

Are non-governmental stakeholders really participating in the negotiations?

Davina Makhan, dm@ecdpm.org

THERE IS A STRONG CALL for non-governmental stakeholder participation in the trade negotiations and this is specifically included in the Cotonou Agreement. With a few months to go before the cut-off date of 31 December 2007, have civil society stakeholders, professional bodies and parliamentarians really been involved in the negotiations?

► Davina Makhan, junior programme officer in the ACP-EU Economic and trade cooperation team at the European Centre for Development Policy Management (ECDPM).
www.ecdpm.org

A complete and fully referenced version of this article is published on the internet (in French only):
www.inter-reseaux.org

HAVING AGREED on the need to negotiate and to ratify the Economic Partnership Agreements (EPAs) by the end of 2007, the ACP Group of countries and the EU also agreed within the framework of the Cotonou Agreement to include civil society as a whole in the ACP-EU cooperation process. Now that the parties have just concluded the progress review of negotiations stipulated in Article 37.4 of the Cotonou Agreement, what assessment can be made of this process? And more specifically, what has been the participation of members of civil society, professional bodies and parliamentarians in the process?

An imbalanced participation. With regard to ACP countries, the level of participation of non-governmental stakeholders and parliamentarians varied from one region to another. Although, some effort is still required, the involvement of Caribbean civil society in the EPA negotiation process seems to have been relatively effective and was recently commended. The last ministerial conference held in the Pacific region also lauded the contribution of non-governmental stakeholders to ensuring that the characteristics and concerns of the region were duly taken into account by the European side. African regions negotiating an

EPA are, however, recording a rather mixed result for structural, organisational, and financial reasons as well as due to capacity and information constraints. In spite of efforts made, it seems that the effective participation of non-governmental stakeholders in the negotiation process and the consideration of their recommendations were limited both at the national and regional level. Here again, it is advisable not to generalise. The mobilisation of the West African farmers' organisations has indeed been quite remarkable. Similar initiatives have developed over the last few months across the continent.

Beyond the participation of non-governmental stakeholders, it is their real ownership of the process which is crucial. It is self-evident that one does not go without the other. Ownership cannot be achieved without the involvement of stakeholders in negotiations and their (pro) active participation in same. Furthermore, this is recognised by the ACP Group negotiation mandate, which stipulates that "*the involvement of all the interested parties in the negotiation process and public opinion's support of the negotiations and their results; [and] the monitoring of negotiations by public opinion, especially at the parliamentary level*" are theoretically essential to establishing the legitimacy of the EPAs.

Many different calls... But the fact remains that with just a few months to go before the supposed conclusion of the negotiations, the voices rising against these agreements and pointing to the poor participation of the main EPA stakeholders are increasing day by day. Moreover, while calls for an extension of the deadline for the conclusion of negotiations have quietened down at ACP government level, they continue to be heard at civil society and private sector level. Recent examples are those of Barbados and Uganda. Conversely, the Namibian beef

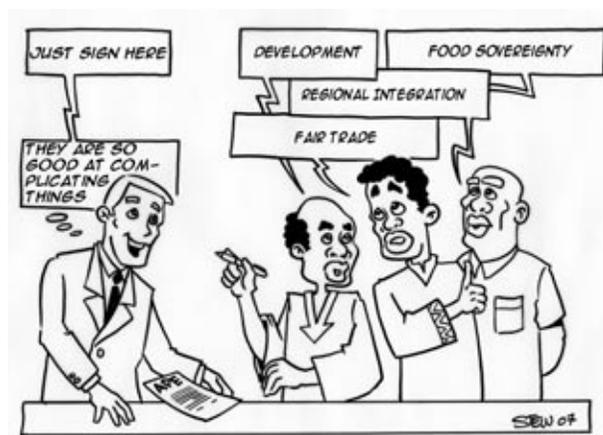
industry is highly in favour of an early conclusion of negotiations in order to preserve its access to the European markets. Such a call is however quite atypical in the barrage of "anti-EPA" calls emanating from ACP and European civil society¹. The impact on Ghanaian parliamentarians of a recent OXFAM and Third World Network report should particularly be noted in this respect. Following the presentation of the conclusions of this report to the Ghanaian parliamentarians, the latter were unanimously convinced of the advantages of the improved generalised system of preferences (GSP+)² as an alternative to the EPAs.

On the EU side, the European parliamentarians sitting in the International trade commission have paid serious attention to the EPA process and appealed to the European Commission to ensure that development objectives are really at the centre of the negotiation with the ACP region. They also expressed their concerns with regard to the lack of genuine democratic debate in most of the ACP countries. Last May, the European Parliament further asked the Commission to be more flexible with the ACP Group of States and soften the conditions for the signature of these agreements for those countries, considering the "*delay experienced in the negotiation and lack of preparation of ACP countries*".

...that remained unanswered. The assessment of the EPA negotiations as provided for in Article 37.4 of the Cotonou Agreement was specifically aimed at "*ensuring that [no] deadline extension was necessary for the preparations or negotiations*". The opportunity was thus given to the parties to assess the progress made and problems encountered in each EPA regional grouping and in its member countries and, if necessary, to change

1. See www.acp-eu-trade.org

2. See page 12.



the approach in order to reach a new and truly development-centred trade regime between ACP countries and the EU. Subjecting not only the content but also the process of the negotiation to this exercise would have helped to build a real consensus around these agreements.

However, the joint review of the EPA negotiation process did not involve a wide and extensive consultation of all the stakeholders, despite the fact that it was advocated by the ACP Council of Ministers' meeting held in May 2006 and supported by the European Parliament and some EU Member States. Although this joint review was scheduled to take place in 2006, the parties were only able to conclude this exercise during the ACP-EU Council of Ministers' meeting held on 25 May 2007, that is to say mere months before the deadline of 31 December 2007. Documents prepared for the joint review only describe the process and do not identify concrete measures to solve the numerous problems and constraints that were raised by the various internal and independent assessments. The question as to what will happen to the ACP-EU trade regime if the EPAs are not concluded has furthermore been circumvented. If the ACP negotiators have chosen to reaffirm their desire to finalise the negotiations by the end of 2007, the European Commission's pressure almost certainly contributed to this decision.

It is thus difficult to see how the non-governmental stakeholders will be reassured. In such a context, and while the ACP negotiators have reiterated their commitment and their political will to conclude negotiations at the right time (provided that the concerns of member States are taken into consideration by the EU), there is a real risk that a hasty conclusion of the EPAs may lead to their rejection by non-governmental stakeholders and parliamentarians (who are responsible for the ratification of the agreements at the national level). This risk must not be underestimated. The success of these agreements will indeed depend on the level of confidence which the people and the main stakeholders will place in them. ■

Who is negotiating? Where, when and how?

ALot HAS BEEN SAID about the EPAs, but what do we know about the negotiation mechanisms? In concrete terms, who is negotiating? Where are the talks being held? According to what agenda? An insight into the process...

Two negotiation phases can be distinguished. Firstly, the "all ACP-EU" phase, involving technicians, ambassadors and ministers from all ACP and EU member countries who met at three levels to discuss general issues. Then, since October 2003, the European Commission has been discussing the actual content of the trade agreements with each of the six ACP regional groupings. This is the "region by region" phase of the negotiation process.

Let us take the example of West Africa in order to understand better who is involved in this second phase of negotiations.

The negotiation process is defined in a «road map» and is based entirely on mandates given by the EU Council of Ministers to the European Commission on the one hand, and by the Heads of State of the sixteen West African countries to the ECOWAS Commission, assisted by the WAEMU Commission on the other. Two political statutory bodies ensure that the mandate is respected and set up negotiation positions. These are the ministerial monitoring committee (Ministers of Commerce, Economy and Finance) and the ECOWAS Council of Ministers. The latter fixes the mandates, gives guidance to and appraises progress made in the negotiations.

Discussions are then held at three levels. At the bottom, there are technicians and thematic technical groups that study each EPA point. These include experts on the issues under discussion, officials (of the EU, ECOWAS, and WAEMU and of member States), civil society representatives (NGO and farmer organisations) and private sector stakeholders. They are divided into several working groups and their activities are based on impact studies, expert appraisals, etc. As the deadline for the signature of the agreement is

fast approaching, and in view of the delay recorded in negotiations at the time of writing this article (July 2007), they have stepped-up the frequency of their meetings. These European and African technicians are working to prepare joint texts. The outcome of their deliberations, in particular the points of disagreement, are then forwarded to the next level i.e. the senior officials' level. This stage is supposed to be less technical and more political. The senior officials, who meet more rarely, adopt conclusions based on the technicians' work. They then hand over to the chief negotiators*, who make the final arbitrations, finalise the discussion and give new guidelines.

There is also a regional preparation Task Force (RPTF), a group that ensures consistency between the EPA and development funding. The task force includes negotiators of the two parties and the EU member countries.

All the meetings are alternately held in Brussels and Africa.

All this seems somewhat complicated... In fact at times, the distribution of roles and negotiation mandates are vague, between the ECOWAS and its member States. As the European Commission is the sole EU negotiator from the technical to the final decision-making level, it is of course much easier. This exacerbates the imbalance observed in the negotiation capacities of the two parties. Once the agreement is drafted, it will be validated by the European authorities, and is then to be ratified by the national parliaments of each ACP country. But, at this point in time, it is not certain that they shall do so; they frequently show considerable reticence regarding these agreements. This point has not been properly dealt with, and its outcome is far from being certain.

The editing team gds@inter-reseaux.org

* The two chief negotiators in West Africa are the presidents of ECOWAS and WAEMU Commissions: Mohamed Ibn Chambas and Soumaïla Cissé.

Trade agreements for development?

WHILE EVERYONE AGREES that the EPAs must contribute to the development of ACP countries, opinion is, however, divided as to how and why. Is trade a guarantee for development? Regional integration, improvement of supply capacities are also necessary... The major issues and different points of view for West Africa.

Anna Lipchitz, lipchitza@afd.fr

► Anna Lipchitz is an economist in the Research department of the *Agence française de développement* (AFD). She is responsible for trade issues and is also in charge of a research partnership between the AFD and the Economic Commission for Africa, which aims at strengthening the negotiation capacities of African countries.

SINCE THE ACP COUNTRIES cannot compete on the same level as the EU, trade liberalisation must be as gradual and asymmetrical as possible¹. The EU has undertaken to ensure that this is the case, and has pledged duty-free and quota-free access without any restriction to its market for all of the ACP countries. The latter can therefore increase the number of sensitive products in order to minimise fiscal losses or protect emerging sectors. Some negotiation parameters, which are yet to be defined, could facilitate a gradual adjustment of the ACP countries to this new economic context. The same can be said about the transition period, and about the redefinition of the rules of origin, which allow for the setting-up of integrated production chains that target high-value-added products.

Supporting trade liberalisation. Even if trade negotiations are not supposed to be linked with the funding of development activities, this is what is actually at stake. The ACP countries already have at their disposal the European Development Fund (EDF). With resources amounting to 22.7 billion Euros, the 10th EDF (2008-2012) could be used to counter the negative effects of trade-opening and to enhance productivity. EU funding of trade, which has been increased to 2 billion Euros annually (accessible to all developing countries) could partly be used to support the EPAs. These

funds would be used to finance fiscal transition and to support up-grade programmes². These programmes aim at supporting public policies in terms of strengthening productive capacities that will be exposed to competition from foreign companies, European or not. Indeed, while European competition can harm certain agricultural sectors³, competition from emerging countries, which is not included in bilateral agreements, could also upset the production chains. It is already doing so in some cases. This upgrading of productivity should be supported by an assistance programme for the restructuring of the affected sectors, through training, reintegration and reorientation of distressed sectors.

This new economic context, born out of a new partnership with the EU and the emergence of some non-European countries renders an increase in agricultural productivity indispensable. Firstly, it would enable us to address the challenges of food security.

Secondly, it would appear to be inevitable considering the contribution of the agricultural sector to employment creation. The agriculture of ACP countries seems to

be the only sector that can absorb the cohort of young people into the employment market, at least while other sectors are being upgraded. Restoring competitiveness requires a recapturing of local and regional markets. These markets, which are very large and have a limited number of intermediaries and fewer barriers, could promote a

better distribution of wealth and encourage the creation of non-agricultural rural activities, which form the basis of economic transition. The EPAs should contribute to this because they are putting regionalisation forward as a precondition for free trade.

Improving economic stakeholders' environment. The European funds are necessary for trade liberalisation. But other barriers must be removed by the ACP countries themselves in order to turn this financial assistance into sustainable productive investment. The numerous market failures prevent end-users (industry or consumers) from enjoying the benefits associated with the reduction in prices of imported goods. Besides the rigidity of supply, the lack of markets (especially risk and credit) creates barriers for imported goods, and the concentration of companies of a sector encourages rent logics instead of diversification. Government failures (money extortion systems, illegal taxation and non-observance of customs regulations), weakness of the business environment (non-observance of contract rules and collusion between importers) and the many other costs associated with the state of infrastructure discourage investment and also constitute a barrier to trade.

Therefore, for the EPAs to become development agreements and for the agricultural sectors to become more competitive, strong State coordination and management is necessary. This requires broad-based consultations among government, private sector and civil society stakeholders at the country and regional levels. The various stakeholders must also take ownership of the negotiations as well as of the up-grade programmes. This policy management, geared towards the regional integration imperative, must ensure that trade, agricultural and development policies (in the broad sense of the word), are consistent and involve monetary or fiscal policies. ■

« SOME FUNDS SHOULD BE USED TO FINANCE FISCAL TRANSITION AND TO SUPPORT UP-GRADE PROGRAMMES »

1. This is the meaning of Special and Differential Treatment (see page 12) and article XXIV (see box page 20) of the World Trade Organisation (WTO).

2. EMCCA and ECOWAS have thus developed regional upgrading programmes. Some countries are also developing their own strategy.

3. It is however, important to note that the CAP reform and the EU commitments within the WTO should shape European agriculture so that it will be less responsible for economy distortions in the international markets.

The EPAs and development. Interviews.

► Belén Calvo Uyarra is in charge of regional integration and Economic Partnership Agreements in West Africa, in the European Commission's General Directorate for Development (belen.calvo@ec.europa.eu)

► Salifou Tiemtoré is in charge of the «Public Finance and Taxes» programme at the ECOWAS Commission (stiemtoré@ecowas.int)



Belén Calvo Uyarra



Salifou Tiemtoré

GRAIN DE SEL: *Both the EU and ACP “want to channel the EPAs towards development.” What does that mean to you?*

BELÉN CALVO UYARRA: For us, it is clear that the EPA is a development instrument to help us meet the objectives of the Cotonou Agreement: poverty reduction, gradual integration into the world economy and reaching the millennium development goals. Our work is guided by this principle in the negotiation and drafting of the agreement text. The EPAs have great development potential. Firstly, the EPAs are not restricted to market access; they also involve a series of reforms, which are clearly geared towards development, like trade facilitation. If the agreement makes it possible to reduce transit time and costs of goods in Accra's port, this will greatly facilitate trading activities. This is also true of sanitary and phytosanitary measures (SPS standards). The non-conformity of regional products is one of the main problems. The region will be assisted in applying European criteria. Competition must also be developed and investments must be made with transparency. Finally, services offer potential for the development of the region. Financial services, transport services, etc. will together contribute to the growth of local production.

I have mentioned market access and the plan to open trade. We are ready to include specific conditions for the development of the region in the agreement text and in the trade-opening plan. The flexibility and asymmetry principles can also be included therein. The European Union is therefore ready to open its market to the ACP countries as early as 2008 (with transition periods for two products), while the region will only open 80% of its market. We are ready to exclude sensitive products. If ECOWAS requests us to exclude concentrated tomatoes, poultry and milk, we can exempt these products from liberalisation. We do not intend to

threaten local production but to improve the supply capacities of West Africa.

The second point, which needs mentioning, is the “regional integration” and “regional markets consolidation” dimension of the agreement. The EPA can have a positive impact on the acceleration of the regional integration process, an impact which is already being felt through the region's discussions on, for example, the Common External Tariff (CET) and the Customs Union. The EPA has also generated an active dialogue process between the Commission and its Member States.

The third point is economic governance. By working on the rules meant for businessmen and for the creation of a transparent and predictable legal framework, we are introducing legal protection and good economic governance, which are elements that contribute to the creation of an enabling environment for investment.

The fourth point, which I wish to mention, is related to the support of EPA implementation. Development cooperation is important in order to enjoy the beneficial effects of the EPA, and we are ready to reflect this principle in the Agreement text. The chief negotiators, Peter Mandelson and Louis Michel undertook, in February 2007, to define jointly with the region some assistance programmes for the implementation of the EPA. Louis Michel actually raised three points: improvement of competitiveness and upgrading of the production sectors involved in the EPA; “substantial” absorption of the net

fiscal impact of the EPA; support to the implementation of trade reforms contained in the EPA. In this way, funds could be released for the facilitation of trade, SPS standards compliance, etc. These funds are derived from the Regional Indicative Programme (RIP) of

the 10th EDF, which has been substantially increased. The chief negotiators are ready to channel a substantial part of the Regional Indicative Programme

(RIP) through the EPA regional funds created by ECOWAS.

SALIFOU TIEMTORÉ: This simply means that the agreement must ensure that trade is used as an instrument for development ambitions and not the opposite. Trade is not an end in itself. Most of our countries already have considerable access to the European market. We will not achieve more than that. We are aware that this access to the European market did not allow our economies to take off, to diversify and be modernised. We must therefore find out why this is so and provide solutions. This is the challenge for a “development-oriented EPA”. Under what conditions can our production sectors get out of their current state of stagnation? On which segments of the market can we base our development strategy? For West Africa, the answer is clear: Our regional market increases by twofold every 20 years! This is the source of our growth and our first market. Therefore, an EPA must first decisively support regional integration and enable us to remove all trade barriers among our countries so that producers and companies can meet the consumers. A development-centred EPA must ensure strictly controlled opening of our trade with Europe in order to prevent our market from being invaded by imported goods. Secondly, we need to develop our exports. With regard to this aspect, we still depend heavily on traditional production. We have to think about our future specialisations as the emerging countries did. On which production sectors and on which processed products and markets are we going to position ourselves? Based on this, what are the priorities of our development programmes and our incentive policies for investments? I would like to mention agricultural issues and challenges, which are crucial. This is a good example to illustrate the potential of a development-oriented EPA: finding together with Europe rules to regulate the trade in competing products between our two regions, and which are strategic to each one of them; orienting the EPA on the basis of choices made by the region and its stakeholders in all sovereignty, as outlined in the regional agricultural policy (ECOWAP); and finally, acting together at the WTO.

« IF ECOWAS REQUESTS US

TO EXCLUDE CONCENTRATED

TOMATOES, POULTRY AND MILK, WE

CAN EXEMPT THESE PRODUCTS FROM

LIBERALISATION »

BELÉN CALVO UYARRA

GDS: *What can the EPA really contribute as new with regard to the previous trade regime and development assistance policies?*

BCU: As I said, market access is not the only dimension taken into consideration. The new major contributions of the EPAs are regional integration and governance. Concerning assistance, through the EPAs, more emphasis is laid on trade requirements. With the EPA, we are more conscious of this, and solutions are effectively tailored to the requirements in order to capture all the development potential of trade.

ST: Our countries need to better integrate trading approaches and sector-based policies. This is the strong point of the EPA approach, if we succeed in turning it into an instrument that ensures that the trade regime, the regional integration strategy and the production sector policies are coherent. This is being done already! As never in the past have we progressed as much in the integration agenda as we are now. The region is really working to create a customs union with an external tariff common to all the countries. These things will take time, but we have changed our tempo. More importantly, policy makers and socio-professional stakeholders are formulating negotiating positions together with regard to the European Union.

GDS: *Can the upgrading measures and the support to the EPAs prevent the risks associated with opening of trade for agricultural chains that are in competition with European agriculture?*

BCU: What is important is that whenever the region decides what it will supply to the European market, it must take into consideration its sensitive products, its specific conditions and its development ambitions. The region is currently doing a serious analysis, which should enable it to draw up a list of its sensitive products. It can ask

us to exclude such products from the scope of liberalisation under the EPA. We made some estimates; only 16% of trading between the EU and ACP is based on agricultural products, while fishing is only 2%. We therefore have enormous leeway to exclude some products while remaining compatible with the WTO.

There is a need for a tariff liberalisation scheme that is consistent with the region's requirements. There are also the rules: the SPS and liberalisation of inputs will enhance the competitiveness of local production and

contribute to the reduction of costs. Providing support is part of the reform. If we identify a product which is likely to be threatened by market-opening, and which in spite of everything must be liberalised, such a product can be supported with a view to strengthening it. In conclusion, we are ready to work with the region on a liberalisation scheme, which is in line with the region's conditions and its development ambitions. We are ready to provide supporting measures in order to absorb the eventual EPA adjustment costs, and to develop all its potential. It is the duty of the region to tell us what is best for it.

ST: We need to carry out a difficult task. Our region is sorely lacking and population growth contributes to a high demand for food. Our agricultural policy gives greater importance to the satisfaction of this demand by the regional producers. But our agricultural performance is such that we still have to resort to the importation of goods for a while. Climatic fluctuations also compel us to resort to external markets in order to regulate our markets. But importing does not mean giving up our agricultural ambition and our objective of food self-sufficiency, especially in this period where the markets are under considerable pressure, this could increase our food bills beyond what we can bear. Therefore, we must think about setting up control instruments at our borders, which will define the normal competi-

tion conditions between the two partners and provide conditions for the development of our agricultural and food chains. We must combine import price regulation through protection whenever it is necessary, and investment in agricultural productivity and value chain competitiveness, thanks to the supportive measures. Sensitive products, which are protected for the time being, can be gradually liberalised if Europe stops dumping, directly or indirectly, its products into our region, and if we are able to implement the competitiveness improvement programmes. Our trade-opening must be determined by measurable progress made on these subjects. We are setting-up a competitiveness observatory to help us in steering the EPA.

The interview with Belén Calvo Uyarra was conducted by telephone on 13 July 2007. This version is a summary of a complete version published on the internet: www.inter-reseaux.org

The interview with Salifou Tiemtoré was conducted in Dakar on 5 July 2007. ■

« THE AGREEMENT MUST ENSURE THAT TRADE IS USED AS AN INSTRUMENT FOR DEVELOPMENT AMBITIONS AND NOT THE OPPOSITE »

SALIFOU TIEMTORÉ



© Bureau Issala

The EPAs in West Africa: a panorama of alternatives

Sanoussi Bilal, sb@ecdpm.org; Éric Hazard, ehazard@oxfam.org.uk; Imma de Miguel, idemiguel@intermonoxfam.org

► Sanoussi Bilal is the coordinator of the Economic and Trade Cooperation Programme at the European Centre for Development Policy Management (ECDPM).

► Éric Hazard is in charge of the Economic Justice Campaign for OXFAM International in West Africa.

► Imma de Miguel is in charge of Trade/Economic Justice Campaign for OXFAM International in West Africa.

ACCORDING TO the EU and ACP countries' commitments made at the WTO, the current system of "preferences of Cotonou" must be replaced by a free-trade agreement (FTA) between the two parties, compatible with WTO rules by 1 January 2008. This FTA, called the Economic Partnership Agreement (EPA) because it also intends to cover many issues that are connected to trade, will make it possible to liberalise "substantially all trade" between the ACP and the EU within a "reasonable" timeframe. In the context of EPA negotiations, the European Commission has construed this rule as meaning that the ACP countries could liberalise about 80% of their trade with the EU within a timeframe of 12 to 15 years, which can be extended to 25 years for some sensitive products.

The implications of not signing the agreement by 31 December 2007. The European Commission stresses that if the six regional groupings engaged in the negotiation do not sign the EPAs by the end of December 2007, it will no longer grant preferences based on the Cotonou Agreement. Therefore, as from 1 January 2008, the least developed countries (LDCs) of the ECOWAS zone would have to rely on the "Everything But Arms" (EBA) initiative, which provides duty-free and quota-free access to the European market. The other countries (Côte d'Ivoire, Ghana, and Nigeria) would use the normal Generalised System of Preferences (GSP), which the EU provides for all developing countries. But the GSP offers preferences that are well below those of Cotonou. This loss of preferences would have a very important impact on trade flows.

The European Commission assesses the loss for the West Africa region (WA) at more than one billion Euros, as the average tariff rate to be paid in the context of the GSP is averagely between 20% and 36% of ex-

ports from Côte d'Ivoire (700 million Euros). This country would be liable to a tariff rate of 27% as against 0% in the Cotonou Agreement or in the EPAs; in the case of Ghana, it would affect 25% of its exports (240 million Euros). In Ghana and Côte d'Ivoire, more than two thirds of the additional costs concerns the horticulture, fishing and timber sectors¹. For Central Africa, the loss could amount to about 360 million Euros of exports. This option is, therefore, less credible from the policy point of view.

Is there any alternative? The inability of the two parties to reach an agreement on the EPA does not necessarily mean lack of agreement. This pessimistic scenario could be replaced by a more balanced one that will enable the EU to meet the obligations to which it is legally bound through the Cotonou Agreement, and ensure that no ACP country's situation deteriorates after the expiration of the preferences of Cotonou, while still being compatible with WTO rules². As pointed out in a recent ECDPM³ study, two scenarios could be envisaged, with two options for each one of them.

Scenario 1: The setting-up of an EPA by 1 January 2008.

Option 1: A complete EPA, only feasible in the present state of negotiations if the region adopts the EU proposals.

1. TWN Africa, Oxfam International, "A Matter of Political Will," Briefing Paper, April 2007, 31 p., www.oxfam.org.uk. For a detailed analysis, read "The Costs to the ACP of exporting to the EU under the GSP". Final Report, March 2007. London: Overseas Development Institute. www.odi.org.uk.

2. The Commonwealth Secretariat, "Opinion on the General Preferential Regime Applicable to Imports of Goods Originating in ACP non-LDC failing the conclusion and entry into force of EPAs by 1 January 2008," March 2007.

Option 2: A restricted EPA, which only involves the liberalisation of goods and commodities and key provisions related to sustainable development and development cooperation.

Scenario 2: No EPA by 1 January 2008.

Option 3: Shifting to the GSP or GSP+ regime. Lack of agreement between the two parties will compel the ACP countries to go through other preference systems (GSP or GSP+) in order to have access to the European market.

Option 4: Extension of the present system. If agreement cannot be reached between the two parties, the trade regime stipulated in the Cotonou Agreement will be maintained whether it is accepted by the WTO or not.

Option 1 (scenario 1): complete EPA

This configuration is similar to what the EU is pursuing in the current negotiations. Considering the state of progress of negotiations, this configuration would not, however, enable WA to take ownership of a reasonable and fair EPA geared towards development and regional integration. In fact, the negotiations calendar is presently dictated by the EU and not by the state of preparedness of countries of the region. Therefore, the EPA content follows the agenda proposed by the European Commission, a situation which has been criticised by many actors. The Network of West African farmers and agricultural producers organisations

3. See "Concluding EPA Negotiations: Legal and Institutional issues," Bilal, S., ECDPM report 12, August 2007, Maastricht: European Centre for Development Policy Management (ECDPM), www.ecdpm.org/pmr12. Read also Stevens, C. "EPA: entering dangerous territory, Information about the negotiations, Vol. 6, N° 4 July-August 2007, ECDPM-ICTSD, www.acp-eu-trade.org/eclairage.

of West Africa (ROPPA) notes for example that “this EPA scheme fashioned after the agreement signed between the EU and South Africa, which does not take into consideration the presence of LDCs who make up the majority [in West Africa], is an enormous risk for regional integration and may especially increase poverty⁴. The impact studies highlight the adverse implications on the economy of the most vulnerable countries in the region (13 LDCs out of the 16 nations of the region). This type of agreement is only possible if it is supported by a development component that takes into account the main concerns of the region: strengthening of regional integration, improvement of productivity and competitiveness of the productive sectors and the achievement of food sovereignty. West Africa is lagging behind in all these aspects that may not be satisfied by 2020 in order to ensure an 80% opening of its market to European exports. No regional sector policy is being genuinely implemented in West Africa for now⁵.”

Option 2 (scenario 1): Restricted EPA⁶

In this scenario, the parties reach an agreement on the reciprocal access to markets of goods, in order to comply with WTO rules relating to the creation of FTAs (GATT article XXIV⁷), and on some key areas for which an agreement can be reached by the end of 2007. The other issues (agreement on services, and on some

4. Thus, the declassification of agricultural labour (60% of labour force) connected to this scenario of opening the West African market to European exports, would likely result in an increase in urban migration and poverty.

5. Extract from the study on the alternatives to EPAs, sponsored by ROPPA, OXFAM International and the rural Hub: *Étude des alternatives aux APE*. (The study of alternatives to EPAs). December 2006. Jacques Gallezot, Christophe Lesueur, Bio Goura Soule.

6. Read also Bilal, S and F. Rampa. 2006. *Alternative EPAs and alternatives to EPAs. Possible scenarios for the future ACP trade relations with the EU*. ECDPM Policy Management Report 11. Maastricht: ECDPM. www.ecdpm.org/pmr11

7. See also box page 20.

areas connected to trade) for which WA is not yet ready could be negotiated later as from 2008. The agenda of the negotiations (and therefore the preparation needed for an EPA by the end of 2007) is lightened and corresponds better to the capacities of the region. Some people also see it as an opportunity to define a framework agreement that will be less compelling with regard to the opening of WA market to European products and to other rules connected to trade. Thus, the study on the alternatives in West Africa sponsored by ROPPA, the Rural Hub and OXFAM considers different scenarios. Even if it is in line with trade liberalisation logic between the two zones, a simplified EPA is considered less compelling, more suitable to the West African situation and less penalising for the regional integration objectives than a complete EPA. The market opening proposed by the ACP group of countries would be done by 50% to 60% as against 100% for the European side. Considering the importance of the LDCs, which in West Africa account for more than 30% of bilateral trade with the EU, such a scenario seems quite realistic. This scenario deserves further consideration. Moreover, these trade arrangements should be supported by development measures in order to accelerate upgrading and restructuring of production sectors and implementation of agricultural and industrial sector policies. At any rate, and regardless of its exact content, a simplified EPA represents a minimum scenario that must conform to the WTO rules (GATT article XXIV) and the development objectives contained in the Cotonou Agreement.

Option 3 (scenario 2): GSP or GSP+

The direct implications of this scenario would be the restriction of access of West African countries to the European market since the GSP is less advantageous than the preferences contained in the Cotonou Agreement. The products of non-LDC West African countries exported to Europe would be liable to additional tariff rates, highly



© Demonstration against EPAs (Cotonou) © Grapad

penalising for at least three countries, which are Côte d’Ivoire, Ghana and Nigeria. The 13 least developed countries of the region could be penalised as a result of the rules of origin that are more restrictive in the context of the “Everything But Arms” system than the Cotonou Agreement or the EPA. This scenario could also affect the regional integration process, especially by granting the LDCs and non-LDCs of the region different and inequitable trade regimes, which could be a source of tension and even traffic diversion.

In order to reduce the loss of preferences for the non-LDC countries, the EU could provide a system of GSP+ preferences (see box, page 38) that would enable non-LDCs of the ACP Group to have a considerable access to the European market for their exports, after the expiration of the preferences stipulated in the Cotonou Agreement. The GSP+ is currently restricted to developing countries that are non-LDCs and who meet specific development and governance criteria (particularly as regards sustainable development). These criteria will have to be reviewed in order to enable the ACP countries to benefit from the GSP+ by 2008. However, these criteria must be transparent and be based on development objectives in order to meet the WTO rules. Indeed, other non-LDCs, beyond the ACP Group, could also benefit from this new GSP+. This would contribute to accelerate the erosion of the preferential margin being enjoyed by ACP products in the European market. Such

« THE INABILITY OF THE TWO PARTIES TO REACH AN AGREEMENT ON THE EPA DOES NOT NECESSARILY MEAN LACK OF AGREEMENT »

penalising for at least three countries, which are Côte d’Ivoire, Ghana and Nigeria. The 13 least developed countries of the region could be penalised as a result of the rules of origin that are more restrictive in the context of the “Everything But Arms” system than the Cotonou Agreement or the EPA. This scenario could also affect the regional integration process, especially by granting the LDCs and non-LDCs of the region different and inequitable trade regimes, which could be a source of tension and even traffic diversion.

The strength of the GSP+: Avoiding disruptive effects on trade

BY RESORTING TO THE GSP+, the EU could easily grant all the ACP countries' exports a better access to markets at levels that are very similar to the access offered within the framework of the Cotonou Agreement, while remaining compatible with the WTO rules, as long as the regime is opened to other developing countries on the basis of objective and transparent development criteria.

The GSP+ program or "special incentive arrangement for sustainable development and good governance" offers a preferential access, which is far better than the one provided for by the GSP to countries that observe certain international standards concerning human rights, environmental protection, narcotics control and good governance. Fifteen developing countries, mainly in Latin America, are currently benefiting from a preferential access to the European market in the context of this programme.

The GSP+ would provide a very high degree of protection for the ACP exports, which currently use the pref-

erences contained in the Cotonou Agreement. In 88% of cases where the standard GSP applies tariffs that are higher than those stated in the Cotonou Agreement, a duty-free access is provided for under the GSP+. Each ACP export that would be subjected to a tariff increase of 20% or more of its *ad valorem* duty, based on the standard GSP, would be duty-free under the GSP+. In most cases where the GSP+ does not grant duty-free access, it provides the same level of access as in the framework of the Cotonou Agreement.

The relevance of the GSP+ can only be analysed based on a detailed review of each export product per country. This study has analysed in detail products targeted by the GSP+ for all the developing countries of the negotiating groupings, of Eastern and Southern Africa, the Economic Community of West African States (ECOWAS).

(...)

More significantly, the key export sectors of horticulture, fisheries and timber, which are of particular interest

to a number of ACP countries, would be granted duty-free access to the EU market under the GSP+. Accepting the ACP countries in the GSP+ by 2008 would be a guarantee to exporters and investors in these key export sectors to continue their exportation activities. This would relieve the EPA negotiations of the excessive and unnecessary pressure concerning the deadline, and would enable the ACP countries to pursue the negotiations beyond 2007, without any interruption or with negligible interruptions in current trade.

Source: TWN Africa, Oxfam International, *A Matter of Political Will, Briefing Paper*, April 2007, 31 p., www.oxfam.org.uk.

☉ a reform may not be easily justifiable if the period required after 2007 for the conclusion of the EPA is relatively short. But, whatever the political and administrative complexity of its implementation between now and the end of 2007, this scenario is still possible. It only requires sufficient political will on the part of the EU to enable the ECOWAS and the ACP Group of countries in general to benefit from this scenario.

Option 4 (scenario 2): Continuation of the Cotonou regime

In this case, the two parties would have to agree to extend the transitional preferential regime in force in the Co-

tonou Agreement in order to conclude the negotiations within a reasonable timeframe. This would save precious time, but requires an extension beyond 2007 of the waiver related to the preferential trade regime obtained at the WTO in November 2001. This is unlikely and could lead to legal disputes with other member countries of the organisation before the WTO's dispute settlement body. These disputes are potentially costly in terms of policy, trade strategy and credibility. As the EU has undertaken to meet its obligations with regard to the WTO (as have the ACP countries), it does not want to embark on that course. The temporary continuation of the Cotonou prefer-

ences after 2007 remains however, the most practical option, since it would enable the continuation of the EPA negotiation during the required time without affecting the current regime of preferences and hence the trade flows. Furthermore, considering the WTO procedures, there is no risk of possible trade sanctions if an EPA agreement could effectively be reached within a reasonable timeframe.

Beyond these alternatives, other options could be envisaged, which would diverge from the general philosophy of free-trade agreements. ■

Keeping promises and meeting the EPA challenges: more political will needed

THE EPAS CAN ONLY BE MEANINGFUL if they are an extension of the development strategy of the countries and the region. By hurrying up, the negotiators are taking the risk of reaching agreements that do not reflect the realities and do not ensure adequate participation of the countries and stakeholders in such a way as to reflect their expectations.

Sanoussi Bilal, sb@ecdpm.org; Éric Hazard, ehazard@oxfam.org.uk; Imma de Miguel, idemiguel@intermonoxfam.org

► Continuation
of pages 36 to 38.

THE EPAs should create, including in the opinion of the European Commission, a trade and economic framework that is conducive to sustainable development and poverty reduction in each ACP country and region. The redefinition of the relationship with the EU is only one of the points of discussion. For an EPA to be able to provide new opportunities, it must be integrated in a clear development strategy and be based on an economic, institutional and structural transformation process at the service of the people, both at the national and regional level. Otherwise, the EPAs will not only not be able to keep their promises, but they could also cause a serious imbalance that will affect the development objectives of the ACP countries and region.

There is no linkage between national development strategy and EPAs. In the present stage of negotiations, the Economic Partnership Agreement between WA and the EU seems not yet to be incorporated in a clearly defined development and reform dynamic that would be owned by national stakeholders of the region. To many people, the risks associated with the EPAs are still not well defined. The solutions provided to the problems being raised by these people seem not to convince the private sector businessmen, representatives of the civil society or some ECOWAS Member States. Although negotiations are progressing the EPA, as formulated by the negotiators, is not really being appropriated at national level based on a long-term integrated development strategy. Most of the West African countries have not incorporated the EPAs into their national reform programmes. Whereas negotiators seem to be busy attending to the most urgent thing first – setting-up an EPA by the end of 2007 – one can observe, in many of the countries of the region, a dichotomy between the EPA adoption project (confined to the Ministries of

Trade and Finance for issues relating to the loss in customs earnings, and the Ministry of Agriculture for the identification of sensitive products) on the one hand, and the economic, social and reform policies meant, in principle, to ensure sustainable development at the national and regional levels, on the other hand.

Thus the current pace of negotiations does not in any way guarantee the involvement of a greater number of people in the negotiation or even their access to information. As of today, West Africa has not been able to propose an EPA text and seems unable to do so before the end of September or even October 2007. This further delays the negotiation schedule and contradicts the participation objectives set out in the Cotonou Agreement.

Setting a good agreement as the target, instead of reaching an agreement at all cost. In this context, the EU's strong desire to conclude an EPA with West Africa by the end of 2007 appears to be in contradiction with the economic and political realities of the region. By putting a lot of pressure on West Africa, the European Commission may likely be perceived as interventionist, using its political and economic power to impose its own vision in the negotiations. As such, it could be accused of practising “the stick-and-carrot” technique, by using aid promises and threat of loss of trade preferences, with a view “to buy” or obtain the conclusion of an EPA by “force” between now and the “fateful” date of 31 December 2007 at all cost.

However, this scenario could be replaced by a more balanced one. With enough political will, the European Commission and the EU member States could take advantage of the different options in order to continue the negotiations by taking into account the delays recorded and the real negotiation capacities in West Africa. In order to achieve this, the ACP negotiators

should be assured that the present trade would not be disrupted after 2007. This is only a matter of political will. It is important in this context for the EU to consider the difficulties encountered by the West Africa region and which have been emphasised in the mid-term review. These difficulties should, in particular, make it possible to redefine more coherent strategies. At the same time, it is crucial that leaders of the West African countries assume their responsibilities. They can do so primarily by clearly expressing as soon as possible their difficulties in concluding the EPA negotiations by the end of 2007¹, so that appropriate measures can be taken, including by European countries that support their approach. But above all, it is important for them to assume their political responsibilities by drawing up a coherent programme for the long-term development of their countries, in which an EPA whose content they might have defined themselves could be developed. Otherwise, the challenges for the implementation of an EPA could be insurmountable.

In the present stage of discussions, it seems difficult to think that the EPAs in their current form can satisfactorily meet the development and regional integration strengthening objectives set out in the road map drawn up in Accra by the two parties in 2004. Only a strong political will in Europe and in West Africa can ensure that the economic and trade cooperation framework between the two regions is consistent with the long-term development objectives for the benefit of the 240 million inhabitants of a region that is among the poorest in the world. ■

1. Thus, the mid-term review of the EPA concluded in May 2007 is a lost opportunity.