

*ECDPM-ODI Trade Programme:  
ACP-EU Trade Relations*

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# **ECDPM-ODI Trade Programme: ACP-EU Trade Relations**

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February 2002





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## Summary

The aim of the *ECDPM-ODI Trade Programme* is to contribute to the development of trade policies towards and by the ACP countries which promote sustainable development through the integration of the ACP countries into the world economy. This is a timely exercise as the Cotonou Partnership Agreement provides for the negotiations between ACP groupings and the EU of Economic Partnership Agreements (EPAs). Negotiations, due to start in September 2002, are intended to result in reciprocal free trade arrangements by 2008.

## Objectives and Expected Outputs

The objectives and expected outputs of the *Programme* for the period 2002-2003 are:

### *Objective 1: To strengthen the institutional capacities of ACP countries*

Preparing the ACP to negotiate with the EU

- reports on experiences of building capacity for trade negotiations
- conferences on negotiating capacity

Facilitating the ACP coordination of EPA and WTO negotiations

- organisation of a conference on EPA and WTO issues, bringing together trade actors from different horizons

Helping the ACP to identify negotiating objectives

- coordination and promotion of studies on the content and impact of EPAs
- reviews of proposals for EPA coverage

### *Objective 2: To facilitate dialogue and consultation on ACP-EU trade arrangements among key actors*

Activities to include:

- organisation of informal ACP meetings;
- organisation of informal meetings between ACP and EU actors;
- organisation of a network to exchange information and analysis among ACP negotiators and researchers

### *Objective 3: To promote practical research on future ACP-EU trade arrangements*

Research papers and analytical notes, in cooperation or consultation with ACP experts, could include:

- the potential effects of the loss of non-reciprocal trade preferences for the ACP
- the inclusion of the business community and civil society in trade negotiations
- the role of the EU and regional integration in attracting investment in the ACP
- competition policy for the ACP
- common interests and characteristics of ACP countries
- how to make EPAs compatible and consistent with the WTO
- the implication of different types of rules of origin for EPAs

*Objective 4: To provide ad hoc independent technical and analytical support*

Activities to include:

- reports on specific issues relevant to the negotiations;
- background documents for conferences and meetings;
- summaries of major research papers, studies and other documents;
- *ad hoc* notes and comments on official documents.

*Objective 5: To disseminate policy-relevant information on ACP-EU trade negotiations*

Activities to include:

- quarterly publication on *ACP Trade Negotiations Insights* (with ICTSD);
- web portal on ACP-EU trade relations;
- various publications (analytical studies, discussion papers, reports, briefs);
- translations of publications arising from the *Trade Programme* and of papers by other analysts.

## **Guiding Principle**

The guiding principle for the ECPM-ODI Trade Programme is partnership:

1. The *Programme* is developed and executed jointly by the European Centre for Development Policy Management (ECDPM) and the Overseas Development Institute (ODI). It reflects the complementarity between the two institutions.
2. The *Programme* uses the partnership between the two organisations to create a broader network in partnership with counterparts in the ACP countries. It will also contribute to linking researchers and experts, in the ACP countries and Europe, with negotiators and policy-makers.
3. The execution of the planned activities will be done in a flexible manner, adapting to the rapidly evolving trade negotiating agenda and funding opportunities.

## Context

In June 2000, the 77 African, Caribbean and Pacific (ACP) countries and the 15 Member States of the European Union (EU) signed in Cotonou a new Partnership Agreement, commonly referred to as the 'Cotonou Partnership Agreement' (CPA). The CPA builds on 25 years of non-reciprocal preferential trade relations under four successive Lomé Conventions.

Under the new CPA, the negotiation of WTO-compatible new trading arrangements between the EU and the ACP countries should start by September 2002. The European Commission proposed that Economic Partnership Agreements (EPAs) should replace, at the latest by 2008, the current non-reciprocal preferences in the trade relations between the EU and the ACP countries. While the prospects of EPAs could offer new opportunities to the ACP economies, they also generate numerous challenges for the ACP countries and regions.

First, ACP countries are already involved in several trade negotiations. At the multilateral level, a new round of WTO negotiations (often referred to as a 'development round') has been launched in November 2001 in Doha. In view of the broad range of issues on the negotiation table, the new WTO round will further stretch the already limited resources and capacities of developing countries. Second, most ACP countries belong to at least one regional grouping with other ACP members, with the objective to further regional integration. In addition, many ACP countries are negotiating or involved in free trade agreements with countries outside the ACP, such as the pan-African integration process with the establishment of the African Union, the negotiations of the free trade area for the Americas (FTAA) in which the ACP Caribbean countries are involved, the perspective of a free trade area in the Pacific region, including Australia and New Zealand, as well as numerous bilateral and plurilateral trade agreements.

It is in this overall context that new negotiations between the ACP and the EU must be envisaged. It is therefore necessary to cautiously consider the compatibility and consistency of the Cotonou trade proposals with the overall development objectives of ACP countries, the WTO multilateral framework, regional integration processes and ACP relations with non-EU partners.

The CPA provides for the negotiation of new trade arrangements that should clearly benefit the ACP countries, enhance their development, integrate them into the world economy and contribute to alleviate poverty. With these imperatives in mind, an important ACP-EU trade agenda needs to be tackled over the next months and years to come. This includes major issues such as: the configuration of the ACP for the negotiations with the EU, the content and scope of the negotiations, the nature of the transition periods, the speed and degree of required adjustments, the desirability and availability of supporting accompanying measures, the development of negotiation and implementation capacities, the impact on national economies, the consequences on ACP regional integration processes as well as on trade relations and arrangements with other countries (including outside the ACP), the coherence with the EU trade and development policies, and the consistency and compatibility with the multilateral (WTO) framework. Besides, the CPA also leaves room for the development of alternative trade arrangements other than EPAs.

## General Aim of the ECDPM-ODI Trade Programme

The aim of the *ECDPM-ODI Trade Programme* is to contribute to the development of trade policies towards and by the ACP countries which promote sustainable development through the integration of the ACP countries into the world economy. This is a timely exercise as the Cotonou Partnership Agreement provides for the negotiations between ACP groupings and the EU of Economic Partnership Agreements (EPAs) or other alternative trade arrangements compatible with the WTO. Negotiations, due to start in September 2002, are intended to result in reciprocal free trade arrangements by 2008.



The basic objective of the *ECDPM-ODI Trade Programme* is to strengthen capacity in ACP countries and groupings, in close cooperation with ACP actors.

In particular, the objectives and expected outputs of this programme for the period 2002-2003 are:

1. to strengthen the institutional capacities of ACP countries to prepare and manage (at the national, regional and overall ACP levels) the trade negotiation process;
2. to facilitate dialogue and consultation on ACP-EU trade arrangements among the key actors involved, including governments, the private sector and civil society;
3. to promote practical research and studies on future ACP-EU trade arrangements;
4. to provide *ad hoc* independent technical and analytical support; and
5. to disseminate policy-relevant information on ACP-EU trade negotiations.

These different activities are closely related. Consultation is necessary to identify needs for analysis and for strengthening capacity. Research and analytical support must respond to policy-makers' needs and must help them to make informed decisions. Dissemination of information is crucial to ensure that the various activities have their full impact.

The execution of the planned activities will be done in a flexible manner so as to adapt ECDPM-ODI activities to the rapidly evolving trade negotiating agenda.

## **Partnership: A Guiding Principle for the ECDPM-ODI Trade Programme**

1. The *ECDPM - ODI Trade Programme* is developed and executed jointly by the European Centre for Development Policy Management (ECDPM) and the Overseas Development Institute (ODI). It reflects the complementarity between the two institutions.

ODI is Britain's leading independent think-tank on international development and humanitarian issues. Its mission is to inspire and inform policy and practice which lead to the reduction of poverty, the alleviation of suffering and the achievement of sustainable livelihoods in developing countries. It does this by locking together high-quality applied research, practical policy advice, and policy-focused dissemination and debate.

ECDPM's main mission is to contribute to making EU-ACP development policies work. Its efforts are geared towards improving Southern institutional capacity to engage in development policy design, implementation and evaluation and to manage international cooperation more effectively. Hence, ECDPM sees its role primarily as process facilitator.

The *ECDPM-ODI Trade Programme* will be conducted in cooperation or consultation with ACP actors. It is being submitted to a range of donor agencies for joint funding. Full details on all proposed activities are available.

2. Both institutions work with partners in the public and private sectors, in both developing and developed countries. Over the years, they have set up extensive informal networks including policy-makers, public officials, practitioners, policy-oriented experts and scholars, non-governmental organisations, business representatives, economic and social partners, trade unions, and local governments, both from the South and Europe.

The *ECDPM - ODI Trade Programme* builds on the well-established and extensive expertise, experience and networks of both institutions, more specifically in the field of trade and development policies, including towards the ACP. The two institutions have cooperated together over the years on several development and aid related projects. For the last 6 years, they have conducted joint projects on ACP trade policies within the framework of a common agreement.

Based on this successful joint experience, this *ECDPM - ODI Trade Programme* represents an initiative to formalise, systematise and instil greater coherence in the development and conduct of projects related to the trade policies of ACP countries, which would have been pursued in the past on an *ad hoc* basis.

# Action Plan for 2002-2003

## 1. Capacity Building

The negotiating capacity in many ACP countries and regions is not adequate to tackle the complex trade agenda. However some countries or regions have built up very valuable experiences in terms of strengthening their capacity for trade analysis and negotiations. The history of negotiations by developing countries in GATT and the WTO shows that those countries that had invested in preparing a strong negotiating strategy performed better and obtained better results from the negotiations. In light of that, the *ECDPM-ODI Trade Programme* will attempt to document and share experiences of negotiations, as well as provide insights for forthcoming negotiations.

### *a) How can the ACP prepare to negotiate with the EU?*

Report on experiences of building capacity for trade negotiations

The aim of this report is to analyse the various options for developing negotiating capacity at the national, regional, sub-group and ACP levels. The report will start by reviewing the literature and available studies on various experiences on negotiating trading arrangements with the EU (by ACP countries – e.g. Caribbean and the Regional Negotiation Machinery, Mauritius; FTAs – e.g. South Africa, MERCOSUR; MEDA countries – e.g. Egypt, Tunisia; applicant countries to the EU – e.g. CEECs, Cyprus, Turkey). It will also look at the assistance which different donors or institutions have offered (e.g. EC, WTO, UNCTAD, DFID). The report will identify common elements and successful strategies.

Based on these studies, insights from the trade capacity building literature, political economy considerations and the main characteristics of the ACP, the report will seek to draw lessons that could be useful for the ACP in preparing for and conducting negotiations with the EU and in building their negotiating capacity, as well as for the EC and other donors in planning their technical assistance programmes.

Conferences on negotiating capacity:

Organisation of an introductory conference, bringing together public officials, (former) negotiators, diplomats, members of civil society and the business community, and experts, to discuss experiences in regional negotiations and assess the remaining steps required to prepare for the negotiations for EPAs. This conference could precede the report on experiences. Contributions by experts to the conferences as well as the conclusions and recommendations could be widely distributed in discussion papers and on the programme website. The conference will help to identify an agenda for future action and research on building capacity for trade negotiations.

A follow-up conference will be organised in late 2002 or early 2003 to assess the progress made and lessons learnt from the preparation to trade negotiations by ACP countries.

### *b) EPAs and the WTO: Preparing for both negotiations*

Organisation of a conference on EPA and WTO issues, bringing together trade officials and actors from different horizons. The purpose of this conference will be to facilitate dialogue between the actors involved in ACP-EU trade negotiations and those involved in the WTO round of negotiations.

In view of the considerable overlapping and connection between the EPA and WTO agenda, the conference will serve to share experiences and seek synergies for the preparatory work for the parallel negotiations. The compatibility and consistency of EPAs with the WTO will also be addressed. (See also research proposal, page 14).

### *c) Coordination and promotion of studies on EPAs*

The *ECPM-ODI Trade Programme* will seek to promote the exchange of ideas and academic debate on issues related to the impact of EPAs, in particular among ACP experts. It will also encourage cooperation between experts working on ACP and ACP-related trade issues coming from institutions in developed countries with those located in the ACP. It will also liaise with the ACP High-Level Group of Experts, experts in ACP regional organisations and at national level, as well as with experts in Northern institutions and universities, and international organisations (UNCTAD, Commonwealth Secretariat, World Bank, WTO, etc.).

In particular, efforts will be made to coordinate and promote general analyses and case studies on the content of EPAs and their impact on:

- market access issues:
  - coverage of the removal of barriers to trade (exceptions, commodity protocols);
  - agricultural trade (influenced by the WTO, the CAP reform);
  - trade in services (GATS compatibility, maritime transports, IT, tourism);
  - speed of liberalisation (transitory period, type of gradualism to be adopted);
  - scope for differentiated treatment (among sectors, among countries within a region, among regions);
- fiscal effects of EPAs;
- trade related issues: competition, intellectual property rights, standardisation and certification, SPS measures, trade and environment, trade and labour standards, health and safety regulation, public procurement, etc.;
- enhancement of production, supply and trade capacity by ACP countries (to take advantage of new market opportunities).

## **2. Dialogue and Consultation on ACP-EU Trade**

In view of the upcoming negotiations, ECDPM and ODI consider it important to create opportunities for open dialogue among researchers, policy makers and civil society by organising informal meetings to exchange views, to create a common understanding and to attempt to identify concrete suggestions and practical recommendations to decision makers.

### *a) Informal ACP meetings (to be repeated whenever necessary)*

Organisation, in cooperation with ACP experts, of informal meetings bringing together key ACP actors (diplomats, officials from ACP regional and national institutions, experts, civil society representatives) to discuss the ACP preparation and conduct of negotiations on EPAs, to feed the results into the ACP policy-making processes.

Such meetings will serve to: (i) enhance informal communication, exchange of information and ideas among ACP actors from different countries/regions and with different circles (policy-makers, practitioners, experts); (ii) report on various national and regional initiatives in the ACP relevant for the negotiations with the EU; (iii) share the main results of recent studies and activities which could

influence the negotiation process; (iv) identify areas where new actions and studies should be encouraged to enhance the preparation for and capacity to conduct the negotiations with the EU.

Background documents will be circulated to all participants before each meeting along with a well-defined agenda for the meeting. Synthesis notes reporting on the main conclusions of each meeting, with possible recommendations and concrete actions to be undertaken will be distributed to main ACP actors and will be made available to the public.

The first meeting will take place on 25-26 February 2002 in Brussels.

### *b) Informal ACP-EU meetings (to be repeated whenever necessary)*

Organisation of informal meetings between key ACP and EU actors (ambassadors and top officials) for an exchange of ideas on how the negotiations should be organised and to identify obstacles to effective negotiations.

### *c) Networking*

Building on the already extensive informal network that both ECDPM and ODI have developed over the years, the objective is to create formal network among key experts and associations with an insight into ACP-EU trade relations. The purpose is to foster exchange of ideas and distribution of information and to stimulate cooperation among experts on ACP-EU trade relations. To permit contacts among the members of the network, a closed website or bulletin board will be developed to allow them to share information, to exchange comments and to ask/answer questions among themselves.

## **3. Practical Research**

The research component of the programme focuses on a number of fundamental issues that are of practical relevance for the elaboration of trade policies towards and by the ACP countries. Its objective is to provide new analytical insights into questions that have attracted less attention or that are not yet properly understood, but that will have a significant impact on the future ACP trade policies and capacity.

The focus of the trade research will largely depend on the priorities set by the negotiation agenda and the concrete funding opportunities. The research will be carried out by ECDPM-ODI experts together or in close consultation with other experts, in particular from developing countries.

The areas of research are expected to include the following.

### **Forward looking research**

These studies centre around institutional and regulatory matters, an aspect often overlooked in research on international trade.



*a) How will the loss of non-reciprocal trade preferences affect the ACP countries?*

*The distributive effects and the adjustment process*

The major innovation of the new trading arrangements to be negotiated is the likely abolition of the non-reciprocal trade preferences that have characterised trade relations between the EU and the ACP over the last 30 years. The intention is to replace these preferences by reciprocal agreements.

While ACP countries will have to open their domestic markets to EU products, they have little to gain in terms of increased market access to the EU. On the contrary, the products traditionally covered by Commodity Protocols (i.e. sugar, rum, banana and beef) will or have already seen their preferential treatment reduced or eliminated. Some other products might also face similar changes.

The basic purpose of this study is to investigate how trade preferences can be phased out without destabilising ACP economies. It will address three sets of questions: (i) what sectors are most likely to be affected by the loss of preferences? (ii) what are the likely effects of loss of preferences on ACP economies; and (iii) what are the opportunities for adjustment mechanisms for these economies?

This study will attempt to identify the main potential winners and losers from the loss of preferences and the possible adjustment policies that could be put in place. Particular attention will be granted to the design and implementation of the adjustment process in sectors covered by the Commodity Protocols. (The rum sector in the Caribbean or the sugar sector in the Pacific and other ACP countries could provide interesting case studies.)

This study can help identify policy options and possible outcomes depending on institutional arrangements and adjustment measures so as to take into account domestic economic interests.

*b) How to include the business community and civil society in trade negotiations?*

*The political economy of EPAs negotiations*

Building on the study on the loss of trade preferences, this study will focus on some institutional aspects related to the negotiations of economic partnership agreements (EPAs) between the ACP and the EU. The impact of EPAs will depend not only on the economic value of their provisions, but also on the institutional characteristics of the ACP. The study will rely on insights from the political economy literature and recent works on trade capacity to identify some of the key institutional components that could affect the shape and effectiveness of EPAs. Depending on the centres of policy-decision making and institutional structures in the ACP, the outcome of the negotiations could differ.

This study intends to identify the key actors (in government, industries, agriculture, and civil society) who will influence the shape of any EPA. It will discuss the institutional arrangements and capacity development which will permit various elements of the business community and civil society to participate in the trade policy-making process, while avoiding specific interest groups' capturing the policy process.

This could help determine principles for capacity building policies and measures.

*c) The role of regional integration agreements and donor countries in influencing investment: Could EPAs increase the flow of FDI in ACP economies?*

According to the European Commission, negotiations on economic partnership agreements (EPAs) are much more than only negotiations on securing preferential market access. It argues that there are about creating economic integration between the EU and the ACP, enhancing 'co-operation in all areas relevant to trade' (CPA Art. 36.1), providing a stable, predictable and transparent policy framework

for an enlarged market which will increase competitiveness of the ACP economies and attract investment.

Besides these effects, the Cotonou Agreement explicitly provides for the adoption of investment promotion measures to attract and stimulate domestic and foreign investment (CPA Art. 74 – 78 and Appendix II Art.15).

The question for the ACP is whether the potential benefits in terms of investment promotion contained in the Cotonou Agreement could materialise, and under which conditions.

To answer this question adequately, it is necessary to understand (i) the role of regional agreements in attracting FDI, and in particular FDI which promotes development, (ii) the potential role that donor countries can play in stimulating FDI, and (iii) the specific implications of ACP-EU agreements for FDI flows which could promote development.

FDI inflows appear to be associated with higher national income growth and economic development, which can lead to poverty reduction, in the host country. Yet, empirical evidence suggests that the impact of FDI crucially depends on the type of investment, the presence of infrastructure, the general business environment and the underlying economic fundamentals of the host country. In this respect, government policies and institutions appear to play a major role in attracting FDI favourable to sustainable development.

The study will be divided into three parts.

#### (i) The role of regional agreements in attracting FDI

In the face of renewed interest in regionalism, in which many developing countries are involved, the question arises as to the impact of regional integration agreements (RIAs) on FDI. Regional agreements can provide larger integrated markets, but they may also entail new national and regional policies and institutions that may affect the flows and effects of FDI.

The purpose of this part of the study is to determine the potential effects of regional integration agreements on FDI. In particular, the study will address the following questions: (1) what is the potential impact of regionalism on FDI flows? Particular attention will be given to the impact of FDI distribution within a region (as some members of an RIA may be more apt to attract and/or benefit from FDI than others) and to cross-regional effects (as the presence of a web of regional groupings may affect regional-specific FDI policies); (2) what regional measures to attract FDI might maximise economic growth and development? and (3) what kind of policies could be adopted at the regional level, as opposed to the national one, to optimise the potential benefits from FDI?

This study will assess the impact of RIAs on FDI from an empirical point of view, using econometrics and regression analysis, with references to theoretical analyses and policy studies. The objective is to identify some of the key factors related to regional integration that determine the flows, the types and when possible the effects of FDI for a large set of developing countries.

#### (ii) The role of donor countries in influencing FDI

Recognising the potential benefits resulting from FDI in the economic development of host countries, donor countries often attempt to influence FDI policies in developing countries and to shape their aid programmes in ways conducive to promoting FDI.

The aim of this study is to identify the factors and policy criteria that could lead to efficient supporting measures from donor countries to foster effective FDI favourable to sustainable development. In particular, it will focus on two complementary questions: (1) what type of agreements could host regional groupings reach with source countries of FDI so as to stimulate FDI and its positive effects?

and (2) what kind of accompanying or support measures could donor countries adopt to favour pro-development FDI in host regions and countries?

### (iii) The role of EPAs in attracting FDI to foster development

In view of the above, the objective of this part of the study is to determine the likely impact of the provisions of and perspectives offered by the Cotonou Agreement and the proposed new trading agreements with the EU on the ability by ACP countries to stimulate FDI. It will consider measures that EPAs could contain on investment, and discuss whether they could effectively increase the level of FDI, and if so under which conditions. It will also discuss what types of investments are more likely to be affected by agreements between the EU and the ACP. Finally, the study will evaluate the potential of EPAs in attracting FDI as compared to alternative policies, at national, regional and multilateral (WTO) levels.

### *d) Competition policy for the ACP countries: How can competition principles be stimulated in developing countries?*

Under the Cotonou Agreement, the ACP undertook to implement national or regional competition rules and policies (Art. 45). The Doha WTO Ministerial Conference opened the door to negotiations on competition rules in the new round.

The relevance of such policies for developing countries and their capacity to adopt them are questioned. Some observers argue that which competition rules are appropriate depend on national institutions and the level of development, and therefore that countries should pursue them at their own pace. If so, commitments under the WTO or regional agreements may not be desirable.

In fact, even the European Union, a strong advocate for the integration of competition principles into the WTO, seems to have recognised the possibility that some developing countries could opt out from a WTO agreement on competition. In the same vein, Article 45 of the Cotonou Agreement acknowledges the need for 'due consideration to the different levels of development and economic needs of each ACP country' in implementing competition rules and policies.

Therefore, the central question to be addressed by this study concerns the role that donor countries and developed countries in general, as well as international institutions, can or should play in fostering and stimulating the adoption and effective implementation and enforcement of regulatory frameworks and institutions intended to promote and protect competition in developing countries. While international agreements can include competition provisions, the promotion of competition depends mainly on domestic institutional arrangements. The study will examine the roles of regulatory frameworks and assistance to capacity building.

While competition can always be beneficial, some developing countries suffer difficulties which may hinder the adoption or implementation of an effective competition regime. These may include: institutional weaknesses, corruption, weak legal system, poor implementation of regulations, inadequate or absent enforcement, insufficient resources. The following questions will be addressed: (i) prioritisation: is competition policy a priority for developing countries, and what would be the opportunity costs of adopting a competition policy regime? (ii) how can the lack of resources and inadequate institutions be compensated for? (iii) what are the possible roles of regional and international agreements, external technical assistance and international cooperation in fostering competition in developing countries?



## Synthesis of Existing Research and Analytical Briefs

The ECDPM-ODI Trade Programme will prepare analyses and synthesis notes on topical issues based on existing research and information available from governmental and non-governmental organisations and institutions.

### *a) What interests do ACP countries have in common?*

With forthcoming negotiations with the EU, the ACP are faced with the task of determining their trade strategies. This has to be done at the national, regional and ACP levels. While strategies at the country level offer greater flexibility to pursue national interests, at least in principle, coordinated ACP strategies could provide greater negotiating leverage and bargaining power. In order to develop an appropriate negotiation strategy, it is therefore important for the ACP countries to identify trade concerns where their interests may converge.

The objective of this report is to identify possible common trade interests for ACP countries. It will start with a review of the existing body of reports and studies, conducted at ACP national and regional levels, as well as by (or for) the European Commission and by independent experts, on the possible content of ACP-EU trade arrangements. Based on the structure of trade and production, as well as economic, geographic and political considerations, the study will then consider the main advantages and disadvantages of pursuing specific trade concerns at national, regional, sub-group or all-ACP levels, with a view of identifying areas of possible common interests to the ACP.

In particular, the report will cover the following trade issues: agricultural concerns, notably the impact of the reform of the CAP and its future evolution, future treatment of the products currently covered by the commodity protocols, and possibilities for product or sector exemptions from liberalisation, including phasing out measures; market access impeding to obstacles facing ACP exports to the EU; the scope for special and differential treatment provisions; the status of least developed countries (LLDCs); trade in services; anti-dumping and countervailing measures; the determination of rules of origin; the opportunity of introducing trade related concerns; impact of the loss of fiscal revenues; possible support measures from the EU; and the phasing of the negotiations.

### *b) How to make EPAs compatible with WTO rules and their negotiation consistent with the evolution of WTO negotiations?*

The Cotonou Agreement provides for the negotiation of WTO-compatible trade agreements between the ACP and the EU. Yet, the shape and content of potential EPAs will be affected by the content and outcome of the new round of WTO negotiations.

In this respect, ACP negotiators on EPAs will face two sets of issues: compatibility with existing rules and consistency with the evolving negotiation. Compatibility seems to imply that, unlike the Lomé Convention and the current phase of the Cotonou Agreement, any new agreement should not require the granting of a waiver by other WTO members. However, the interpretation of Article XXIV of the WTO rules on regional integration agreements remains ambiguous. Therefore, any free trade agreement (FTA) might be challenged at the WTO. Moreover, the current WTO rules contain numerous provisions providing for special and differential treatment for least developed countries. The extent to which these provisions can provide for flexibility in ACP-EU agreements, at least for some of their members, is to be assessed. In addition, the broad scope of the trade agenda that the EU would like to see covered by EPAs calls for a detailed evaluation of the relevant WTO commitments (on TRIPS, TRIMS, SPS and other trade related areas).

The negotiation process on EPAs will not take place in a static environment, but at a time where WTO rules are subject to new negotiations in the context of the Doha Round. This means that as ACP countries negotiate trade agreements with the EU, the rules of the game are likely to change. For instance, negotiations on Article XXIV of the WTO Agreement could modify the conditions imposed on new regional agreements, and hence of future EPAs. According to the WTO Ministerial Declaration in Doha, 'the negotiations shall take into account the developmental aspects of regional trade agreements'. It is therefore necessary for the ACP to anticipate some of the possible changes at the WTO level and include any new development in the WTO Round into their negotiations with the EU.

Some of the issues put on the negotiation table by the EU are also the subject of negotiations at the WTO, in particular with regard to trade related issues (competition, investment, environment, regulations and standards, government procurement, etc.). ACP countries will have to decide to which extent they want to include issues beyond their WTO commitments at the end of the WTO Round.

This activity will require not a single report, but a series of briefing and analytic notes as the Cotonou and WTO negotiations proceed, each identifying which are the trade issues which could be covered by EPAs and would be affected by WTO negotiations, and in which way. The report will also discuss the potential benefits and drawbacks of pursuing trade (and trade related) concerns in one forum or the other. Synergies and potential conflicts will be identified. Possible options on the timing and phasing of the ACP-EU negotiations, depending on the progress in the WTO Round, will also be identified. Such analysis is important to help, in a continuous process, ACP countries to determine the most appropriate negotiation agenda and strategy with the EU, as well as to adopt the optimal sequencing in their negotiations, as results of WTO negotiations will impact on the content of EPAs.

#### *d) What are the options for rules of origin in EPAs? And why does it matter?*

Free trade agreements (FTAs) require rules of origin to determine which goods (and services) are eligible for preferential treatment. The multiplication of FTAs and custom unions (CUs) involving either or both the EU and ACP countries increases the importance of rules of origin.

The introduction of trade agreements between groups of ACP countries and the EU will require identifying the products (and services) that will benefit from the preferential treatment provided under each specific economic partnership agreement (EPA). Different rules of origin could apply to trade with the EU, trade among ACP groupings and trade between ACP groupings and the rest of the world.

The questions for the ACP are what type of rules of origin could be adopted for EPAs. Should they differ from one EPA to another? Should they be different from rules of origin adopted by the EU in other FTAs, or the ones applicable to the EU generalised system of preferences (GSP)?

In the modern world, where products are processed in, or use inputs from, several countries, the origin of a product will depend critically on the definition of the national content requirement to qualify for preferential trade. Depending on the criteria adopted, preferential trade conditions may cover a large share of traded goods, or on the contrary may limit the scope for trade preferences on processed goods. The potential benefits of EPAs and their impact on ACP-EU, intra-ACP and extra-ACP trade flows depend crucially on the determination of the rules of origin.

The purpose of this report is to review the various rules of origin that could be adopted and identify the possible implications of different rules of origin for trade flows among ACP countries, with the EU and with the rest of the world.

Rules of origin also need to be administered. Limited capacity, lack of harmonised customs procedures, informal trade and corruption may also reduce the efficiency of rules of origin. The report

will investigate the implications of the administrative capacity of the ACP for rules of origin and their complexity.

#### **4. Independent *Ad Hoc* Technical and Analytical Reports**

The *Trade Programme* will, following the tradition of ECDPM and ODI, provide independent technical reports, background documents and comments to both ACP and EU institutions, officials and other actors on issues related to the ACP-EU trade negotiations. This involves amongst others:

- reports on specific issues relevant to the negotiations;
- background documents for conferences and meetings;
- summaries of major research papers, studies and other documents;
- *ad hoc* notes and comments on official documents.

#### **5. Dissemination of Information**

Both the *ECDPM and ODI Trade Programme* will seek to foster knowledge of the ACP-EU trade agenda and the progress of the negotiations beyond those directly involved, for example civil society and researchers and policy makers in other developed and developing countries and in the multilateral institutions.

##### *a) Quarterly publication: 'Trade Negotiations Insights'*

Periodical newsletter on ACP international trade negotiations, at the WTO and with the EU (6-8 pages, 4 times a year), reviewing the current state of affairs and providing a synthetic view and insight on the forthcoming issues to be addressed; project carried out in cooperation with the International Centre for Trade and Sustainable Development (ICTSD), Geneva. [First issue scheduled for February 2002]

##### *b) Portal on ACP-EU trade relations*

Development of a web site (portal) providing access to key information, reports and links on ACP-EU trade matters (an ACP-EU trade 'gateway');

##### *c) Publications and dissemination*

Publication of specific analytical studies, policy briefs; reports and summaries of existing practical research including the translation of relevant documents into French, and possibly other languages such as Portuguese, so as to reach a wider audience in the ACP.









