

**AN 'ALTERNATIVE' TO THE
EPA PROPOSALS:**

**A PROVISION DROPPED FROM
THE EU'S
'EPA NEGOTIATING MANUAL'?**

Art 37(6)

Art 37(6) of the Cotonou Agreement contains the provision that, with respect to non-LDC countries, the EU should “examine all **alternatives** possible in order to provide [those ACP] countries with a new framework for trade which is equivalent to their existing situation and in conformity with WTO rules.”

Ambitions of the EPA proposals

The overall objective of EPAs is poverty reduction in the ACP countries. More specific EPA objectives include:

- Promotion of regional integration
- Sustainable development and growth
- Addressing supply-side constraints
- Enhancement of economic diversification
- Gradual integration of ACP economics into the mainstream world market
- Ensuring compatibility with WTO rules.

In order to achieve these objectives, the EPA proposals are based on the following principals:

- Maintenance of the *acquis* (whereby the ACP would not be worse off than under the Lomé/Cotonou Agreement)
- Promotion of regional integration and reinforcement of existing (note!) regional integration initiatives
- SDT, especially for the LDCs and small land lock and island countries
- A development dimension to address capacity, economic, environmental, investment, social, structural and supply-side constraints to enable a gradual and smooth integration of ACP economics into the world economy
- WTO compatibility.

Over and above these objectives and principals, also embedded in the EPA proposals are the so-called Singapore issues.

A viable option?

Numerous impact assessment studies were produced to date on the possible effects of these EPA proposals on the different ACP economies. In these studies different related concepts can be found, like for example:

- negative impacts / positive impacts
 - trade creation / diversion
 - preference erosion
 - resource re-allocation
 - supply-side constraints
 - loss of revenue through tariff reductions
 - welfare derogation / improvement
 - development assistance etc., etc.
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Unresolved issues (to mention but a few)

The conditional EPA proposals rely on GATT Art XXIV to justify the required WTO compliance. GATT Art XXIV was originally designed for North-North (developed-developed) FTAs where, in contrast, GATS Art V (also part of the WTO Agreement) accommodates North-South (developed-developing) concerns.

“**Calls** on the EU to support the proposal of the ACP Group submitted to the WTO on the modification of the RTA rules, including Article XXIV of GATT 1994;”.

“**Stresses** the need for WTO rules to be modified to incorporate legally binding operational S&D provisions in order to create flexibilities for developing countries engaged in Regional Trade Arrangements with developed countries.”

The conventional definition of developed countries, developing countries and LDCs is based on a straight-line definition of the UN, taking into account only the average income of a population per annum.

WTO-plus dimension

“We always use bilateral free trade agreements to move things beyond WTO standards. By definition, a bilateral trade agreement is ‘WTO-plus!’. Whether it is about investment, intellectual property right, tariff structures or trade investments, in each bilateral free trade agreement we have the ‘WTO-plus’ provision.”

“The EU trade policy is an oil tanker. It is heavy, solid and not that flexible.”

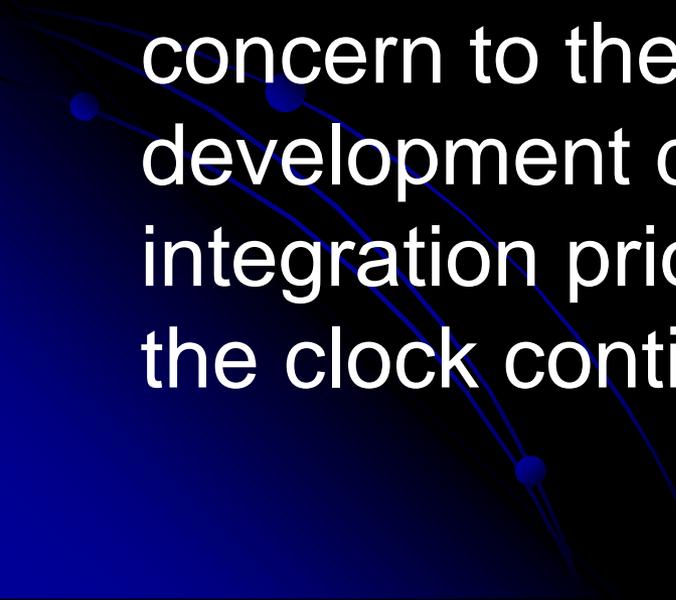
Development dimension

The development dimension is not part of the WTO waiver provisions. The real issue about the waiver is trade and this is the issue that needs to be resolved before the end of 2007.

“**Regrets** the disconnect between the public statements of the Commissioners of Trade and Development on the development aspect of EPAs and the actual position adopted during EPA negotiating sessions;”.

Progress to date

“Express grave concern that the negotiations have not proceed in a satisfactory manner having failed to start addressing most issues of interest and concern to the ACP regions, in particular the development dimension and regional integration priorities:” (and the race against the clock continues).



The race against the clock

“Moreover, it is clear that the waiver granted in Doha will not be extended beyond 2007.”, i.e. EPAs will have to be in place at the beginning of 2008!

What can one expect to be in place at the beginning of 2008? – a series of framework agreements with a range of provisions to be negotiated after 2008?

The lurking danger of framework agreements is that once signed and implemented, then the variable interpretations of the outstanding provisions start to emerge.

“**Calls** on the EU to seriously consider the numerous concerns expressed by the ACP Group and in this regard request the EU to adjust its negotiating directives as appropriate.”

Regional integration objective

Article 35 (2) of the Cotonou Agreement states that “Economic and trade cooperation shall build on regional integration initiatives of ACP States, bearing in mind that regional integration is a key instrument for the integration of ACP countries into the world economy.”

“**Stresses** that regional integration is of crucial importance as a step towards the development of the ACP countries. EPAs should therefore support, and be based on the existing regional integration agenda initiatives and objectives within the ACP.”

SADC regional integration objectives

FTA by 2008

Customs Union by 2012

Common market structure by 2015

One central Bank and a single currency by 2016.

As far as the current SADC configuration is concerned, regional integration will remain a far-fetched delusion.

EU's parallel FTAs with other developing countries

Let's just take as an example the economic strength of the Mercusor countries in terms of agricultural exports; what would then be the eventual benefits for the ACP under EPAs?

Alternatives in the Cotonou Agreement

“I think firstly to put into the domain that the Commission had agreed to look at alternatives and at the ACP request have agreed now to postpone that until 2006. The Commission is very much putting the emphasis on allowing negotiations to progress before they begin to develop alternatives.” “both sides agreed that the joint ACP-EU focus was on designing EPAs which will be the most effective tools for the development of the ACP countries. Why would one discuss second best alternatives at this stage?”.

“I do not have the capacity to work on alternatives.”

“and any other options will be less valuable for trade and development.”

“does still stand”

“but I think that they and we are agreed that we want to maintain this level of ambition for what we are trying to do, rather than, as I say, opt at a premature stage, before we have even pursued the negotiations sensibly and rigorously, for something that is second best.”

“The alternative is the GSP, ...”

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This new GSP will render some developing countries not eligible to qualify for it. (In addition: this new GSP is only valid till 2008 and still needs the approval from the WTO).

Ms Kate Cook, a lawyer with Matrix Chambers, found that the EU, through its Trade Commissioner, Mr Peter Mandelson, is in breach of treaty obligations towards the ACP as provided for in the Cotonou Agreement

A new alternative

- SACU
- SADC
- EACU
- COMESA

and then there is the EU-South Africa TDCA, of which the BLNS is *de facto* members

Dissolve the SADC EPA configuration

Tanzania should (for the time being) honour its commitments in the EACU

Angola & Mozambique are LDCs and qualify for the EU's EBA preferences

BLNS to become *de jure* members of the TDCA (thus making the inevitable a reality)

Negotiate with the EU (with the assistance of South Africa) a TDCA-plus dispensation under the provisions of the Cotonou Agreement

Use the SACU engine to expand into the region (Mozambique is already interested to join SACU. There are other initiatives, like the MMTZ, which could also be utilized to expand SACU).

Issues that the BLNS should include in their TDCA-plus negotiating agenda:

- Protocols for the main agricultural export commodities (building on the acquis)
- Total duty free access to the EU markets i.e. removal of all residual duties that currently exists
- Inclusion of value-added products i.e. to encourage local value-adding and diversification
- A reform on the EU's import licensing arrangements to encourage export to that market
- Reclassification of the BLNS as LDCs to stimulate economic development in general and encourage industrial development in particular (to compensate for the revenue losses due to tariff reductions).

Technical assistance to address issues like: ...

- capacity building
 - real development assistance
 - supply-side constraints
 - SPS and food safety issues
 - value-adding and diversification within industries
 - diversification of the economy
 - development of an industrial base etc.
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Conclusion

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