

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 »

Such

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. ■