACP countries that are members of the WTO may conversely influence the EPA negotiations as regards the identification of products considered as “sensitive”³⁸ by the ACP countries and which may be excluded from the EPA. The WTO negotiations on special products seem to be relatively advanced in relation to the EPA negotiations on this subject. The G33 in particular put forward a specific proposal on special products in October 2005³⁹. In addition, the designation of sensitive products in the framework of the EPA negotiations is a particularly difficult exercise to the extent that it must be accomplished in each of the regional integration areas defined to negotiate an EPA with the EU. That implies for the ACP countries negotiating first of all at regional level to reach a consensus on a list of products to be excluded from the EPA and to advance a common position vis-à-vis the EU, while these countries may have divergent interest. It must, however, be emphasised that the setting up customs unions in the framework of the regional integration process involves in any event determining a common external tariff (CET). This CET will concern imports from the EU for the products which will be

³⁷ ACP declaration relative to the fifth WTO ministerial conference, Brussels, 1st August 2003. Document ACP/61/082/03 [FINAL]

³⁸ The term sensitive products is commonly used in the EPA negotiations but does not refer directly to the expression of sensitive products adopted at the WTO in the July agreement, even if it corresponds to the same problem of limiting market access.

³⁹ The proposal consists in facilitating the task of identifying special products by proposing a non-exhaustive list of indicators for each of the three criteria adopted to characterise special products: food security, combating poverty and rural development.

excluded from the EPA, but also imports from the rest of the world. The definition of tariff structures must thus take into account the notion of sensitive and special products at the WTO as well as the products excluded from the EPA⁴⁰.

Finally, it is also possible to envisage a specific safeguard mechanism for imports from the EU in the framework of the EPA, in order to limit the consequences related to an increase in imports from the EU after the introduction of reciprocal preferences. The definition of a special safeguard mechanism at the WTO may prefigure the development of a mechanism at the level of the EPA negotiations.

Combating the unfair character of competition from imports

The problem of the unfair competition of imports with regard to local production in the ACP countries concerns the various supports from which producers and exporters benefit, mainly in developed countries. To the extent that the EPA negotiations do not deal with agricultural supports, the WTO is the most appropriate negotiating forum to discuss this issue. The WTO negotiations on domestic supports and exports supports can nevertheless affect indirectly the EPA negotiations on the identification by the ACP countries of the products that they want to be excluded from the EPAs; the strongly subsidised character of certain products can be used as a criterion for selecting such products⁴¹.

- Avoiding transfers between domestic support boxes

In accordance with the phased reduction formula for domestic supports that distort trade and provided for in the July 2004 framework agreement, developed countries must reduce by at least 20% their aggregate level of domestic support. In addition, with a view to harmonising the reductions, the countries with the highest levels of trade distorting domestic supports must make proportionally higher reductions. More precisely, the amber box supports (comprising the aggregate measure of support, AMS) must be reduced according to the same phased formula; with an AMS per product capped at a certain level (to be determined) to prevent transfers of supports between boxes. It has also been agreed that the limit indicated in the *de minimis* clause⁴² should be lowered. While protecting themselves from a reduction in this clause as far as they are concerned (by way of the SDT), the ACP countries can have an aggressive negotiating strategy vis-à-vis developed countries on this subject.

Moreover, the renegotiation of the agricultural agreement provides for the enlargement of the eligibility criteria of blue box supports, which is currently restricted to product limitation programmes, to include supports decoupled from production, such as contra-cyclical payments used in the United States⁴³. In reality, the redefinition of the blue box provides a form of protection to this country which is strongly dependent on it; especially since the ceiling planned for that box (5% of the value of the total agricultural production

⁴⁰ In West Africa the countries belonging to the West African Economic and Monetary Union (UEMOA) have a CET which must be extended to the CEDEAO (Community of West African States) area. However, as the CET levels are considered as too low and are sometimes not applied by the UEMOA countries, it is possible that these levels may be revised for certain lines ("tariff rearmament"). In this context, the designation of sensitive and special products in the WTO negotiations may also contribute to a revision of the CET.

⁴¹ This criterion is one of those proposed by the G33 to determine special products.

⁴² This clause is currently set at 5% of the total value of the agricultural production of developed countries, and 10% for developing countries.

⁴³ They are intended, in the event of low prices or a poor harvest, to compensate American producers by paying them the difference between the market price and the target price set by the government. They are widely used by the United States, in particular for its cotton producers.

of the country) is in practise not really restrictive and that a degree of “flexibility” will be accepted for countries exceeding exceptionally the limit. The redefinition of the green box will also be part of the negotiations in order to limit it effectively to the supports that cause the least possible distortion to trade and to take account of other considerations, such as the social and environmental dimensions of agriculture.

In terms of negotiating strategy, the positions that the ACP countries could adopt concerning the redefinition of the blue box would tend to target those supports used by the United States, which have little influence on the EPA negotiations. On the other hand, positions relating to the disciplines of the amber and green boxes may target the so-called decoupled supports which are increasingly used by the EU. It is important to emphasise that if the EU has accepted the principle of an additional reduction of the amber box supports, it is because it depends less and less on them, following the successive reforms of the CAP intended to reduce these supports in favour of decoupled supports. Experience shows however that decoupled payments made directly to producers to guarantee a certain level of income, are in reality not neutral on production (that is the intended effect) and therefore on markets. That does not mean that it is necessary to condemn all forms of agricultural supports – as the ACP countries themselves can support negotiating positions in favour of the use of agricultural supports, while giving consideration to other forms of disciplines over and above the classification between boxes; such as for example limiting supports to products traded on domestic markets but not on international markets.

- *Eliminating export support measures*

Since the July 2004 framework agreement, the principle of the elimination of direct export subsidies has been accepted. The framework agreement also provides that the negotiations should focus not only on export subsidies, but should also take into consideration *all export measures having an equivalent effect*, namely export credits and credit guarantees⁴⁴, State trading enterprises and food aid. The commitment of developed countries to dismantle their export imports on production of ACP countries will no doubt lead to a reduction in the effects of their unfair competition on ACP production.

The ACP countries can adopt an aggressive negotiating strategy on this aspect so as to ensure that the definition of these rules ensures that the commitments of the developed countries are fulfilled. For export credits and credit guarantees, this involves introducing disciplines concerning repayment periods, the payment of interest and premiums. For State trading enterprises, the discipline should concern the export subsidies which are granted to them and which they grant, their financing by the public authorities and the guarantee against losses from which they benefit. The question of the future use of the monopoly powers of such enterprises is trickier. Their monopoly is at the same time a means of stimulating export that leads to unfair trade. However, for certain developing countries and LDCs, granting a monopoly for the marketing of agricultural products to a State enterprise enables them to regulate the domestic market and therefore to stabilise domestic consumer prices which helps food security. As regards food aid, the challenge is to avoid it becoming a means of clearing surpluses and opening up new markets.

Moreover, it is important for the ACP countries to pay particular attention to the links between domestic support measures and export support measures. Developed countries are inclined to eliminate their export supports when they no longer need them, that is to say when their competitiveness is assured in another way, in particular by domestic supports. Thus, the EU has no difficulty in eliminating its export subsidies when, via the CAP reform on domestic supports, it has less need of export supports. In

⁴⁴ *Export credits* consist, for the exporter, in guaranteeing payment facilities to the importer. *Export credit guarantees* consist, for the exporter's State of origin, in guaranteeing the repayment of the loan granted to the importer, if the latter defaults.

effect export refunds which are supposed to cover the difference between the world price and the domestic price become pointless when that difference is almost zero. In this regard the importance of the influence exchange rates must be noted since they can undermine that argument. That was recently the case in the cereals sector, where the EU had to increase its export refunds because of the unfavourable Euro/USD exchange rate which had a negative effect on European competitiveness.

However, the ACP countries do not necessarily have the same interests as regards export subsidies. Certain ACP countries, in particular developing countries which are net importers of food products, may suffer from the elimination of export subsidies if they result in an increase in world prices for basic products such as wheat, bovine meat, maize, dairy products and sugar. One of the issues of the negotiations could be to put in place mechanisms to help countries that are net importers of food to accompany the elimination of export subsidies. Their legitimate concern should not be used as a pretext by exporting countries to maintain unfair competitive export practices under the guise of SDT.

6. Discussions on the speed and timing of the WTO and EPA negotiations and the potential impact on negotiating strategies

The previous chapter attempted, for each issue of the agricultural trade of the ACP countries, to analyse the negotiating strategies possible for those countries, by identifying whether priority should be given to the WTO or EPA negotiations, and in which cases an aggressive negotiating approach should be adopted. The aim here is to discuss the linkage between the two rounds of negotiations and the negotiating priorities in the light of the timetable and speed of the negotiations.

It must be borne in mind that the WTO negotiations relative to the Doha Round are supposed to be completed on the occasion of the sixth WTO ministerial conference in December 2005 in Hong Kong. Certain negotiating points are relatively advanced and the EPA negotiations can rely on that progress, but it is also necessary to stress that there are strong uncertainties regarding the outcome of the conference and the experience of previous ministerial conferences suggests that we should be circumspect regarding the initial timetable. The EPA negotiations are supposed to be completed by 31 December 2007, to be implemented with effect from 1st January 2008 over a 12 year period. If the deadline for the implementation of the EPA seems difficult to modify given the dispensation already obtained by the EU from the WTO, the length of the implementation period and above all the liberalisation modalities may be more revised or clarified during the negotiations.

Based on the experience of the previous free trade agreements concluded by the EU with developing countries, some flexibility is conceivable at several levels:

- > Different timetables for the start date of the implementation of an EPA depending on groups of agricultural products, that are more or less sensitive
- > Different timetables also for the duration of the implementation period depending on those groups of products. The liberalisation could be made progressive: customs duties would thus be reduced in phases for specific groups of products after a preliminary evaluation of the competitiveness of each of the groups. If such an evaluation shows that certain sectors are not yet sufficiently competitive to support the competition of EU imports and that such a reduction would have very negative

socio-economic consequences, deferment of the liberalisation could be envisaged until the next evaluation⁴⁵

- > Revision clauses could also be fixed so as to provide additional flexibility for the products exempted (for a certain time) from the trade liberalisation.

On the above basis, and taking account of the degree of progress of the negotiations (on the basis of proposals made), table 8 presents and summarises each of the main agricultural trade issues for the ACP countries, which negotiating forum is the most appropriate, the WTO or EPA. The choices regarding the preferred negotiating forum proposed below are however not definitive. The negotiating strategies may be modified on an ongoing basis in line with developments in each round of negotiations.

⁴⁵ See on this subject the proposal: "The EPAs and sustainable development: Benchmarks for pro-development monitoring of the negotiations", APRODEV & ICTSD, Brussels and Geneva, May 2005

Table 8. Choice of negotiations between the WTO and the EPA

Negotiating forum	First choice	Second choice
Access to the markets of developed countries (including the EU)		
1. Reduction or elimination of residual tariff barriers	EPA - The EU is the main export market for the ACP countries, in particular African countries - The EU reduction commitments can be more ambitious and include sensitive products in the framework of the CAP	WTO Any generalised reduction of customs duties at the WTO leads to an additional erosion of the long-standing trade preferences of the ACP countries with the EU in comparison to non-ACP countries
2. Customs duties escalation	EPA - The EU is the main trading partner of the African countries (Caribbean and Pacific countries have closer relations with respectively North American, and Australia and New Zealand) - The EPA must reduce EU tariffs on all products, including sensitive products and agricultural products containing sensitive products	WTO - The elimination of the escalation of customs duties applied by trading partners other than the EU to ACP products must be accomplished in the framework of the SDT and enable a revision of the GSPs - Little progress has made on producing a formula which takes account of this question
3. Maintaining preferences	WTO The issue for the ACP countries is to specify the products for which their trade preferences are strong, so that the generalised reduction of customs duties is either lower or slower in respect of those products. That must be linked with the negotiations on sensitive and special products. Thus, the ACP proposal on long-term preferences is that the products benefiting from these preferences should be declared sensitive products by the countries which grant the said preferences (in this case the EU for the preferences granted to the ACP countries).	EPA - The elimination of customs duties on the EU's sensitive products exported by non-LDC ACP countries, accentuates their preferences in relation to non-ACP countries - But it leads to an erosion of those of the LDC ACP countries which already benefit from zero rate duties (EBA initiative) in relation to non-LDC ACP countries - The consequences in terms of erosion of preferences for the ACP countries in relation to non-ACP countries of the CAP reform (Product protocols in the framework of the sugar and bananas CMOs) must be taken into account in a compensation mechanism
4. Rules of origin	EPA The rules of origin must be made more flexible in the framework of the GSP, including for the EBA initiative, so as to enable LDCs to benefit truly from them	WTO The EPA negotiations can facilitate progress in the negotiations on the agreement on the rules of origin
5. SPS standards and TBT	EPA - It is difficult to make the standards more flexible, unlike the rules of origin - But the development part of the EPA could provide the ACP countries with opportunities if they can obtain firm commitments from the EU in terms of technical assistance	WTO Better participation of the ACP countries in the international bodies that elaborate the standards
6. Improving competitiveness (removing supply constraints)	EPA The negotiations on the development part of the EPAs, which have not really started, could help to achieve this objective	WTO - The issues of development and technical assistance are part of the negotiations in several ways: the current round of negotiations has been described as a development round; technical assistance is provided for in the framework of the SDT, in particular to help LDCs to be in a position to comply with the new SPS standards - But in practice these provisions are still very weak

Competition on ACP markets		
7. The integration of the SDT in tariff reductions	WTO The tariff reduction formula for developing countries cannot be the same as that used for developed countries (ACP and G33 proposal)	EPA The tariff reduction formula must be defined in a way that is consistent with the designation of the products to be protected (sensitive and special products to be excluded from an EPA)
8. Products to be protected (sensitive products, special products to be excluded from an EPA)	WTO - The multilateral negotiations are particularly advanced on the question of special products (G33 proposal) - The designation of special products must however be linked with the list of sensitive products that can be excluded from an EPA and to be defined at regional level	
9. Safeguard measures	WTO - The multilateral negotiations are very advanced also on this point (G33 proposal)	EPA - The definition of a mechanism specific to EU imports can be based on that drawn up at multilateral level
11. Redefinition of article XXIV	EPA - It is important to reach an agreement first of all between the ACP countries and the EU to clarify certain terms (how far to go on asymmetry and the length of the implementation period), in order to be able to table a sufficiently technical and detailed proposal at the WTO - It is urgent that this proposal should be made before the Hong Kong conference so that the framework of the EPA negotiations is then clearer	WTO - Support a proposal to modify article XXIV in agreement with the compromise found in the EPA negotiations, in order to ensure the stability of the compromise
12. Domestic supports of developed countries	WTO The WTO is the appropriate forum to deal with the question of the unfair competition of imports. Of note is the G33 proposal on special products stating that all products benefiting from amber and blue box export supports should be considered as special products	
13. Export supports of developed countries	WTO Same	

7. Consequences for technical assistance, aid, capacity-building, support in negotiations

The different types of development aid that the developed countries can offer to the ACP countries should aim to help:

- > the various parties involved in the agricultural sector to define negotiating positions that enable them to defend their interests,
- > the countries to improve their agricultural competitiveness, whether for access to the markets of developed countries North country markets vis-à-vis their competitors, or to compete with imports.

Capacity-building must be aimed at the various parties concerned by the WTO negotiations and in the framework of the EPA negotiations on agriculture. This involves developing human resources and the expertise of the ACP negotiators, representatives of civil society, including producer organisations, and the private sector. These parties must be able to define their own negotiating positions in agreement with their objectives and development priorities, and then be able to defend them vis-à-vis the EU in the framework of the EPA negotiations and in the WTO multilateral forum. That implies first of all defining a clear agricultural development strategy at both national and regional levels for the EPA negotiations, if necessary through an institutional reinforcement of the various parties concerned.

Technical assistance appears to be indispensable, in particular as regards standards. The previous chapters have emphasised the increasing importance that standards will acquire as obstacles facing ACP country exports as regards access to the markets of developed countries. It is difficult to reduce the level of standards, in particular in the EU, and even if the ACP countries can participate more closely in the definition of international standards, they will continue to be confronted with higher standards imposed individually by countries (as is the case in the EU), as well as with the multiplication of private standards imposed notably by retailers (e.g. Eurepgap). It would appear therefore to be essential to be fully aware of the standards so as to be able to respect them and have the ability to prove that the standards have been fully respected; which does not preclude efforts to combat what may be considered as an abusive development of private standards. It is also important to emphasise that over and above standards, technical assistance should be provided to help the ACP countries meet the requirements of their “customers” in the North (compliance with delivery times, stability with regard to product quality, etc.). In general the technical assistance proposed in the framework of the WTO (SPS and TBT agreements) is insufficient. It is important in the EPA negotiations to ensure that the issue of standards is taken into account in such a way as to ensure that the technical assistance provided is sufficient and effective.

The technical assistance must moreover help the ACP countries to diversify their exports and trading partners; that is provided for by the WTO in its paragraph in the July 2004 framework agreement on the erosion of preferences⁴⁶: “The Members granting preferences will undertake technical assistance programmes and other measures, as appropriate, to support the countries receiving preferences in the efforts that they make to diversify their economies and their exports.”

⁴⁶ The agreement refers to the article of the first modalities document (March 2003).

Support in negotiations should take the form of:

- > impact studies on the various options under consideration in the WTO and EPA negotiations (impact of different degrees of reciprocity, the erosion of trade preferences linked to reforms of the product protocols in the framework of the CAP, greater flexibility in the rules of origin, the competitive effects of an increase in imports from the EU and, moreover, in order to define the special products excluded from the EPAs, etc.).
- > the organisation of information/training sessions and above all a consultation between the various parties concerned from the agricultural sector.

Aid is envisaged in particular in the framework of the EPA negotiations, the latter being presented as being not only trade agreements but also development instruments. During phase I of the EPA negotiations, the ACP countries undoubtedly made the mistake of asking for important amounts of aid without any precise "justification". The European Commission responded and has reiterated that no additional resources will be released specifically for the EPAs, as the funds of the 9th EDF are more than sufficient. Even if there should not in theory be any link between the signature of an EPA and the aid granted to ACP countries, the latter must be vigilant regarding the risk of conditions being attached to aid and that such does not influence the negotiations. It must be emphasised in this regard that it is not easy for the ACP countries to negotiate with trade partners such as the EU, which is also their leading backer, an agreement which combines trade and development. It is very likely that the request of the ACP countries for important funding will be reiterated, justifying such funding by the need for them to offset the potentially negative consequences of the EPAs (the main argument being the loss of budgetary revenue). It is very likely that the question of funding will be a very important issue in drawing up the 10th EDF.

8. Conclusion

The EPA and WTO negotiations are crucially important for the agriculture of the ACP countries since they provide major changes in their environment. The preparation of the ACP countries is therefore also crucial and it is important for the ACP countries to take the initiative in proposing negotiating positions so that their interests are better defended and taken into consideration. If the two negotiations seem at first sight to be very distinct, one taking place in a multilateral context and the other in the framework of bilateral ACP-EU relations, they are in fact very closely linked; what is decided in one negotiating forum may have consequences on the other. The ACP countries must pay particular attentive to this linkage between the two negotiations if they want to defend fully their agricultural interests, taking care not to reduce their room for manoeuvre in one round of negotiations on account of positions adopted in the other negotiating forum.

The European Centre for Development Policy Management (ECDPM) aims to improve international cooperation between Europe and countries in Africa, the Caribbean, and the Pacific.

Created in 1986 as an independent foundation, the **Centre's objectives** are:

- to enhance the capacity of public and private actors in ACP and other low-income countries; and
- to improve cooperation between development partners in Europe and the ACP Region.

The Centre focuses on **four interconnected themes**:

- Development Policy and EU External Action
- ACP-EU Economic and Trade Cooperation
- Multi-Actor Partnerships and Governance
- Development Cooperation and Capacity

The Centre collaborates with other organisations and has a network of contributors in the European and the ACP countries. Knowledge, insight and experience gained from process facilitation, dialogue, networking, infield research and consultations are widely shared with targeted ACP and EU audiences through international conferences, focussed briefing sessions, electronic media and key publications.

ECDPM Discussion Papers

The ECDPM Discussion Papers report on work in progress at the European Centre for Development Policy Management. They are circulated among practitioners, researchers and policy-makers who are invited to contribute to and comment on the Discussion Papers. Comments, suggestions, and requests for further copies should be sent to the address below. Opinions expressed in this paper do not necessarily represent the views of ECDPM or its partners.

The European Centre for Development Policy Management

Jacque Dias

Onze Lieve Vrouweplein 21

6221 HE Maastricht, The Netherlands

Tel +31 (0)43 350 29 00 Fax +31 (0)43 350 29 02

E-mail info@ecdpm.org www.ecdpm.org (A pdf file of this paper is available on our website)

ISSN 1571-7577

The ECDPM gratefully acknowledges the Belgian, Finnish, Dutch, Swedish and Swiss foreign ministries, the Technical Centre for Agricultural and Rural Cooperation (CTA) and the U.K. Department for International Development (DFID), whose programme support enabled us to produce this publication.