

Working Paper

**EFFECTIVENESS OF DEVELOPING COUNTRY
PARTICIPATION IN ACP-EU NEGOTIATIONS**

Henri-Bernard Solignac Lecomte

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**Overseas Development Institute
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London SE1 7JD
UK**

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Acronyms

AAMS	Associated African and Malagasy States
ACP	Africa, Caribbean, Pacific
CAP	Common Agricultural Policy
CARICOM	Caribbean Community
CCE	Caribbean Council for Europe
CEMAC	Communauté économique et monétaire de l'Afrique centrale
COMESA	Common Market for Eastern and Southern Africa
DG	Directorate General (of the European Commission)
EAC	East African Co-operation
EBA	"Everything But Arms"
EC	European Commission
EEC	European Economic Community
ECOWAS	Economic Community of West African States
EDF	European Development Fund
EPA	Economic Partnership Agreement
EU	European Union
FTA	Free Trade Area
FTAA	Free Trade Agreement of the Americas
GATT	General Agreement on Tariffs and Trade
GSP	Generalised System of Preferences
IOC	Indian Ocean Commission
LDC	Least Developed Country
MFN	Most Favoured Nation
MFA	Multi-Fibre Arrangement
OECS	Organisation of East Caribbean States
OHADA	Organisation pour l'harmonisation du droit des affaires
REPA	Regional Economic Partnership Agreement
RNM	Regional Negotiating Machinery (Caribbean)
SACU	Southern African Customs Union
SADC	Southern African Development Community
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
WAEMU	West African Economic and Monetary Union
WTO	World Trade Organisation

1. Introduction

Trade in goods between the African, Caribbean and Pacific countries on the one hand (see Table 1), and the members of the European Community (later European Union) on the other hand, has been subject to a specific regime as early as in the 1960s, i.e. very soon after most of the former became independent. From the association agreements of Yaoundé I and II between the European Communities and former French colonies in Africa (1963-1975), throughout the successive ACP-EU Lomé Conventions (1975-2000), unto the recent Partnership Agreement signed in Cotonou (2000), specific trade regimes have been jointly agreed upon by the parties, as part of package including financial aid, and, to varying extents, political dialogue.

These negotiations thus have very specific characteristics, when compared with other trade negotiations between countries of various levels of development which take place either at the multilateral level – GATT – , or at the bilateral level – e.g. EU-Mexico. Arguably, ACP-EU trade relations are indeed the product of a complex web of political, institutional and economic factors, which seriously constrain the scope and possible outcome of negotiations *per se*. The evolution of the trade regimes governing these relations reflects the changes in the motives of various actors, and very largely those of the dominant party, i.e. the EU and its European Commission. This is observable both in past ACP-EU trade negotiations of the Yaoundé and Lomé conventions (Section II), and in the more recent post-Lomé negotiations, which eventually led to the signing of the Cotonou Agreement (Section III). This particular nature of ACP-EU negotiations has a substantial impact both on the way ACP countries negotiate, and on the outcome of the negotiations (Section IV). Although Cotonou induces some substantial changes, in particular by providing for actual “trade negotiations” to take place, the profound imbalance between “partners” is set to linger on, and heavily constrains the possible outcomes for the ACP. While capacity bottlenecks affecting the effectiveness of the ACP in those negotiations can be identified relatively easily, the scope for European donors to strengthen that capacity effectively without undermining the very interests of those they mean to “help” may well be narrower than is commonly assumed. The real challenge is indeed for the ACP, at the national and regional level, to develop their own policy processes through which to define their interests with regards to international trade (Section V).

Table 1: The 78 ACP countries by level of development (2001)

Least developed countries (LDCs)			Non-LDCs		
Africa (34)	Caribbean (1)	Pacific (5)	Africa (14)	Caribbean (15)	Pacific (9)
Angola	Liberia	Haiti	Botswana	Antigua and Barbuda	Fiji
Benin	Madagascar		Cameroon	Bahamas	Papua New Guinea
Burkina Faso	Malawi		Congo-Brazzaville	Barbados	Tonga
Burundi	Mali		Côte d'Ivoire	Belize	Marshall Islands
Cape Verde	Mauritania		Gabon	Cuba ³	Cook Islands
Central African Rep.	Mozambique	Western Samoa	Ghana	Dominica	Federated States of
Chad	Niger		Kenya	Dominican Republic	Micronesia
Comoros	Rwanda		Mauritius	Grenada	Nauru
DR of Congo	Senegal ¹		Namibia	Guyana	Niue
Djibouti	Sao Tome & Principe		Nigeria	Jamaica	Palau
Equatorial Guinea	Sierra Leone		Seychelles	St Christ. And Nevis	
Eritrea	Somalia		South Africa ²	St Lucia	
Ethiopia	Sudan		Swaziland	St Vincent & the Gr.	
Gambia	Tanzania		Zimbabwe	Surinam	
Guinea	Togo			Trinidad and Tobago	
Guinea Bissau	Uganda				
Lesotho	Zambia				

Note: 1. In 2000, the UN ECOSOC recommended that Senegal – formerly a non-LDC – be considered an LDC.

2. South Africa formally joined the ACP group in 1998, it has a separate aid and trade agreement with the EU.

3. Cuba is Member of the ACP group since 2000, but not part of the Cotonou Agreement.

2. Past ACP-EU trade negotiations

Since 1975, the EU has granted a preferential trade regime to ACP nations within the framework of co-operation agreements. Trade preferences, commodity protocols and instruments for trade co-operation were part of the two Yaoundé Conventions (1963-1975), followed by four successive Lomé Conventions (1975-2000). Under their successor, the Cotonou Agreement signed in June 2000, preferences were extended for eight more years (until the beginning of 2008) for all countries of sub-Saharan Africa, except South Africa, as well as most independent developing countries in the Pacific and the Caribbean (see the list of ACP countries in Table 1).

2.1 The origins of Lomé and Cotonou

The principle of Europe granting trade preferences to the ACP is actually rooted in the 1957 Treaty of Rome. France then made it clear to its European partners that a continued special relationship with its African colonies, extended to all members of the European Community, was a prerequisite to its participation in the European Community and integration process. It proposed to its partners that they "share the exclusiveness of her colonial markets if the other members would agree to help meet the market and capital needs (of the colonies) that France could no longer handle". In 1958, the first European Development Fund (EDF) was set up, totalling 58 million monetary units of account (the forerunner of the European Currency Unit), all in the form of grants, the bulk of which was to be spent on economic and social infrastructure projects in France's overseas territories.¹

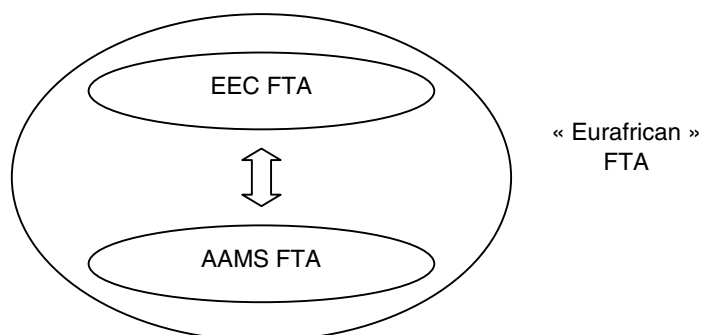
A few years later, in 1963, an association agreement was signed in Yaoundé by the EEC and 18 newly independent francophone African countries, the Associated African and Malagasy States (AAMS; see Annex 1 for a chronology of African and ACP membership in ACP-EU co-operation agreements). The Yaoundé Convention was officially aimed at strengthening the economic independence of the 'associated' states – which eventually proved a contradiction in terms – promote their industrialisation and encourage African regional integration. Central to the Convention was the argument that the relationship between Europe and Africa was historically necessary and economically a *sine qua non*.

It is worth noting that the commercial regime of the Convention was based on the principles – already present in the treaty of Rome – of reciprocity and non-discrimination: full reciprocity in trade preferences was demanded from the Yaoundé countries, in return for EDF financial assistance. More precisely, the French intention was that these countries would form a free trade zone among themselves, and such eventually sign reciprocal agreements with the EEC as a regional trade group.² It is thus interesting to note that the idea of a free trade zone between Europe and Africa, reincarnated in the EC's proposal for ACP-EU Economic Partnership Agreements (see below), is actually an old vision, explicitly reminiscent of colonial times.

¹ Africa Secretariat of the Third World Network, 1995.

² Messerlin, 1997.

Figure 1: The “Eurafrican” free trade area, as foreseen by the EEC in the Yaoundé Conventions



Yaoundé and its successor Yaoundé II (signed 1969) eventually failed to create this EEC-Africa free trade zone for three main reasons:

- Newly independent African states themselves embarked on self-centred development strategies which relied, inter alia, on protectionist trade policies. Therefore they showed no readiness to provide trade preferences to their European partners.
- French international firms, which had been benefiting from traditional preferential positions in ex-French colonies, were keen to protect themselves from potential other European competitors.
- Finally, the United States opposed Europe making Africa its restricted “backyard”, fearing Europe would gain privileged access to African markets and natural resources at its expense.

Actually, most AAMS did not take their trade relationship with the Community seriously until Britain eventually signed the Act of Accession to Treaty of Rome in 1972. The perspective of the developing Commonwealth economies entering the association agreements, however, was different and made it imperative to look for a special arrangement that would take care of their interests, especially those embedded in the Commonwealth Preferential System (e.g. preferential trade treatment for sugar). The Europeans drew a line between English-speaking countries invited to negotiate association agreements with the EC (the “associables”) – i.e. Commonwealth countries in Africa, the Caribbean and the Pacific – and those invited to separately negotiate only trade agreements with the EC (the “non associables”) – i.e. the Asian Commonwealth countries, such as India and Bangladesh.³ An obvious underlying reason for this discrimination was that the latter were potentially much more competitive economies than the former, offered relatively lower prospects for raw material supply, and would have required a huge rise in EDF.

Hence, soon after Britain joined the Community, negotiations began at various levels among African and Caribbean Commonwealth countries, and Yaoundé associated states (see Box 1), which would eventually form the ACP group (see Box 2). Despite some tensions, this represented a remarkable break from the traditional reluctance of AAMS to share their trade and aid privileges with other “associable” countries.⁴

³ Protocol No. 22 of the 1973 Treaty of Accession of the UK.

⁴ Grilli, 1994.

Box 1: Negotiations among ACP states ahead of Lomé I

[Until the] early 1970s the African states had different views on the best model of association with the EEC. There was the Yaounde Convention. Also, the East African countries of Uganda, Tanzania, and Kenya had a more open type of ad hoc association in the name of the Arusha Agreement. But Nkrumah's Ghana and Nigeria had reservations about association with the Community.

In February 1973 there was a conference of African Ministers held in Accra in Ghana. The Conference recommended to the Summit of the African Heads of State and Government held in Addis-Ababa in March 1973, what should form the basic principles for future negotiation with the EEC. With the acceptance of this recommendation, African countries were able to form the African group for joint negotiation with the Community. The Conference drew up the following basic principles which governed the discussion of the African group with the EEC:

- (i) non-reciprocity for trade and tariff concessions given by the EEC;
- (ii) extension on a non-discriminatory basis towards third countries of the provisions on the right of establishment;
- (iii) revision of the rules of origin to facilitate the industrial development of Africa;
- (iv) revision of the provision concerning the objective of monetary independence in Africa countries;
 - (v) dissociation of the EEC financial and technical aid from any particular form of relationship with the EEC;
- (v) free and assured access to EEC markets for all African products including processed and semi-processed agricultural products, whether or not they are subject to the common agricultural policy of the EEC;
- (vi) granting to African countries of stable equitable and remunerative prices in EEC markets for their products;
- (vii) agreement made with the EEC should not adversely affected intra-Africa Cooperation.

There were consultations at various levels among groups that included the Commonwealth Associates, the East African Community (EAC), and the Caribbean Free Trade Association. They all assessed the possible effects of Britain's membership of the EEC on their various economies. These consultations soon assumed intercontinental dimensions. In the meantime, the Caribbean countries (consisting of Guyana, Trinidad Tobago, Jamaica and Barbados) felt that they might not obtain better terms than Africa if they opt[ed] for a separate negotiation. They therefore opened dialogue with others a view to negotiating together. Similarly, Britain urged the Pacific countries of Fiji, Papua-New Guinea and Solomon Islands to join the others in negotiating with Europe.

The Caribbean countries were even more united. This was demonstrated in the Georgetown Accord of 4th July 1973 which established the Caribbean Common market. Since the idea of seeking relations with the EEC had been conceived in 1972, the structure and organisation of the Caribbean commonwealth market were developed to facilitate negotiations with the EEC. The Caribbean group wanted a more open type of Cooperation, a position that was influenced by its relations with the United States and Canada. US had threatened to cancel the benefit of the preferential trade enjoyed by the Caribbean countries if they settle[d] for the reciprocity clause.

Essentially it was these consultations between the OAU and the Caribbean and Pacific associates that resulted in the formation of a concrete negotiating group in July 1973 made up of the original forty-six African, Caribbean and Pacific states. When negotiations actually began the EEC relied on Protocol No.22 annexed to the Treaty of Rome which gives an opportunity to the developing countries of the Commonwealth except India to negotiate with the EEC an arrangement whereby their special pre-occupations could be taken into account. Such countries had a choice either to negotiate a separate agreement with the Community single, or as a group, or [to join] the Yaounde Convention.

It was in the general belief that among the African countries that they would continue to receive a raw deal from Europe if they negotiate[d] separately with the EEC. A fair agreement with the Community could only come from a joint negotiation by all the countries. But the division between the African Anglophone and Francophones was a deep one. The latter were generally satisfied with and very well at home with the provisions of the Yaounde Convention, which the Anglophone condemned as neo-colonial and exploitative. Realigning the different positions and interests was a long and painful [process].

During the negotiation with the Community the ACP states rejected the three options of the Protocol No.22 as the basis of negotiations. Changes in global economic relations especially the oil crisis of 1973 were expected to enhance the negotiations. Oil was not only a weapon in the hands of the oil-producing countries in the South; there was also some awareness among the ACP countries that the prosperity of the North derived in many respects from the resources of the South. But in spite of the undeniable reliance of Europe on the raw materials from the South, the ACP still could not negotiate for equity in partnership. [...]

Source: Adetula, 2000.

According to Dieter Frisch, former Director-General at DG VIII (currently DG Development):

"many Europeans were surprised when the African, Caribbean and Pacific countries sat down together at the EEC negotiating table in July 1973. One would have rather expected parallel negotiations to have taken place with the three groups. The formation of the ACP group - which may appear somewhat artificial - came about as a result of a number of common problems (sugar), but principally because the Caribbean and Pacific contingent wanted to take advantage of the bargaining power of Black Africa, which was then quite considerable." (ECDPM, 1996).

Eventually, twenty Commonwealth States in Africa, the Caribbean and the Pacific were invited to enter into special relations with the EEC – broadly along the lines of the association that already existed between the EEC and eighteen French-speaking African countries through the Yaoundé Conventions, but with notable innovations. Indeed, the resulting first Lomé Convention, signed in February 1975, provided continued financial aid, but it renounced the FTA project. Instead, it had the EEC granting non-reciprocal tariff preferences to ACP countries. Lomé also explicitly addressed the issue of commodities, on which many associated economies strongly depended, by introducing compensation mechanisms – Stabex and Sysmin – to offset the variations in international commodity prices and support the mining sector. Finally, a set of four commodity-specific protocols, guarantying a minimum level of export prices and/or export quantities for sugar, bananas, beef and veal, and rum, extended the benefits of former UK preferential schemes to some – not all – ACP countries recognised as “traditional suppliers”.

Box 2: The ACP group

The ACP as a group was officially created in June 1975, soon after the signing of the first Lomé Convention, upon the signing of the Georgetown Agreement, by the original forty-six ACP states.

The agreement instituted a Council of ACP Ministers, a Committee of ACP Ambassadors, and set up an ACP Secretariat in Brussels to service them. The essence of the agreement was to consolidate and strengthen solidarity among the African, Caribbean and Pacific countries that were seeking the special aid and trade relationship with the EEC.

In addition to the old reasons for implicitly keeping the trade regime in Yaoundé I and II non-reciprocal, two newer factors reinforced the case for explicitly adopting the principle of non-reciprocity in Lomé. First, it was very much in line with the then mainstream idea among the development research and donor communities (e.g. UNCTAD), that market access was the main obstacle to trade by developing countries, while protection was key to promoting industrialisation.⁵ Second, the U.S. opposed the Caribbean granting (reciprocal) trade preferences to Europe (See Box 1). At the time of the Lomé negotiations, the EEC itself had become less keen to push for the reciprocity principle. Its two main concerns were rather to retain some form of influence in ex-European colonies, in the bi-polar geo-political context of the Cold War, and to secure supply in raw materials.

On the face of it, therefore, both parties seemed to get most of what they wanted. In particular, unity allowed the newly formed ACP group to get important benefits at little cost. With substantial aid, trade preferences and special commodity protocols and mechanisms more generous than any other preference given to non-European countries, they appeared as “Europe’s preferred partners”.⁶ Lomé was indeed heralded as the most ambitious and comprehensive North-South agreement of its time, though, as we see now, results have proved disappointing.

2.2 Preferential margins under Lomé: less than meets the eye?

Lomé trade preferences granted advantages to ACP products imported into Europe in relation to competing products from other countries. The original aim was “to promote and diversify ACP countries’ exports, so as to favour their growth and development” (see Annex 2).⁷ This regime has been seen as the most generous European trade arrangement with third countries, although a careful analysis reveals the actual extent of preferences appears limited:

Preferences were granted to countries with little export potential in manufactured products. They did include substantial preferential margins for certain agricultural products that did not compete with European ones (e.g. fish, cut flowers) but more limited ones for those that did potentially compete (CAP products, horticulture). Successful experiences of the use of preferences are in fact limited to some sectors and some countries. While it was foreseen that they would stimulate exports and boost growth, the incapacity of ACP economies to produce more, better and a greater diversity of products has in fact prevented them from taking advantage of this privileged access. Preferential margins can give a ‘helping hand’ to exports - as in the well-documented case of Mauritius - but they cannot compensate for a lack of basic competitiveness in ACP economies.

- Under a safeguard clause the EU was allowed to re-impose restrictions when imports from ACP countries threaten their domestic producers. This clause has been seldom used so far, but Europe nevertheless forced Mauritius into “voluntary export restraints”, which curbed the benefit of the Lomé MFA exemption for its exports of garments.
- Rules of origin provided little scope for cumulation with non ACP producers, thereby limiting their potential use by beneficiaries.

⁵ As for the opening of OECD markets, it was to be addressed, almost separately, at the multilateral level (GATT), as developing countries in general and ACP countries in particular participated little in the process. See Page (2001).

⁶ Davenport, Hewitt and Koning (1996).

⁷ The preferences take the form of tariff preferences or exemptions from non-tariff restrictions such as import quotas.

At the end of the day, limited preferences for competing products may appear somewhat inconsistent with the objective of promoting and diversifying ACP exports. This was pointed out by researchers, NGOs and politicians, both from the ACP and the EU, during the unprecedentedly wide public debate around the future of the Lomé Convention,⁸ which the EC itself encouraged after the publication of its *Green Paper*(1996).⁹

2.3 The end of Lomé

In 25 years, four rounds of renegotiations and five successive Lomé Conventions (Lomé I to Lomé IV-bis, see annex 1) brought little significant change. Eventually, though, the EU used the fifth round of renegotiation of their co-operation agreement with the ACP, which took place between 1998 and 2000, to profoundly transform it, and in particular to reform the EU-ACP trade regime.¹⁰ The duration of Lomé trade preferences has been extended under the new Cotonou Agreement, but only temporarily (until 2008). In other words, the end of Lomé has been programmed.

Commonly accepted arguments for ending Lomé

According to the EU, it was deemed essential for non-reciprocal preferences to go for three main reasons:

- *A disappointing result.* In the 25 years between the signature of Lomé I and the expiration of Lomé IV, the share of ACP exports in European markets has fallen by half, from nearly 8% to about 3%, while that of other developing countries – e.g. in South East Asia – which enjoyed a lower level of preferential access to the EU (GSP), has substantially increased.
- *An irreversible erosion.* The value of preferences is eroded under the impact of two phenomena. Firstly, the EU is progressively lowering its trade barriers within the GATT framework, in favour of all WTO members or a specific group (e.g. EBA); it is also multiplying its preferential agreements with certain third countries (Eastern Europe, Turkey, Maghreb and Middle East, South Africa, etc.); and the protocols are equally affected by factors over which the ACP have no control (Dunlop, 1999). Secondly, the type of preferences granted are becoming ‘outdated’: tariff and quantitative restrictions are no longer the only instruments of European protection. Other obstacles, such as veterinary and quality standards, anti-dumping measures or the distortions caused by national legislation, play an increasing role against which preferences inherited from Lomé are useless.¹¹
- *A challenged legitimacy.* The incompatibility with WTO rules is the key argument put forward by the EU to justify the termination of non-reciprocal preferences. Preferences infringe the principle of non-discrimination established by Article I of GATT, whereby all preferences granted to one member must automatically be

⁸ For a comprehensive analysis, see Davenport, Hewitt and Koning (idem) and McQueen, Phillips, Hallam and Swinbank (1998). As for the public debate, a wealth of material from various sources is available from the Euforic website (www.euforic.org).

⁹ European Commission, 1996.

¹⁰ See ECDPM, 1998-99, Lomé Negotiating Briefs.

¹¹ However, there are certain sectors - textiles, clothing, and fisheries - where trade preferences will still to be useful to ACP exporters for some time to come. The same applies to the protocols on sugar and beef and veal, which bring diminishing but still tangible benefits.

extended to all others. Exceptions are certainly foreseen to this principle, which permit the conclusion of discriminatory agreements under the following reservations: (i) Either that they be reciprocal, in the case of free trade agreements between WTO members (Article XXIV of GATT), or (ii) they are granted by a developed country to all developing countries - or to a recognised sub-group, the only one being the least developed countries - without discrimination among the latter ('enabling clause'). However, preferences inherited from Lomé are not eligible as exceptions. On the one hand, the regime is non-reciprocal thus it is not a free trade agreement. On the other hand it is discriminatory, since it is more generous towards the ACP –a sub-group of ex-European colonies, most of them with limited exports-- than it is towards other developing countries with much larger poor populations (e.g. Bangladesh or Vietnam). For these reasons, the EU had asked for – and obtained from – other WTO members a waiver of Article I for Lomé IV-bis (1995-2000). However, obtaining a derogation requires an exchange of concessions with WTO members granting it. The safeguard of ACP trade interests thus has a price for Europe, which it is not prepared to pay for too long. Consequently, the EU announced during the post-Lomé negotiations that it would only ask for one more supplementary derogation, on a provisional basis, while waiting to put in place a regime fully compatible with WTO rules.

Actual EU motives

Right from the start of the renegotiation process, when the Green Paper was published, the EU insisted heavily on the legal aspects (WTO-compatibility), and argued that the option of an open-ended waiver was a non-starter, as it would not be sustainable in the long run. Instead, it explicitly favoured renouncing the non-reciprocity principle as a way of solving the problem. In this, its motives were probably two-fold:¹²

- *A reassessment of Europe's commercial interests in ACP, and especially in Africa.* The old reasons for having Lomé in the 1970s no longer held in the 90s: back then, securing raw material supply from Africa into Europe was the major concern, but African markets were deemed too small to be of real strategic interest. In the 90s, however, the commodity concern was gone. Also, following the eviction of some of the region's most corrupt regimes, signs of recovery in some of the continent's economies¹³, later deemed as *African renaissance*, triggered a renewed interest, including by the US, in African markets. Introducing reciprocity in ACP-EU trade relations could promote a greater penetration of ACP markets by European goods and investment. There was therefore a noticeable shift of tone on the European side, contrasting with previous agreements, with the Commission calling for a more balanced partnership, where the "mutual interests" of partners would be taken into account. Preferential access of European goods to ACP markets was supposed to "balance" preferences provided to ACP exporters, and give European firms an advantage over their competitors (notably the US). The initiative of the US towards some African countries (Africa Growth and Opportunity Act) raised fears that, after decades of substantial European aid flows to the ACP, less-committed developed countries could "reap the harvest" by seizing new trade and investment opportunities in the most dynamic "emerging" ACP economies. Another argument was that making the future agreement beneficial for European firms would make it easier for the EC to

¹² Solignac Lecomte, 1998.

¹³ Berthélemy, Söderling, Salmon and Solignac Lecomte, 2001.

"sell" a renewed aid package for ACP countries to the most sceptical EU member states.

- *Institutional and political motives.* From an institutional point of view, the Commission's DG VIII had a strong, natural, interest in keeping, and even magnifying, specific trade policies towards the ACP, which it would be responsible for. The more radical option of harmonising European trade policies towards developing countries could have carried the risk of turning Lomé into an aid treaty, thereby weakening DG VIII's position within the European Commission. It can thus be argued that the preference of the EU for bilateral, preferential agreements with the ACP, over a multilateral approach, stems partly from political and bureaucratic motives.

3. The ACP in post-Lomé negotiations

3.1 The need for a new co-operation agreement

Negotiations on a successor to the current Lomé agreement began in September 1998, with trade as a major bone of contention. For the ACP, the only certainty was that preferential market access provisions would technically end in 2000, at least for non-LDCs. To make the preferential regime compatible with WTO rules, three types of solutions were available to the parties:¹⁴

- Transform non-reciprocal preferences into FTAs, while respecting certain rules contained within Article XXIV of GATT; or
- Abolish the discriminatory character of preferences by extending Lomé-type benefits to all developing countries, e.g. by reforming the EU's GSP, enhancing its benefits, binding it in the WTO, and fine tuning differentiation criteria so as to accommodate the ACP in a wider, non reciprocal scheme (Stevens, McQueen, and Kennan, 1998); or finally
- Abolish trade preferences and radically reduce EU's MFN tariffs to the benefit of the ACP and other WTO members, by means of a global offer to be made during the next multilateral trade negotiations (Winters, 1998).

The EU clearly pushed from the start to establish free-trade agreements with ACP regions – as the basis for a set of "Regional Economic Partnership Agreements (REPAs)".

3.2 The ACP mandate

By contrast, the ACP negotiating mandate called for improved non-reciprocal trade preferences from the EU. It also took account of European wishes, accepting REPAs as an option, although with strong qualifications, stating that ACP States should "consider carefully the implications of such agreements which, in any case, should be voluntary". The reluctance of ACP regarding the REPA proposal had been fuelled by criticisms formulated by researchers, NGOs and Euro MPs, in the EU and the ACP, in the context of the large debate encouraged by the EC itself with its 1996 Green Paper on the future of ACP-EU relations (Box 3; Solignac Lecomte, 1998). The ACP mandate also left the door open to "alternative trade arrangements", suggesting that the ACP position on trade could still evolve as the negotiation process moved on.

This was evidently a defensive – and weak – position, which reflected possibly the only acceptable compromise between ACP Member States. The ACP group is indeed far from being a homogenous grouping from the point of view of trade interests.¹⁵ It is too large, diverse, and members even have competing interests in certain sectors. This is illustrated by

¹⁴ ECDPM, 1998.

¹⁵ Two ACP countries should be considered separately from the rest of the group: South Africa never benefited from non reciprocal trade preferences. A developed country under the WTO, it formally joined the ACP group when all European Member States ratified Lomé-IV bis, i.e. in April 1998. Since 1999, it has had a separate free trade agreement with the EU, which took four years of protracted negotiations with the EU. (See Bertelsmann-Scott, Mills and Sidiropoulos, 2000). As for Cuba, it is a Member of the ACP group since 2000, but it was never a signatory of the Lomé Conventions, and is not part of the Cotonou Agreement.

the fact that latecomers to the conventions, which did not qualify as “traditional suppliers” of Lomé commodities, were excluded from some of the preferences, in spite (or indeed because) of their high export potential.¹⁶ In this context, the 1997 Libreville Declaration opted for an “improved status quo” as the least common denominator. It was easier for those 71 states to agree on this, than on any alternatives involving major innovations. Agreement within the EU on such changes was more straightforward because, unlike the ACP, Europe represents a single commercial entity, with the EC as a single negotiating body.

Supporting the status quo on trade may thus have been the best short-term option for tactical purposes, but it suffered from a lack of realism in the long-term. The ACP official position was indeed plagued by a seminal weakness, in that its thrust – keeping non-reciprocal, discriminatory preferences – could only have been a temporary solution, as the ACP themselves recognised. The only way to keep, or improve, preferences without extending them to non-ACP countries would have been to get the EU to ask WTO Members for a second waiver for Lomé-type preferences, which would have been necessarily limited in time. The ACP asked for this waiver to go beyond the five years proposed by the EU as a means of transition, and asked for ten years instead.

Could the EC have gone for a longer waiver, or an indefinite one? There is no simple answer, as there are no clear rules on how waivers are granted in the WTO. They are usually granted as a matter of political expediency and after intense negotiations between Members. WTO rules are also silent as to the duration of waivers, and thus they could theoretically be granted for periods exceeding 5 or even 10 years: EU and ACP members of the WTO could have argued that they wanted to form a free-trade area, and that given the great disparity in the levels of economic development between the parties, a waiver was needed to enable the ACP states to adjust to the new competitive environment.

Against this background, the waiver solution was not a very safe bet for the ACP. Not that it would have been necessarily difficult to obtain, as a majority of WTO members might well have proved sympathetic to the Lomé case. It would, however, have required intense lobbying by the ACP *and* the EU in Geneva, – for which the ACP did

Box 3: EPAs: controversies over their expected impact on ACP countries

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

- The flow of direct European investments to the ACP countries ;
- the ‘locking-in’ of the trade liberalisation process in these countries ;
- the restructuring of ACP economies, by combining a modification of the framework of incentives for economic agents (propelling them towards a more efficient use of resources) with the financial and technical support of the EU.

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

- increasing the profit margins of European exporters, rather than lowering the prices to consumers and ACP importers;
- a sharp reduction in customs duty revenues, which a diversification of fiscal receipts would not compensate in the short and medium term;
- pushing ACP countries to liberalise their trade regimes at a ‘sub-optimal’ rate as compared to what they would do unilaterally ;
- hindering the diversification of ACP trade with non-EU trade partners;
- complicate regional integration (by treating different countries belonging to the same regional grouping);
- strengthen the old Lomé reflexes which focus ACP attention on obtaining trade preferences (in Brussels) instead of adopting a more active stance, in particular within the multilateral trade system (in Geneva).

¹⁶ For instance, the Dominican Republic does not receive the sugar protocol benefits.

not seem to be prepared – and a lot of "horse-trading" by Europeans, which they clearly did not favour. Instead, the EU has been very firm in its refusal to try and negotiate a WTO waiver of more than five years (it eventually only gave in for 8 years, but that appeared to be the only significant compromise on its side).

3.3 The ACP and the EU in the negotiations (1998-2000)

Among the ACP, in spite of the insistence that the mandate presented a single common position, diverging views emerged, reflecting diverging interests, varying capacity levels, and varying degrees of involvement.

Small islands

Several *small islands* in Africa, in the Caribbean and in the Pacific – and more generally all countries in the latter two – were keen to pursue any outcome that would secure continued benefits from commodity protocols, which the EU had been under pressure by other WTO members to reform or even scrap.¹⁷ Although they officially pushed the status quo (continued non-reciprocal preferences and protocols) called for in the ACP mandate as the first best option, some actively prepared for several possible outcomes, including reciprocity. On the whole, in terms of capacity and involvement, it is fair to say that Mauritius, as well as the Caribbean as a whole, have been above ACP average.

Mauritius – whose impressive growth since the 70s owes a lot to sugar protocol financial transfers and the exemption from controls on textiles under the MFA provided by Lomé – launched its own prospective studies on the impact of possible EU-Mauritius, or EU-SADC free trade agreements. Mauritius has representations in Brussels *and* in Geneva. The Mauritian Chamber of Agriculture has had an attaché in Brussels since the early years of Lomé.¹⁸ Co-ordination between Mauritian authorities and their delegations in Brussels and Geneva was far better than in the case of other African countries.

Similarly, although officially defending the mandatory status quo line, the Caribbean were less concerned by reciprocity itself than by the risk of losing protocol benefits (and possibly, in the case of the private sector, of not gaining enough on services). This is largely because they are less dependent on trade with the EU than many African countries are (trade with the EU is about 10 per cent of the Caribbean region's total), and they are engaged in the FTAA process anyway. Thus they also came to envisage free trade scenarios, acting collectively within CARICOM and the Organisation of East Caribbean States (OECS, a subset of the former), or using the parallel Regional Negotiating Machinery (RNM; see Annex 3). Occasionally, this parallelism created some tensions between ministers, ACP ambassadors and the RNM, sometimes perceived as not accountable enough.

One of the strategies used by the Caribbean, together with Mauritius, was to try and obtain a special status for "small island states" or "vulnerable economies" in various fora, including within the UN system. Support from donors and the Commonwealth Secretariat was actively sought. The private sector has had an active office for representation and lobbying in London (Caribbean Council for Europe), and so did the RNM.

¹⁷ See Dunlop (1999) and ECDPM, 1999, Lomé Negotiating Brief No.6.

¹⁸ The Mauritius Chamber of Commerce has more recently dispatched one in Geneva.

With extremely limited analysis and negotiating capacity, and mostly concerned by aid (and sugar protocol benefits in the case of Fiji), the Pacific islands switched rather late in the process from the status quo line, to preparing actively for an REPA. This occurred once they realised that, for countries importing almost all consumption and capital goods, the cost of introducing reciprocity in trade was a very small fraction of the potential cost of losing on aid (if less aid was the consequence for an ACP country of refusing REPAs). Preparations for setting up an *ad hoc* regional grouping of ACP Pacific countries – which did not exist until then – started during the post-Lomé negotiations, in the perspective of signing a REPA with the EU.

African countries

Continental African countries appeared somewhat less prepared and active than the Caribbean and Mauritius, although there were some exceptions (e.g. Kenya, also quite active in Geneva). Among the factors that may explain this more passive attitude, it is worth noting that, at the end of the 90s, many African countries were confronted with severe potential or actual political instability¹⁹, or even outright wars.²⁰ Furthermore, by contrast with Mauritius and the very small economies of the Caribbean and the Pacific, reliance on international trade in general, and on commodity protocols in particular, is structurally far less. Besides, a majority of African countries are LDCs, for which the EC mandate explicitly foresaw continued non-reciprocal trade preferences, thereby decreasing the cost of not actively participating. Finally, inadequate capacity – in absolute terms – for trade policy making and for trade negotiation has been a long standing feature of African governments.²¹

One issue rallied African countries across the continent: the future of Stabex and Sysmin, which the EU had warned it wanted to do away with, and which African countries in the ACP called for maintaining. Aside from this defensive stand on instruments (which eventually proved largely unfruitful, as both were phased out), no other issue emerged, that could have created a positive synergy among African countries of the ACP group.

- Some of the Francophone African countries were more favourable towards the EU proposals. In particular, the West African francophone countries grouped in WAEMU (UEMOA by its French acronym) have achieved remarkable progress in regional integration – at least nominally – compared to other regional groupings in Africa (bar SACU). They officially formed a customs union in January 2000. Among the major sponsors of WAMEU – largely inspired from the EU integration model – are France and the EC. Some of the major member countries also retain rather strong political links with France (e.g. Côte d’Ivoire, or Sénégal which depends heavily on European aid). Finally, with only a few exceptions (horticulture goods), the structure of agricultural production in West African countries is very dissimilar to that of the EU, so that the risk of displacement of local production upon the introduction of reciprocity appeared less than for SADC countries. For all these reasons, WAEMU was perceived by some in Europe as the best natural candidate, of all African regional groupings, for a REPA with the EU. This was implicitly confirmed by the fact that – although the EC had stressed it was the ACP countries' responsibility to eventually choose which region should proceed towards an agreement with the EU – WAEMU

¹⁹ Nigeria, Niger, Chad, Central African Republic, etc.

²⁰ Congo-Brazzaville, DR Congo, Ethiopia, Eritrea, Sierra Leone, Liberia, etc.

²¹ See the cases of Senegal and Ghana in OECD (2000a) and (2000b).

was the only West African regional group for which it commissioned a REPA feasibility study in 1998.²²

With information and decision power concentrated in the hands of a relatively small number of technocrats, in some national administrations and in the Ouagadougou-based WAEMU Commission, preparations for a REPA scenario proceeded in an atmosphere of discretion. Some irritation was felt among other ACP countries, including the Caribbean, when it became public that the African francophone group was “diverging” from the official negotiating mandate position. In 2000, the WAEMU obtained from its members a mandate to negotiate with the EU on their behalf.

- Other Francophone countries (and regions), such as the members of the *Communauté Economique et Monétaire de l’Afrique Centrale* and the Indian Ocean Commission (except Mauritius), were on the whole rather silent, and made little attempt to coordinate within their respective, hardly functional, regional groupings.
- The same applied, although to a lesser extent, to anglophone countries in Western Africa. In 1999, Nigeria, supported by Ghana, loudly expressed concern about WAEMU countries “breaking away” from the larger ECOWAS by setting up their customs union²³, but this was not felt in the ACP-EU negotiations until after an agreement was reached, when both the WAEMU Commission and the ECOWAS Secretariat attempted to obtain a mandate from their members to negotiate EPAs with the EC.

It is worth noting that the possibility of a separate EU-Nigeria FTA had been mentioned in the EC’s Green Paper in 1996. In 1998, one of the six EC-commissioned feasibility studies considered the possibility of a free trade agreement with UEMOA countries *together with* Ghana. This implicitly hinting that the EC did not believe the larger ECOWAS could be a signatory to such an agreement with the EU.

- By contrast, some member countries of SADC (e.g. Zimbabwe), and EAC (Kenya, Uganda), to some extent showed greater involvement than the African average, and more explicitly disapproved of the EC REPA project. “Alternative” trade scenarios (other than status quo or EPA) were explored with the support of EU donors, such as the UK, which did not necessarily share the French belief in the REPA project.²⁴

ACP institutions

Throughout the negotiations, the ACP Secretariat has been in an awkward position, as it depends financially on continued support from the European Commission. It produced several joint papers with the EC, which have unsurprisingly concluded by supporting most elements of the EC since the early versions of its mandate.²⁵ Finally, it is worth noting that the post-Lomé negotiation witnessed signs of greater involvement by the ACP private sector than in the past, although their initiatives were mostly focused on the “aid” part of the negotiation, rather than on the trade side.²⁶

²² McQueen, 1998.

²³ Together with most other West African countries –of which Ghana and Nigeria–, all WAEMU member countries belong to the larger ECOWAS (Economic Community of West African States), a grouping set up in 1975, that has achieved very little success so far in implementing its economic integration agenda. See Annex 4 for a tentative mapping of ACP regional groupings.

²⁴ See for instance Page et al. (1999).

²⁵ See Tekere (2000).

²⁶ See <http://www.acpbusiness.org/>.

The EU's attitude

As for the EU side, the EC carried the argument of FTAs against a group of ACP countries who *officially* preferred a rather unlikely status quo, which the Europeans did not want. In October 1999, after a year of disagreement on the timetable and content of the post-Lomé trade regime, the EU and the ACP found the basis of an agreement. A 'non-paper' was produced, proposing a compromise whereby the transition period (with non reciprocal preferences maintained) would last for 8 years (2000-2008), and negotiations of FTAs would last from 2002 to 2008 at the latest. This compromise met some resistance from European Member States, such as Spain, which felt the 8-year transition period was too long.

However, following the failure of WTO members to agree on launching a new round of multilateral talks in Seattle, and due to the perception that developing countries' frustrations has played a role in it, the UE felt it could not allow itself to fail again in the renegotiation of its most ambitious agreement with the developing world. An agreement was thus eventually made in February 2000, mainly based on the October 1999 informal compromise proposal. The text was primarily an "agreement to agree", at a later stage, to replace the non-reciprocal, preferential regime currently granted by the EU to all ACP countries (except South Africa) with several new, reciprocal, WTO-compatible trade regimes between the EU and ACP countries. The latter would proceed either as regional groups – the EU's favourite option – or individually.

3.4 The outcome of the post-Lomé negotiations

Eventually, the Cotonou agreement was signed in June 2000 along lines of the February 2000 informal agreement, thus foreseeing two major changes. Firstly, in 2002, for the first time, those ACP countries that so wish will engage in a trade negotiation with the EU, that should lead to the establishment of free trade agreements. Secondly, within 8 to 10 years, the EU will cease to treat all ACP countries in a similar manner, and will instead offer different trade regimes, depending on their levels of development (LDCs are entitled to keep non reciprocal preferences) and their own regional trade arrangements (EPAs should be signed preferably with regional groups rather than individual countries). Thus, the single all-ACP trade regime will be replaced by a patchwork of trade arrangements, whose shapes and features still largely remain to be defined, during negotiations due to start in 2002 (see timetable in Annex 4).

In 2001, however, the waiver for continued preferences under Cotonou was still not granted, – as it continued to be opposed by Latin American banana exporting countries not happy with the maintainance of special EU preferences for ACP producers.

Looking back at original options, the enhanced GSP solution did not appeal to any party, mostly because it amounted to renouncing a specific trade agreement between the ACP and the EU: harmonisation with the GSP would actually imply the disappearance of the trade leg of ACP-EU co-operation since all developing countries, ACP or not, would benefit from the same non-reciprocal preferences. As for the very ambitious "MFN" solution, it would have required a wide consensus among European Member states on trade liberalisation within a framework reaching far beyond the re-negotiation of its agreements with the ACP; such an consensus did not exist.

On the signing of Cotonou, both parties could therefore claim to have achieved their main common objective: to get *an* ACP-EU trade agreement, and thus remain special to each other (much more than would have been the case with an aid agreement alone). However, in terms of achievements compared to mandates' objectives, it is the EU that clearly obtained most of what it asked for: to be able to differentiate among ACP countries according to geography and level of development. Non-reciprocal trade preferences for the 'less poor' countries (non-LDCs) would go, opening the 'largest' ACP markets to EU exporters on a preferential basis, and the ACP made a political commitment to 'anchor' their economies to the EU.

On the face of it, the ACP could also claim to have obtained some concessions: all of them will keep non-reciprocal preferences for another 8 years (instead of the 5 originally proposed by the EU). The subsequent gradual introduction of reciprocity would allow them to protect their most sensitive sectors until the end of the next decade (around 2020). Moreover, the compromise on commodity protocols - a major concern for some countries - is based on plans to continue, but also to "review", three of them: sugar, beef and veal, and bananas (but not rum, which is phased out). Finally, the wording on the post-2008 trade arrangements for non-LDCs leaves options other than FTAs open, although these are still undefined (Article 37.6; see Box 4). In reality however, the only substantial gain lies in the three "additional" years of transition, and the ACP obviously gave in to most of the EU's proposals. The benefits of the protocols eventually suffered a blow following the adoption of DG Trade's "Everything But Arms" initiative by the Council in 2001; Article 37.6 is explicitly dismissed by EC officials as being mostly of a "cosmetic" nature; and finally the inability of the EU to get a waiver from the WTO (its demand has been pending since May 2000) does not even provide any certainty over the short term future of the EU trade regime towards non LDCs.

Box 4: Post-Lomé: EPAs or nothing?

Are non-LDCs that do not wish to sign an EPA condemned to enter the GSP? The question is crucial. At the insistence of ACP countries, the Cotonou Agreement foresees the possibility of "alternatives" permitting them to retain an equivalent access to the present regime (Article 37.6 - see below). The Commission is however extremely reluctant to pursue alternative trade agreements (other than the EPA) and the article stipulates that it is the "Community" which will "study" these alternatives. It does not thus explicitly foresee a negotiation and it can be interpreted as leaving full discretion to the Commission to accept or refuse this option. Moreover, on a technical level, it is difficult to imagine an alternative that would be compatible with WTO rules, apart from a non-reciprocal system extended to all developing countries, such as an improved GSP.

Cotonou - Article 37.6

"In 2004, the Community will assess the situation of the non-LDC which, after consultations with the Community decide that they are not in a position to enter into economic partnership agreements and will examine all alternative possibilities, in order to provide these countries with a new framework for trade which is equivalent to their existing situation and in conformity with WTO rules."

Overall, the signing of the Cotonou agreement does signal a significant shift in the way ACP countries are treated commercially by the EU, but it falls short of pointing in a clear direction. On the one hand, it may be interpreted as a step towards a form of "normalisation" of the EU policies vis-à-vis developing countries, as it introduces criteria for differentiation (LDCs vs.

non-LDCs) no longer rooted in purely “historical” preferences for economically small ex-colonies, and proposes a regime (FTAs) similar to those already used for once “less preferred” trade partners, such as Mexico, South Africa, Central and Eastern Europe, or Mediterranean countries. One consequence is that the ACP no longer appear as the EU’s “preferred” partners – at least trade-wise.

On the other hand, the EPA project, with all its provisions for a continued “special” treatment for the ACP, and the revival of the “Eurafrican trade area” concept, cannot fail to be seen as a (desperate?) move by parts of the European administration to hang on as much as possible to patterns of the past. What eventually happens, *when/if actual trade negotiations take place*, will determine which of these two directions is taken. As this paper is written, uncertainty still prevails: the WTO waiver has still not been granted; the ACP refused the EC proposal to start early negotiations with those of the ACP countries that would be “ready”, (leaving negotiations with the others for later); and some EU member states have informally asked for delaying the starting of EPA negotiations (planned 2002). By any token, an immediate result of the post-Lomé negotiations has been the adoption of increasingly divergent views within the ACP group as to what the future of their trade relations with the EU might be.

4. Taking stock: the nature of ACP-EU trade negotiations

The above outcome can be explained by some particular features of the nature of ACP-EU negotiations. Some “structural” features are common to the successive Lomé agreements and the Cotonou Agreement; others are new in nature.

4.1 Common features to Lomé and Post-Lomé negotiations

- Trivial as it may sound, in ACP-EU negotiations, the EU is massively dominating its partners.
- Relatedly, agreements are largely the result of Europe’s own propositions. Hewitt (1980) underlines that Lomé was rooted in the Treaty of Rome (Part IV), through which 18 African territories “lacking sovereignty, *were associated* by a decision taken by Europe” and later “inherited a formal relationship with the EEC which as independent states they merely endorsed during the 60s – the first and second Yaoundé conventions were the result.”
- That “negotiations” on the trade section of ACP-EU agreements may be seen as a mere ratification of EU proposals by the ACP is reinforced by the fact that trade policies in ACP countries – especially African countries – have traditionally been a neglected aspect of their economic policies (OECD, 2000a and b). The attention of most ACP states has therefore focused on the financial aid section. Decisions on trade, or rather acceptance of trade provisions, were therefore subordinated to the overall objective of securing sustained financial support. This was evidenced by the fact that trade ministries and trade promotion institutions played a very minor role in the negotiations as well as in the implementation of ACP-EU agreements (the National Authorising Officer is typically the Finance Minister).
- Finally, the negotiation setting itself induces unfortunate biases. A clear example was given by the studies jointly produced by the ACP Secretariat and the European Commission in the course of the negotiations. These papers very clearly rejected both the status quo and the “GSP” options, and explicitly bowed to the ideas contained in the negotiating mandate of the EU (Tekere, 2000). This again is an outcome of the dominant position of the donor, which lends financial support to the ACP Secretariat in Brussels.

4.2 Cotonou and beyond

Despite the fact that the above factors still prevailed in the run up to a Post-Lomé agreement, the signing of Cotonou reflects a fundamental change in the nature of these negotiations. It was established in 2000 that after the overall agreement had been signed for a period of 20 years, separate *trade negotiations* would take place from 2002, whereas preferences had been *granted* in the past. This is indeed a first in the history of ACP-EU relations. However, the foreseen “negotiations” are arguably of a very special nature. We first look at the specifics of the negotiations setting, and then draw conclusion as to its changing features.

How to negotiate? Difficult choices for ACP

One year before negotiations are due to start, and as the EC presses the ACP to define their positions and their mandates quickly, what should they do, and based on what criteria? The answer cannot be a simple one, first because options are numerous and vague (what will be the content of EPAs? Which GSP after 2004? What are the possibilities for “alternative” trade arrangements?), the legal framework is very unclear (Article XXIV gives little indication; see Solignac Lecomte, 1999), and the context is constantly evolving (WTO, CAP reform, etc.). Also each ACP country is confronted by different options. Finally, and most importantly, every one of them may prefer one option or the other depending on its own strategic choices for development, economic and trade policies.

Negotiate alone, or with several others?

ACP countries can negotiate Economic Partnership Agreements (EPAs) collectively in regional groups, such as UEMOA, CARICOM, or SADC. While this is the EU’s preferred option, they can also negotiate individually. To negotiate an EPA as a regional group would involve an agreement – and thus a prior negotiation – between member countries on a common negotiating mandate, and probably the delegation to a supranational entity of powers to negotiate with the European Commission. Some of the non-LDCs could distrust such a mechanism and may feel that they would be better able to defend their interests on their own. It remains to be seen whether the EC will want to negotiate a series of ‘individual’ EPAs, and whether it has the capacity to do so.

Negotiate collectively but with whom?

Many ACP countries (most of them in Africa) simultaneously belong to several regions, but will only be able to negotiate a regional EPA - if they so wish - within the framework of a single region. For instance, all countries belonging to UEMOA are also members of ECOWAS. Several countries are members of both SADC and COMESA. There are many such examples. A choice must be made, and some options excluded.

Negotiate...or not?

For LDCs such as Mali, Haiti or Zambia, the existing preferences can be extended. They must therefore decide whether to negotiate the opening of their borders to European products, or instead not to negotiate at all, retaining the advantage of present preferences. From a purely mercantile point of view, since reciprocity does not offer any real prospect of gaining access to the EU market, they will have few incentives to join the negotiations of an EPA. Non-LDCs, such as Zimbabwe, could also choose not to negotiate, if for example the revision of the EU's GSP provided them with similar benefits to those offered by the Lomé/Cotonou Agreement. However, the content of the revised GSP will only be known two years after the expected start of ACP-EU trade negotiations. It is therefore likely that several non-LDCs will join negotiations on EPAs, so as not to be ‘downgraded’ into the present GSP. Since all ACP regions contain LDCs and non-LDCs, to obtain a consensus between member countries on a regional negotiating strategy could be tricky.

New features of ACP-EU negotiations ... or more of the same?

Overall, although Cotonou may seem to mean that modern, negotiated, reciprocal arrangements will substitute to old acquired preferences, it may be argued that little is actually set to change:

- The ACP countries which will negotiate will not do so to obtain concessions, but rather to not lose what they already have (market access), or not to risk eventual sanctions affecting the level of financial aid.
- They will negotiate within the very tight limits imposed by the WTO (Article XXIV, which regulates the nature of eventual EPAs) and by the Cotonou agreement itself (which limits the ACP's negotiating options).
- Many uncertain factors over which ACP countries do not always have control will determine the interest of negotiating, or not, with the EU, and in what way, including the CAP reform and the possible GSP reform. This is all the more likely when we recall that the ACP will also be conducting other trade negotiations at the level of their own regions, and in the WTO.

4.3 Implications for the ACP

The trade arrangements in the successive ACP-EU agreements – from the Treaty of Rome to Lomé and to a large extent Cotonou – can be viewed as the results of evolving EU political and economic objectives, where the ACP have had little margin of manoeuvre to influence the outcome. In 2000, the ACP actually accepted the reciprocity principle in Cotonou with reticence. Indeed, this move was driven by pragmatism, rather than by a firm belief in the gains to be expected from EPAs. Most ACP countries accepted reciprocity either:

- because they gave priority to their political links with the EU and its member states, over their own sovereignty in trade policy matters;
- or because they feared that the refusal of economic partnership proposed by EU would imply indirect sanctions (less aid);
- or in the hope of facilitating the preservation of other privileges (such as benefits of the product protocols), a particularly profitable calculation for countries with do little trade with Europe (Caribbean, Pacific).

The current consensus of the ACP group at Cotonou on 'fatalistic pragmatism' may evolve in the coming months towards a more active attitude, but radical changes seem unlikely at this point. One probable evolution, though, is the continued gradual fragmentation of the ACP group, with different, and possibly diverging, national and regional positions undermining the solidarity achieved in 1975. The announced dismantling of the all-ACP trade regime partly questions the ACP group's *raison d'être*, as its trade pillar is set to go. The last chapter depicts a possible outcome of ACP-EU trade negotiations, based on the double assumption that (i) ACP-EU trade negotiations will actually take place, and (ii) "traditional" motivations among the ACP still prevail.

4.4 ACP countries in world trade: different fortunes ... or different strategies?

While all ACP countries have been offered roughly similar trade treatment under Lomé and Cotonou,²⁷ and while they have been acting through a common negotiating structure, some have arguably gained more than others. Mauritius, a small island economy very dependent on foreign trade, is a classic case, which secured for itself about a third of all revenues derived by the ACP from the sugar protocol (see Page et al., 1999), and actively took advantage of the MFA-exemption built into Lomé preferences. It is striking that it could not have maintained such benefits for several decades – in their original form they predated Lomé, and are set to survive it by almost 10 years – if it had negotiated a trade agreement on its own with the EC. The same applies, although to a lesser extent, to other “latecomers” in the EC association agreements (who joined post-Yaoundé), i.e. Anglophone small countries and islands in the Caribbean. These are the ACP countries which benefited the most from a trade regime which did not stem from actual *trade* negotiations, but from a broader kind of negotiations, where international politics played a greater role. Also striking is the fact that these countries, which have successfully used the ACP-EU setting, have been active in other negotiating fora, e.g. in the WTO, where they have been advocating special treatment for “small” or “vulnerable” economies (vs. “history” – or just inertia – in Lomé). Occasionally, Lomé/Cotonou also helped relatively better-off ACP Caribbean countries defend the benefits they derive from the banana protocol, in the WTO. By contrast, other ACP countries in Africa have adopted a more exclusive approach, relying on their (older) relationship with Europe to shelter them from the colder winds of multilateralism, and putting more emphasis and resources on their presence in “Brussels” (Lomé) than in “Geneva” (GATT/WTO).²⁸ Remarkably, upon the signing of Cotonou, beneficiaries of the sugar and bananas protocols – essentially Mauritius and the Caribbean – obtained the renewal of most of the related benefits (even if for a limited time), while the – mostly African – beneficiaries of Stabex and Sysmin could not prevent them from being discontinued.

²⁷ Similar, but not identical, as not all ACP countries benefited from the commodity protocols (see Annex 2).

²⁸ Indeed, several have established representations in the former but not in the latter.

5. Trade options for the ACP beyond Cotonou: an tentative prospective

With the aim only of clarifying the determinants of ACP choices in the forthcoming negotiations, we propose here a theoretical exercise. Let us assume that future ACP-EU trade negotiations are to be conducted in isolation from other negotiations to which most of them are already party (regions) or in which they are already committed to participate (WTO). Let us focus on what the "optimal" choice for each ACP country would be, should it adopt a purely "mercantile" approach to negotiating. We are focussing here on the most precise elements in the Cotonou agreement: that ACP countries should dismantle their tariff barriers for products imported from the EU. We are considering as an illustration two ACO countries: Burkina Faso (a LDC) and Gabon (a non-LDC).

5.1 A mercantile model of decision making

A first series of technical criteria is the eligibility of each country for a given option, based on the characteristics spelt out in the Cotonou agreement. The first one is an objective one:

- The level of development: LDC or non-LDC?

The other one is slightly more vague, as it is the ACP countries who have to decide upon which regional group should eventually lead the negotiation on their behalf:

- Regional integration schemes: does the country belong to a relatively "solid" regional trade area, either in the form of a free trade agreement or a customs union? (Effective free circulation of goods, common strategy for negotiation with third parties, institutions endowed with sufficient capacity and financial resources, ...).

Based on the above criteria, and assuming that no LDC would want to go for a free trade agreement with the EU on its own, ACP countries face a theoretical choice between the following options:

	Effective regional trade area	No effective regional trade area
LDC	NRP Or EPA	NRP
Non LDC	EPA Or GSP Or else	Individual EPA Or GSP Or else

NRP: non reciprocal preferences

"Else": "alternative" to de defined (Article 37.6 of the Cotonou agreement).

Let us consider the case of two ACP countries, Burkina Faso and Gabon. Burkina Faso is an LDC and it belongs to both an "effective" region (WAEMU, a customs union since January 1, 2000) and another one that could be considered ineffective at the time of writing this paper (ECOWAS). It can either opt for keeping non reciprocal preferences, or for an EPA between the EU and WAEMU. Other LDCs, such as Ethiopia or Mauritania, are in a different case, as they do not belong to any regional grouping with a trade objective (Mauritania left ECOWAS

in December 1999). Gabon, because of its oil revenues, is not an LDC, and it belongs to an ineffective trade region, CEMAC. Its options are thus either (i) to try and negotiate an EPA on its own, or (ii) opt for the GSP, or (iii) try and obtain an “alternative” trade regime from the EU. Its case is different from those of other non-LDCs such as Côte d’Ivoire or Botswana, which belong to relatively well established groupings (WAEMU and SACU respectively), for which a regional EPA may seem more realistic.

It is up to each of these countries to go for either of the available options, based on their perceptions of the risks and opportunities associated with each of them. Let us first look at the *commercial* risks and opportunities:

- Trade-related risk: would reciprocity have, a priori, negative or positive effects? This is of course a key question. It is also a complex and controversial one (see above). Several impact studies have already been conducted on this issue (McQueen, 1999) and more should come in the next months. In particular, long term costs and benefits –such as impact on investment – are very difficult to assess. We will stick here to a purely short term, mercantile point of view (maximise market access for exported products, minimise import penetration) and assume that neither of these two countries radically changes its traditional line in terms of trade policy.

For Burkina Faso, in trade terms, costs associated with EPAs exceed the potential benefits as (i) it has nothing to lose because it will keep its preferential access to the EU market through the EU’s “everything but arms” and (ii) it has nothing to gain in “negotiating” an EPA with the EU, whereby it would have to open its own market with very little hope of getting any significant concession from the EU in return.

For Gabon, given the current structure of its foreign trade (with exports heavily concentrated in oil and timber), losing Lomé/Cotonou and being “graduated” into the European GSP would not entail any significant reduction in its level of actual market access to the EU. (This is by contrast with other non-LDCs that export temperate agricultural products, either processed or not, such as Kenya or Zimbabwe). On the contrary, opening to European products would probably have a negative impact, less so because of the de-protection of local industries –which are very few in the first place – than due to the expected drop in customs revenues, which could be substantial (as the impact study has shown, see McQueen, *idem*). The optimal choice for Gabon, based on these criteria, would thus be not to open its market to the EU and to stick to GSP.

Nevertheless, other aspects –meaning other than trade-related—could tip the balance in favour of other choices:

- Risks other than trade-related: would rejecting the EU EPA proposal entail costs or sanctions, or conversely would accepting them allow the country to gain or maintain some benefits?

Burkina Faso could prefer an ACP-UEMOA EPA for non-trade reasons: either because it would rather go for a solution agreed regionally, within WAEMU (maybe under pressure from Côte d’Ivoire or from the WAEMU Commission), or to preserve good relation with its main donors – France and the EC, both strong supporters of EPAs and major sponsors of the regional integration process within WAEMU. In that respect, it finds itself in a different situation from that, say, of Malawi or Tanzania, both members of a region – SADC – less

advanced than WAEMU in terms of economic integration or dialogue on economic policy co-ordination, and which have more distant political relations with the former colonial power (Great Britain).

For similar reasons (to keep aid flows), Gabon could be tempted to opt for reciprocity rather than GSP –and seek European assistance to make up for the drop in customs revenues—or it could explore possible “alternatives”. Other non-LDCs such as Zimbabwe and Kenya, because of their higher level of industrial development, would face even dearer consequences of opening up in the framework of an EPA, and would thus be certainly all the more keen to consider such “alternatives”. As for Gabon, opting for an EPA would only be possible if the EU would itself consider it an actual option. However, the EU has limited capacity to negotiate and then police such bilateral agreements. It is therefore very likely that it would limit the possibility of “individual” EPAs to a small number of countries of particular political or economic importance (such as, possibly, Nigeria). It is not certain that Gabon – or Cameroon, or Congo, also non-LDCs in CEMAC – would be considered as one of them.

Table 2 sums up the above approach. It shows that, even though we have attempted to simplify extremely the decision process, it is very difficult to foresee an “optimal” choice for each of these two countries. Depending on whether mercantile arguments take over political or financial (aid) considerations, or the reverse, Burkina Faso could choose either non reciprocal preferences or an EPA, while Gabon could be tempted to go for the GSP or an “alternative”.

Table 2: Possible choices for Burkina and Gabon

	Burkina Faso	Gabon
Technical criteria		
A. Level of development	LDC	Non LDC
B. Effective regional trade group	WAEMU	-
Perceived costs and benefits of EPAs (short term)		
C. Trade-related cost/benefit	-	-
D. Non trade cost/benefit	+	+
Choice	If $C > D$: NRPs If $C < D$: EPA	If $C < D$: GSP If $C < D$: “alternative”

By extending this “mechanistic” analysis to all ACP countries, we get a possible picture of future ACP-EU trade regimes, with the following characteristic:

- Four regional EPAs would be negotiated with regional groupings that are likely to be the most willing and able to do so (Caribbean, Pacific, WAEMU, SACU);²⁹
- Most LDCs keep non reciprocal preferences (current or improved);
- Nine African non-LDCs have to choose between an individual EPA (subject to EU’s willingness), the GSP (which may be improved in 2004, but may not) or a possible “alternative” based on Article 37.6 of the Cotonou agreement.

Table 3 highlights the main characteristics of this scenario, with some comments. Map 1 helps us visualise what it would entail for Sub Saharan Africa.

²⁹ An alternative scenario would have COMESA negotiate an EPA with the EU: Egypt is currently preparing a free trade agreement with the EU, and several member countries may wish to keep the benefits of commodity protocols.

Table 3: A scenario for ACP-EU trade relations after Cotonou

Country	Scenario
Caribbean ACP	EPA with CARICOM (except Haiti) + Dominican republic <ul style="list-style-type: none"> ▪ Caribbean ACP countries do not trade much in volume with the EU, and they are getting ready to opening up their economies anyway by signing the FTAA; ▪ Their immediate concern is to maintain commodity protocols and EU aid, as well as gain concessions in services ▪ Haiti, currently exempted from the CARICOM FTA obligations, could ask for a transitory regime.
Pacific ACP	EPA with an ad hoc region <ul style="list-style-type: none"> ▪ Pacific ACP countries hardly trade with the EU; ▪ The main issues are maintaining the sugar protocol for Fiji and EU aid in general; ▪ ACP countries have taken steps to form a region with which the EU can sign an EPA.
WAEMU	Regional EPA <ul style="list-style-type: none"> ▪ With a common currency, a harmonised business legal framework (OHADA), a trade union, a Commission with relatively important capacity, it represents a “credible” economic area, although trade-wise it has just started to become one; ▪ WAEMU is a test case for the EC and France, which have been providing substantial financial and political support; pressure to sign an EPA is high.
SACU	Regional EPA <ul style="list-style-type: none"> ▪ An almost century-old customs union, with a common currency, SACU is the only economic regional grouping in Africa that is actually functioning; ▪ Since South Africa has signed an FTA with the EU in 1999, all SACU members are de facto members of a virtual EPA with the EU. An EPA between EU and SACU would be easy to formalise. This implies that the BLNS formally accept the terms of the existing EU-SA trade agreement.
Ghana, Cameroon, Gabon, Zimbabwe, Seychelles	Non LDCs other than in WAEMU and SACU belong to regional groupings that are either more unstable (SADC, COMESA, EAC) or do not have the critical mass to sign an EPA (IOC). They can: <ul style="list-style-type: none"> ▪ Either try to keep an access equivalent to that of Lomé/Cotonou without reciprocity; ▪ Or go for individual EPAs (e.g. to keep commodity protocols’ benefits); ▪ Or benefit from the EU’s GSP(which may be improved in 2004, or stay more or less as it is).
Angola, Burundi, Cape Verde, Central African Rep., Chad, Comoros, DR Congo, Djibouti, Eritrea, Ethiopia, Gambia, Guinea, Equatorial Guinea, Madagascar, Malawi, Mauritania, Mozambique, Uganda, Rwanda, Sao Tome & Principe, Sierra Leone, Somalia, Sudan, Tanzania, Zambia, Haiti	African LDCs (except in WAEMU and SACU), as well as Haiti, keep non reciprocal preferences under “Everything but arms”.

5.2 The limits of the “mercantile” approach

The above vision of negotiations is obviously both simplistic and unsatisfactory, for at least three reasons:

1. It is a euro-centric and mechanistic vision of negotiations

This is a top-down model, which takes as a starting point the Cotonou agreement – that largely reflects the EU’s vision spelt out in its negotiating mandate – and ends up shaping a set of strategic choices for ACP’s trade policies. Also we have deliberately restricted trade policy motives to a very short term and mercantile vision.

In reality, it is of course of crucial importance that the reverse approach be adopted: development and poverty alleviation objectives come first. Each country should first define its development strategy, which entails a certain economic policy, and then a certain trade policy. Trade agreements are a sub-set of the latter. Among them, most ACP countries are engaged in multilateral trade negotiations (WTO) which cover and determine all other negotiations, including with potential regional partner countries, other OECD countries, etc.

Moreover, the ACP interests in trade negotiations with the EU or other partners can go beyond a purely mercantile vision. Bilateral free trade agreements can be, not an end in themselves, but an element of opening to a wider array of trade partners, or even multilaterally to all WTO members, in exchange for real market access concessions.

Finally, ACP regional integration strategies cannot be determined by the post-Lomé agenda. The above model, as in a Lego game, tends to shape regions according to potential EPAs. This is obvious in the case of the Pacific, where an ad hoc region may be set up for the sake of signing an EPA. In other parts of the ACP, where regional groupings overlap, the “qualification for negotiating an EPA” (in the words of the EC itself³⁰) would almost inevitably be interpreted as the EC delivering some “certificate of viability” to one against the other. For instance, in Western Africa, opting for an EU-WAEMU EPA would be perceived as a blow to other ECOWAS members, and feed existing tensions among ECOWAS members.

2. It pre-determines negotiation options

The model assumes that negotiations will be mostly about tariffs and goods, and foresees a limited number of options, putting limits to possible changes in the GSP and “alternatives” foreseen in the Cotonou agreement.

However, the ACP could hope to go beyond the provisions of the Cotonou Agreement – which is rather vague and generally not very innovative on trade issues – and strengthen co-operation with the EU in new domains where this can be useful at a “sub-multilateral” level. Examples are co-operation in the area of services, criteria to protect intellectual property on plants, codes of conduct on anti-dumping, and safeguard measures etc. This would require that the ACP countries, as soon as possible, identify their long-term trade interests and

³⁰ See EC, 2001, Orientations on the Qualification of ACP Regions for the Negotiation of Economic Partnership Agreements, mimeo, Brussels.

develop suitable negotiating strategies. Certain countries such as in the Caribbean region seem to be taking this route.

The EU could wish to make its trade policies towards developing countries more coherent and harmonise its various trade regimes (especially Cotonou and its GSP, see Stevens, 2000). EPAs and “alternatives” proposed in Cotonou could ultimately fit into a global EU trade policy for developing countries, compatible with the multilateral trade system.

3. It is a rigid vision, which cannot take account of external factors, or the constant evolution of negotiating positions

The exercise above deliberately ignores some sources of uncertainty that are sometimes beyond the grasp of ACP and EU negotiators. Many factors, unknown yet, will determine the usefulness for the ACP of negotiating with the EU, what they will eventually want to negotiate, and how. This is all the more true in the context of other ongoing negotiations within their own regions and in the WTO.

As early as now, the issue of WTO compatibility and possible disputes in the WTO must be taken into account. This creates a double uncertainty. First, in the short term, it is not certain that the EU will obtain from WTO members a waiver to maintain the preferential regime until 2008. Certain Latin American countries remain opposed to this as a way to exert pressure on Europe to modify its banana regime. In the longer term, if the EU obtained this derogation, the agreements themselves could be denounced.

The adoption of EBA has already modified the gains and benefits which the Cotonou partners can expect from their trade negotiations, by virtually starting the phasing out of commodity protocol benefits. Around 2008, when the new trade agreements are to be put in place, the results of future multilateral round(s) of trade negotiation, and the CAP reform, may have considerably altered the environment in which they should be established, including the multilateral rules about bilateral agreements. Similarly, other bilateral trade agreements between ACP countries and their non European partners will have their own impact (FTAA, AGOA, etc.).

In brief, future choices by the ACP can not be « mechanically » determined, as in a *Lego* game where parts fall in places according to the vision of one single player. For them, as for the EU, or for any other country participating in a trade negotiation, what matters is to:

- Identify their own trade interests, at the national and regional level, within strategies for sustainable development,
- Then decide upon negotiating strategies in the various fora (regions, WTO, post-Lomé, etc.),
- And defend these interests by forging alliances at the most adequate level (ACP, LDCs, developing countries, small islands, etc.).

All depends on the ACP countries' own visions for their development, on their preferences and the way they evolve, and on the degree of consensus achieved at the national and regional levels to back such and such strategies. The 'post-Cotonou' trade agenda is one of the elements that push ACP countries to adopt an active stance to master their integration into a world economy where some barriers disappear while new rules emerge.

5.3 Beyond trade negotiations, making the most of the Cotonou “partnership”

That there should be a partnership agreement between the ACP and the EU is a very positive development, given that the ACP will need all the help they can get to prepare for a “more liberal world.”³¹ Whatever trade regimes are eventually put in place between the two parties, financial and technical assistance has a key role to play to enhance the competitiveness of ACP exporters (strengthening of professional organisations, finance, support to public/private dialogue, etc.); strengthen their capacity to comply with norms and standards on EU markets; support budgetary and fiscal adjustments made necessary by trade liberalisation; strengthen co-operation in new areas where it can be useful at a “sub-multilateral” level; etc.

In face of remaining uncertainties related to EPAs, the ACP together with the EU should attempt to stress with more vigour, and more importantly with greater precision, the objective of sustainable development – among the many objectives that have presided over the conception of EPAs – while preserving the sovereignty of all partners in terms of their economic and trade policies. This entails that concrete and credible alternatives should be envisaged that can allow ACP non-LDCs to keep their current market access level beyond 2008. Improving the GSP, by refining differentiation criteria, could well be the way of achieving this, and it would benefit other developing countries too.

Besides, the EC should explicitly place the ACP-EU economic partnership within the multilateral framework. Together with other WTO members, it could collaborate actively with multilateral agencies (ITC, UNCTAD, WTO) so as to strengthen ACP capacity for trade policy and promotion, by contributing to domains where it has a comparative advantage (e.g. support to regional integration, public/private sector dialogue, ...). A clear and credible commitment to work within the multilateral framework would ensure that economic partnership would truly help the ACP integrate in the world economy.

Finally, the ACP may have succeeded in delaying any too radical change in the ACP-EU trade regime until 2008, and many uncertainties remain as to happens next. Cotonou is an agreement on principles, not a trade agreement. However, the ever changing priorities of the EU in terms of foreign policy (towards the East and the South of the Mediterranean) and trade policy (WTO), as well as ongoing institutional reforms of the EC, may eventually erode the support for EPAs. In preparing for negotiations that are due to start in 2002, the ACP ought to keep this in mind, ask the EU for a frank discussion of actual scenarios for the future, and most of all develop their own, *independent* capacity for analysis and negotiation. The ACP have to assess carefully the implications of the new agreement. More detailed impact studies, as well as intensive consultations at all levels in the ACP are still necessary for ACP countries and regions to decide upon their post-Lomé strategies. In that respect, the EU’s financial and technical support will be crucial to help the ACP strengthen their capacity and deepen their regional integration, so that all parties are well informed and well prepared when they sit at the table of negotiations on “post-Cotonou” trade agreements in 2002. It is therefore necessary that special attention be devoted to preventing this support to appear as biased.

³¹ Stevens, 2000.

5.4 Future European assistance to the ACP in the negotiations

Within the framework of the Cotonou Partnership Agreement, the setting up of a special facility has been foreseen to assist ACP countries in preparing for the trade negotiations. Besides, the EC and EU countries have already started to offer capacity building and technical assistance to ACP countries in the area of trade. However, this is quite risky, as trade capacity development is arguably not an aid sector like the others. As the development objectives of developed countries (as donors) overlap with their commercial interests (as trading powers), they may be prone to decide upon *what type of assistance* to provide according to their own interests rather than those of the recipient countries. Four types of biases have been observed:³²

- *Negative discrimination.* Donor countries may be reluctant to provide assistance in areas they perceive as hurting their own interests. (e.g. support capacity to handle anti-dumping measures taken by third countries, including donor countries).³³ In the various countries studied, no case of a donor project that directly promoted the recipient country's trade interests directly against that of the donor has been observed.
- *Positive discrimination.* Donors may be tempted to "positively discriminate" in favour of trade-related assistance which they see as generating benefits for their own economies/firms (e.g. the implementation by developing countries of their commitments under TRIPS). One of the most successful TCD projects in Senegal was the upgrading of fisheries production processes to safety and quality norms imposed by the EU. This may be interpreted as donors giving priority to projects that help accommodating the restrictions they are themselves imposing on accessing their market.³⁴
- *Tied aid.* "Classical" aid-tying issues arise in the case of activities aimed at promoting trade and investment links with the donor country, and presented as development projects, e.g. schemes promoting 'North-South' firms' partnerships, with a requirement for a certain amount of equipment to be purchased from a supplier of the donor country. They can also be observed in policy-focused projects with a high content of technical assistance from the donor country. ODA funds are still used by bilaterals for such activities under the assumption that "mutual interests" (of both parties) are pursued. Short term benefits may sometimes accrue to recipients (a firm benefiting from technology transfer) but evidence suggests that the overall impact on the economy remains very limited and most benefits are captured by the donor country through technical assistance (the 'contractors' – NGOs or consultants) and equipment supply (the French 'clause d'origine', or purchasing requirements in Dutch or German projects).
- *Buy-off.* Another, less direct, potential impediment to aid efficiency in trade capacity development, is that the support granted by donors to enhance the negotiating capacity of the recipient country may alter the negotiator's goals and incentives. For a given country, efficient negotiation capacity means the capacity to formulate and defend its own trade interests. Being supported in this by a donor country who is also

³² See Solignac Lecomte, *forthcoming*.

³³ "Political and commercial interests within OECD countries can potentially undermine the delivery of technical assistance for trade. [...] Awareness of this potential tension would seem helpful in assistance design." (Whalley, 1998)

³⁴ The case of agriculture exports from Maghreb countries (Morocco, Tunisia) to the EU is even more telling: the EU imposed quota restrictions on vegetable imports from these countries during the season where European producers grow them, while using part of its financial aid and technical assistance to build green houses for counter-season production. See Fontagné and Périody (1997).

sitting at the table of negotiations (for instance in the WTO) is a contradiction in itself.

- *Training*. The promotion by EU members of the "multi-functionality" concept --a catch-all phrase used to gather support against proponents of agricultural trade liberalisation-- in the seminars given to the recipients of its aid, illustrates how blurry the border can be between assistance and propaganda.
- *Technical assistance* to administrations in charge of trade policies is arguably necessary where capacity is weak or absent, but direct support to or involvement in drafting negotiating positions contradicts the basic principle that trade policies should be owned by the country, and defined in coherence with its overall development strategy.³⁵
- *Financial support* to the ACP Secretariat in Geneva by the EC may arguably shift the accountability of the former away from ACP countries towards the EC. Here again, the argument of mutual interests in the WTO between the EU members (soon to be more and more diverse as the Union expands) and the 77 ACP countries (which already represent very diverse interests in many trade areas) seems, at best, extremely weak.

By contrast, though, cases were observed where donors' assistance clearly seemed to strengthen the capacity of the recipient country to take independent views on trade issues.³⁶ Also the material provided by the French co-operation in Senegal to prepare the Seattle meeting was put together by independent researchers and did not reflect France's positions or interests. Finally, in the run up to the ACP-EU negotiations, research commissioned by the EU to independent institutions, has been deemed useful by the ACP, due to their demand-led and neutral nature.³⁷ While some bias in TCD may be unavoidable, there may be scope for reducing, or at least monitoring it.³⁸ For instance, in DfID programmes, the material produced to support negotiating strategies remains confidential to the recipient government. Similar provisions remain to be defined on technical assistance content, or on rules for the use of ODA funds in TCD projects.

At the end of the day, consensus needs to be built among donors on the purpose of granting assistance to developing countries in the area of trade. There can be only one ultimate objective: *empower* developing countries in the various trade fora, and help their products penetrate EU and other world markets. It is in the interest of donors to have informed trade partners to negotiate with, just as it is in their interest that developing countries trade more.

³⁵ Such a case was observed in Namibia. See Bird, Solignac Lecomte and Wilson (2001).

³⁶ The report (mentioned earlier) on the implications of the setting up of a common external tariff among UEMOA members on Ghana --which was very critical of the UEMOA initiative-- was commissioned by the EC, who is the strongest supporter of the UEMOA regional integration process. See OECD (2000a).

³⁷ Tekere, M., "Helping the ACP Integrate into the World Economy: Setting the agenda for practical research and support", in Gonzales, Page and Tekere, *forthcoming*.

³⁸ Although, as a general rule, multilateral agencies may be less suspect than bilaterals of buying out support from poor countries while supporting their capacity to trade, evidence is rather more contrasted.

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Annex 1:Chronology of ACP membership in ACP-EU agreements¹

Agreement	New signatories ²
Yaoundé I (1963)	Benin - Burkina Faso – Burundi - Cameroon - Central African Republic - Chad – Congo (Brazzaville) - Congo (Kinshasa) - Côte d'Ivoire - Gabon – Madagascar - Mali - Mauritania - Niger - Rwanda – Senegal - Somalia – Togo
Yaoundé II (1969)	Kenya - Tanzania – Uganda
Lomé I (1975)	The Bahamas – Barbados - Botswana - Ethiopia - Fiji - Gambia – Ghana - Grenada – Guinea - Guinea-Bissau - Guyana - Jamaica – Lesotho - Liberia – Malawi - Mauritius - Nigeria - Samoa – Sierra Leone - Sudan – Swaziland - Tonga - Trinidad and Tobago – Zambia
<i>July 1975 - Creation of the ACP group (Georgetown agreement)</i>	
Lomé II (1979)	Cape Verde – Comoros - Djibouti - Dominica - Kiribati - Papua New Guinea - Saint Lucia - Sao Tome and Principe - Seychelles – Solomon Islands - Suriname – Tuvalu
Lomé III (1984)	Antigua and Barbuda - Belize - Dominican republic - Saint Kitts and Nevis - Saint Vincent and the Grenadines - Vanuatu – Zimbabwe
Lomé IV (1990)	Angola - Equatorial Guinea - Haiti
Lomé IV revised (1995)	Eritrea – Mozambique - Namibia
Cotonou (2000)	Cook Islands – Marshall Islands - Federated States of Micronesia - Nauru - Niue - Palau - South Africa

Notes: 1. Since 1963, no ACP country has terminated its participation in ACP-EU agreements, nor left the ACP group.

2 Only contemporary country names have been used in this table.

Source: Based on the EU's DG Development web site.(http://europa.eu.int/comm/development/cotonou/maps_en.htm)

Annex 2: Non-reciprocal trade preferences granted by the EU to the ACP (1975-2008?)

Tariff and non-tariff preferences are not reciprocal. This means that ACP countries are not obliged to offer special access to EU products in their own markets, and are able to restrict their entry by taxing them.

Manufactured and processed products from ACP countries are exempted from customs duties, as well as from certain restrictions (non-tariff barriers) on their entry into the single European market. To benefit from these preferences, ACP countries must conform to rules of origin, which set out the degree of processing required within ACP countries: “Non originating” raw materials cannot represent more than 15% of the ex-works price of the finished product. Moreover, simple assembly in an ACP country of components from non-ACP countries is not sufficient to constitute a product of ACP origin. The objective of these rules is to ensure that imported products from ACP beneficiary countries really originate from them, and not from a non-beneficiary country which would in thus illegally benefit from ACP preferences. The rules of origin authorise ACP countries to ‘cumulate’ the value added in other ACP countries, in the EU and in certain non-ACP neighbouring countries in the calculation of the originating component (which must be equivalent to at least 85% of the total value of the product). The Cotonou Agreement also allows a limited degree of cumulation with South Africa.

Preferences for *agricultural products* are less generous, since they are sometimes limited (by quotas, ‘ceilings’, seasonal restrictions for fruit and vegetables, and simple exclusion of a limited number of products). There are two types:

- Tropical products which do not compete with European products (coffee, cocoa etc.) enter duty free. Several ACP countries have successfully developed exports of non-traditional products (cut flowers, tropical plants etc.) which benefit from a sizeable preferential margin. In most cases however, this margin is very narrow due to the very low or non-existent customs duties under the Most Favoured Nation regime (MFN, the non-preferential rates applied to imports from WTO members).
- Temperate products are exempted from certain restrictions applied as part of the EU’s Common Agricultural Policy (CAP), consisting of high import duties, levies, quotas and subsidies. These exemptions affect about one-quarter of agricultural imports and take the form of exemption or reduction of customs duties. ACP exporters thus have an advantage over other exporters to the EU, but remain at a disadvantage in relation to EU domestic producers.

The share of agricultural exports that do not benefit from any preference is minimal. Nevertheless, these preferences are far less generous than those granted to non agricultural products, as they are limited by:

- contingents applied to duty free imports of ACP products into the EU;
- thresholds beyond which imports of certain commodities can be limited;
- seasonal restrictions based on horticultural calendars (for fruits and vegetables in particular);
- exclusion of certain products from any form of preference.

Four agricultural products were the subject of **protocols** annexed to the Lomé Convention. For certain 'selected and traditional suppliers' from the ACP countries. Only rum was not renewed under Cotonou. These protocols gave free access to specific quantities of bananas and rum, and limited the distorting effect of the CAP on ACP exports of sugar and beef and veal. They even extended certain CAP benefits to ACP producers (such as high prices based on prices paid to European producers). However, the benefits of these protocols have diminished due to the effect of several phenomena that go beyond EU-ACP negotiations:

- Rum: the 1996 US-EU agreement on spirits involved the de facto disappearance of the Rum protocol. The ACP producers, however, have received the assurance that they aid would be provided to support their efforts of strengthening their competitiveness;
- Bananas: further to attacks by non-ACP WTO members who considered the provisions on bananas to be discriminatory. Since a ruling of the WTO arbitration panel supported their views, the banana protocol is now being revised. The complex system of granting import licences could be transformed into a simple tariff preference, which probably would no longer suffice to protect ACP exports from the competition of Latin American products on the EU market;
- Beef/veal: the CAP reform has started to reduce intervention prices paid to beneficiaries of the beef and veal protocol. In addition, the agricultural negotiations in the WTO could erode the advantages of the protocols offer in terms of tariff reductions;
- The sugar protocol has been maintained, but the progressive lowering of the level of support to export prices is irreversible. Besides, recent initiatives such as that of the European Commission that aims to grant free access to all exports of LDCs (Everything But Arms) could put the current regime itself under threat.

Other trade-related provisions of the Lomé Convention offered financial and technical aid for the promotion of ACP-EU trade, as well as to strengthening production and export capacities of ACP countries. Under the Cotonou Agreement, certain of these instruments have disappeared. The STABEX facility (to stabilise the export earnings of certain raw materials) and SYSMIN (financing of the mining sector) have been merged into the European Development Fund (EDF). Others have been carried over and reformed, such as the Centre for Industrial Development (now the Centre for the Development of Enterprise). New financial instruments, finally, combine support of the private sector with trade promotion (EBAS, etc.).

Annex 3: Pooling resources for negotiations: The Caribbean Regional Negotiating Machinery (RNM)

Facing a continuously expanding agenda of trade negotiations, the member states of CARICOM decided to set up a body that could assist them in the negotiations and ensure coherence among the arrangements as well as with the internal integration process. RNM received the mandate from heads of government to adopt measures to enhance the co-ordination and execution of external negotiations in order to have a cohesive regional position for these varied talks. Services include research, advice, negotiations, training, communications and mobilisation of technical assistance.

The countries in the Caribbean are confronted with a complex range of negotiations at various levels, which have been interestingly classified and prioritised by Anthony Gonzales according to political, commercial and strategic interest. At international level WTO, ACP-EU, Caribbean Basin Initiative, CARIBCAN are considered the most vital at all levels. However the regional negotiations also have their importance and several potential agreements are looming. All these negotiations are very complex and include areas such as market access, intellectual property rights, standards and TBTs, investment, SPS, subsidies, procurement, competition, dispute settlement, rules of origin, services and more. The importance given to the different negotiations varies among member states according to the nature of their economy and the importance of external markets

Working: In principle RNM has the responsibility for international negotiations (FTAA, Lomé and WTO) while the CARICOM Secretariat (CS) negotiates the regional Caribbean agreements. The role of the RNM is to develop along with the technical advisory group a perspective on the agenda, initial draft, and the basic objectives to be sought by CARICOM. RNM also negotiates on the basis of briefs which have been approved by the CARICOM prime ministers and the ministers for trade. The Chief Negotiator reports back to these bodies. During the preparations of negotiations, there is a continuous process of consultation between national ministers and RNM in terms of strategies, positions papers, reports and briefs. A communication structure has been set up with private sector and civil society using regular briefing reports as well as specialised consultation meetings with sectoral interests.

Strengths: Cost effective; chance to pool expertise, national governments have perceived benefits in terms of the sharing of expertise, financial savings, access to data and documentation collection, reduction of workload and additional time for bilateral initiatives

Weaknesses: Ineffectiveness of co-ordination between RNM and CS; bureaucratic hassle; turf war; slowness of internal negotiations influence the strategy RNM can develop for the external negotiations; constitutional confusion as to whether the RNM is a subsidiary organ of CS or whether it takes precedence over existing organs; links with civil society and private sector are rather weak.

Structure: Four offices: in London, responsible for Brussels and Geneva (although full-time person now based in Geneva covering WTO); in Washington responsible for FTAA and link with international bodies, the office in Jamaica is responsible for research and advice and the Barbados office liaises with donor agencies and the CS. Currently there are 9 professional staff members which is supported by call-down experts and at times voluntarily by member state country specialists.

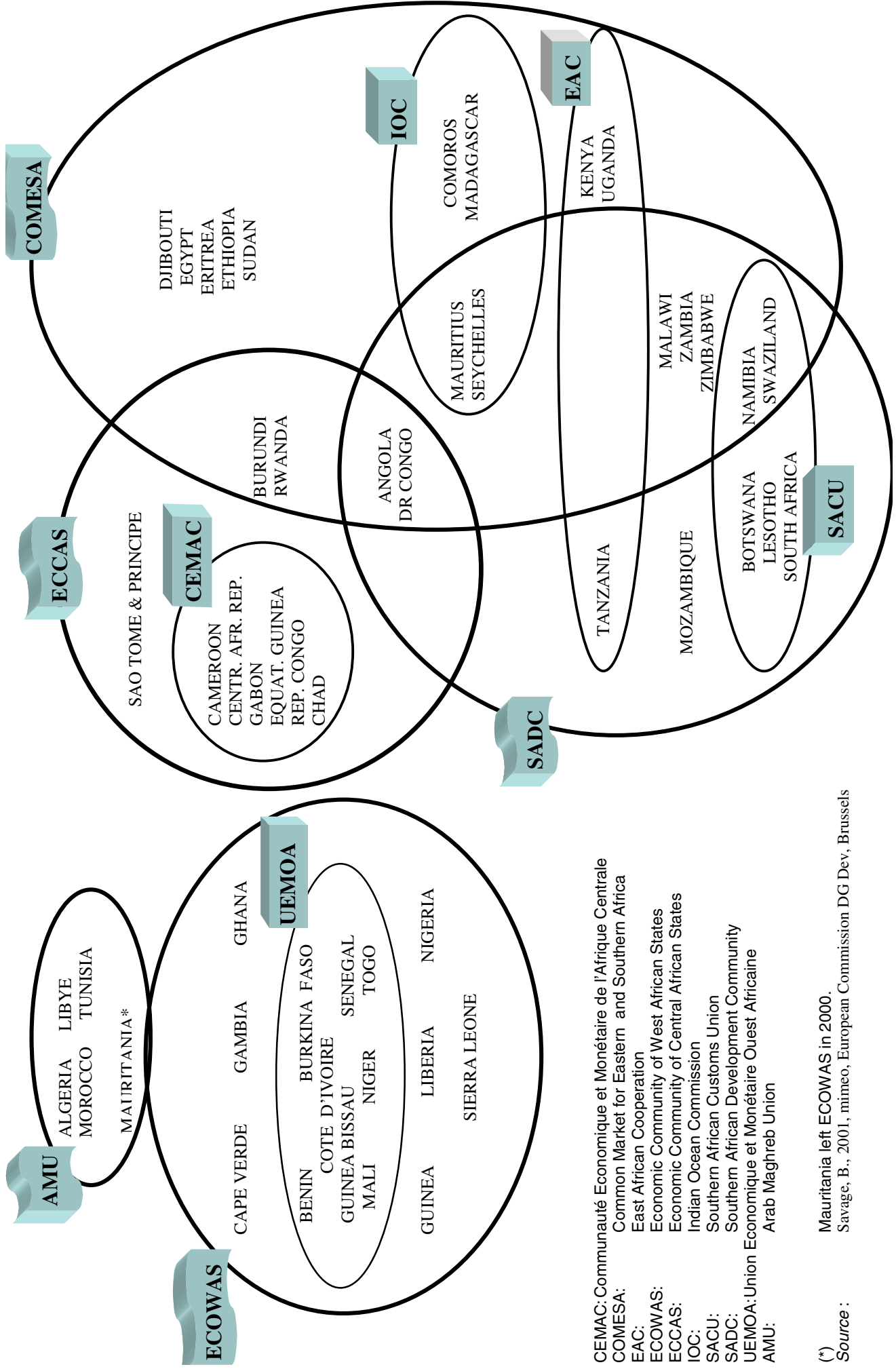
Funding: Core budgetary resource from CARICOM member states and programme funding from bilateral donors (mainly CIDA, CDB, IDB, DIFD and Commonwealth Secretariat).

Source: Gonzales (2000).

Annex 3b: Timetable of ACP-EU trade negotiations (2000-2020) As foreseen in the Cotonou Partnership Agreement

<i>Date</i>	<i>Negotiations</i>	<i>Trade Regime</i>
<p>Until September 2002</p> <p style="text-align: center;">Spring 2000</p>	<p>Preparation of negotiations.</p> <p>EU requested a derogation from other WTO members enabling it to maintain Lomé trade preferences until 2008 (<i>still no decision in mid-2001</i>)</p>	<p>Maintenance with 76 ACP countries, except South Africa, of non-reciprocal tariff preferences in force at present, i.e. the Lomé regime for all ACP countries (<i>assuming a derogation is eventually obtained from WTO</i>)</p>
<p>From September 2002 to 31 December 2007</p> <p style="text-align: center;">2004</p> <p style="text-align: center;">2006</p>	<p>EU to negotiate “economic partnership agreements” (free trade agreements) with ACP countries, by regional groups, or country by country.</p> <p>EU and ACP countries to study “all possible alternatives” for non-LDC countries which “decide [...] that they are not able” to sign free trade agreements.</p> <p>EU to revise its GSP</p> <p>EU and ACP countries to analyse agreements foreseen “to ensure that the calendar foreseen permits the adequate preparation of negotiations. “</p>	
<p>From 1st January 2008 until 2018-2020</p>	<p>Application of new Economic Partnership Agreements (EPAs).</p>	

Annex 4: African Regional and Sub-Regional Economic Integration Groupings



CEMAC: Communauté Economique et Monétaire de l'Afrique Centrale
 COMESA: Common Market for Eastern and Southern Africa
 EAC: East African Cooperation
 ECOWAS: Economic Community of West African States
 ECCAS: Economic Community of Central African States
 IOC: Indian Ocean Commission
 SACU: Southern African Customs Union
 SADC: Southern African Development Community
 UEMOA: Union Economique et Monétaire Ouest Africaine
 AMU: Arab Maghreb Union

(*) Mauritania left ECOWAS in 2000.

Source: Savage, B., 2001, mimeo, European Commission DG Dev, Brussels

