

**THE ACP- EU COTONOU PARTNERSHIP  
AGREEMENT**

**A MANUAL  
FOR CIVIL SOCIETY ORGANISATIONS  
IN ZAMBIA**

**PRODUCED BY: CIVIL SOCIETY TRADE NETWORK OF  
ZAMBIA (CSTNZ)**

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## **Preface**

The ACP-EU Cotonou Partnership Agreement (or just: *Cotonou Agreement*) is a legal document that binds the European Union (composed of the European Community and the currently 25 Member States) and 77 countries in Africa, the Caribbean and the Pacific (ACP) in a long term perspective. It was signed in Cotonou, Benin, in June 2000 and entered into force in April 2003. Basically, it defines how the European Community (EC) and the ACP countries seek to cooperate in the fields of aid, trade and political cooperation until the year 2020.

Compared to its predecessors, the *Lomé Conventions*, of which the first was signed in 1975, the Cotonou Agreement introduces a number of innovations of which I want to highlight three:

- Firstly, a political dialogue has been introduced as a strategic and continuous feature in the partnership. This highlights the importance given by both sides to the issue of “good governance”, i.e. the better use of public funds and the fight against corruption etc.
- Secondly, trade relations are bound to change significantly. The current non-reciprocal preferences offered to the ACP countries by the EU will have to be replaced by so-called “*Economic Partnership Agreements (EPA)*” in line with WTO rules by 2008.
- Thirdly, “*non-state actors*”, i.e. development actors other than governments, which include the private sector, economic and social partners including trade unions, and civil society “in all its diversity according to national characteristics” shall be consulted and involved in the ACP-EU relations and in the implementation of the Agreement.

For *civil society organisations (CSO)* in Zambia and elsewhere it is absolutely critical to grasp these new opportunities offered by the Agreement in terms of participation. Unlike in the Lomé Conventions, the participation of CSOs is no longer limited to the provision of services in the implementation of projects. CSOs and other non-state actors are now also invited to participate in dialogue with their governments and the EC on their country’s development strategy, and on the contribution the EC will make to support that strategy. Moreover, they can and must keep a watchful eye on what is happening in the trade negotiations under this Agreement towards what will amount to free-trade arrangements between groups of ACP countries and the EU.

In order for CSOs to be able to do all this, the availability of appropriate and reliable information on the Agreement as such, as well as on how CSOs can participate in and benefit from it, is a key prerequisite. This is why FES Zambia is happy to have facilitated this plain language guide on the Cotonou Agreement for CSOs in Zambia. I would like to thank the Civil Society Trade Network of Zambia (CSTNZ) for having taken the initiative to produce this manual. I am convinced that it will make a valuable contribution to a more active participation of the Zambian people in the implementation of this Agreement. FES and CSTNZ have worked together on trade and development-related issues for a long time. It is my sincere hope that this fruitful partnership will continue well into the future.

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## **Acronyms**

ACP	African, Caribbean and Pacific countries
CAP	Common Agricultural Policy
COMESA	Common Market for Eastern and Southern Africa
CPA	Cotonou Partnership Agreement
CSO	Civil Society Organisations
CSP	Country Strategy Paper
CSS	Country Strategy Support
EBA	Everything But Arms
EDF	European Development Fund
EIB	European Investment Bank
EPA	Economic Partnership Agreements
ESA	East and Southern Africa
EU	European Union
FTA	Free Trade Area
GATT	General Agreement on Tariffs and Trade
HIPC	Highly Indebted Poor Country
JPA	Joint Parliamentary Assembly
LDC	Least Developed Countries
MFN	Most Favoured Nation
NDTPF	National Development and Trade Policy Forum
NGO	Non-Governmental Organisation
NSA	Non-State Actors
OECD	Organisation for Economic Cooperation and Development
PRSP	Poverty Reduction Strategy Paper
SACU	Southern African Customs Union
SADC	Southern African Development Community
SAP	Structural Adjustment Programmes
TDCA	Trade and Development Cooperation Agreement (EU-South Africa)
US	United States
WTO	World Trade Organisation

## **Manual Users' Information.**

### **The need for a Manual on the Cotonou Agreement**

Zambia, like the rest of the world is experiencing dramatic changes in economic organisation and management. The area of trade in goods and services is one of the areas where the changes are very dramatic. The changes involve the creation of new trading organisations, new trading rules and even new trade channels such as the internet. These changes affect our lives whether we live in villages, in towns, in developed or underdeveloped countries. It is, therefore, important that we all try to understand and come to terms with these developments. The objectives of this manual among others include the following:

- a) To create space for community based organisations to debate and try to understand and influence the Cotonou Agreement and other developments taking place in the world and how these affect their communities and families.
- b) To assess and explore opportunities for communities to influence events taking place in through the Cotonou Partnership Agreement and the area of trade and development.
- c) To identify opportunities offered by and the risks associated with the Cotonou Agreement and other developments in trade that could be harnessed or prevented by the poor to improve and protect their situation and reduce poverty in their communities.

The reader is encouraged to explore the issues raised by asking questions to neighbours, community based organisations and their elected representatives. The list of organisations trying to assist community based organisations is in chapter seven. Though not exhaustive, it is meant to assist in the process of discovering and understanding trade, development and poverty.

The manual is designed in such a way that it is relatively easy to read and understand. The first chapter presents the background to the Cotonou Agreement. The second chapter looks at the Cotonou Agreement itself. The third chapter looks at one of the pillars of the Cotonou Agreement, namely "Development and Financial Cooperation". The fourth chapter looks at the second pillar, namely "Economic and Trade Cooperation". The fifth Chapter looks at the third and last pillar of the Cotonou Agreement namely "Political Cooperation". The sixth chapter looks at the role of non-state actors in the implementation of the Cotonou Agreement. The seventh and last chapter looks at various institutions that provide some form of information on the Cotonou Agreement. Two annexes, one dealing with the South Africa- EU cooperation and the other with options on the EPAs negotiations are attached. These are recommended for advanced readers. Annexes three and four show the member countries of the ACP and the EU respectively.

## **CHAPTER ONE**

### **1.0 INTRODUCTION- The Road from Lomé to Cotonou.**

In 1975, the EU and a group of developing countries including Zambia called the African-Caribbean and Pacific (ACP) Group, signed an agreement in Lomé the capital of Togo. The agreement called the Lomé Convention granted a preferential trade regime to ACP nations within the framework of cooperation agreements. Trade preferences, commodity protocols and instruments of trade cooperation were part of the four successive Lomé Conventions (1975-2000)<sup>1</sup>.

Under the Cotonou Agreement signed in June 2000, preferences were extended for eight further years (until the beginning of 2008 or from January 1, 2008). The regime will continue to benefit all countries of Sub-Sahara Africa (except South Africa), as well as most independent developing countries in the Pacific and the Caribbean. South Africa, a signatory since 1998 of the EU-ACP cooperation agreement, has never benefited from the trade provisions. It signed a reciprocal free trade agreement with EU in 1999.

For a long time, these preferences were the most generous European trade arrangement with third World countries. The original aim was to promote and diversify ACP countries' exports, so as to favour their growth and development. However, as the EU lowered or abolished its trade barriers within a multilateral trading framework (GATT the predecessor of WTO) or granted preferences to an increasing number of new privileged trade partners in Eastern Europe, the Maghreb, Mexico etc., ACP preferences have lost their relative value.

#### **1.1 Tariff and Non-Tariff Preferences**

These preferences grant an advantage to ACP products imported into Europe in relation to competing products from other countries. The 'preferential margin' is the difference between the tariffs paid on the latter and those tariffs (often at zero) paid by importers of ACP products on their entry into the single European market (tariff preferences). The preferences also take the form of exemptions from non-tariff restrictions such as import quotas (non-tariff preferences). Under a safeguard clause – seldom used so far – the EU can re-impose restrictions when imports from ACP countries threaten their domestic producers.

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

Manufactured and processed products from ACP countries are exempted from customs duties, as well as from certain restrictions (non-tariff barriers) on their entry into the single European market as long as they meet the prescribed standards. To benefit from these preferences, ACP countries must conform to rules of origin, which set out the degree of processing required within ACP countries. "Non originating" raw materials cannot represent more than 15% of the ex-works price of the finished product. Moreover, simple assembly in an ACP country of components from non-ACP countries is not sufficient to constitute a product of ACP origin. The objective of these rules is to ensure that imported products from ACP beneficiary countries really originate from them, and not from a non-beneficiary country, which would thus illegally benefit from ACP

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<sup>1</sup> Adapted from European Centre for Development Policy Management (2001) Cotonou Info kit (13)

preferences. The rules of origin authorise ACP countries, in the EU and in certain non-ACP neighbouring countries in the calculation of the originating component (which must be equivalent to at least 85% of the total value of the product). The Cotonou Agreement also allows a limited degree of cumulation with South Africa.

Preferences for agricultural products are less generous, since they are sometimes limited (by quotas, 'ceilings', seasonal restrictions for fruit and vegetables, and simple exclusion of a limited number of products).

There are two types:

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

## **1.2 The Commodity Protocols**

In addition to the above, four agricultural products were the subject of protocols annexed to the Lomé Convention. For certain 'selected and traditional suppliers' from the ACP countries, they gave free access to specific quantities of bananas and rum, and limited the distorting effect of the common agricultural policy (CAP) on ACP exports of sugar and beef and veal. They even extend certain CAP benefits to ACP producers (such as high prices based on prices paid to European producers). However, the benefits of these protocols have diminished due to factors external to EU-ACP negotiations. These include among others:

- The 1996 US-EU agreement on spirits involved the de facto disappearance of the Rum protocol. The ACP producers, however, have received the assurance that aid would be provided to support their efforts to strengthen their competitiveness;
- Non-ACP members, who considered the provisions on bananas to be discriminatory, (based on the MFN principle), attacked the EU banana regime. Since a ruling of the WTO arbitration panel supported their views, the banana protocol is being revised. The complex system of granting import licenses could be transformed into a simple tariff preference, which probably would no longer suffice to protect ACP exports from the competition of Latin American products on the EU market;
- The CAP reform has started to reduce intervention prices paid to beneficiaries of the beef and veal protocol. In addition, the agricultural negotiations in the WTO could erode the advantages the protocols offer in terms of tariff reductions;
- The sugar protocol has been maintained, but the progressive lowering of the level of support to export prices is irreversible and the regime itself could be under threat.

### **1.3 The other Trade-Related Provisions**

An important part of the financial and technical aid of the Lomé Convention was devoted to the promotion of ACP-EU trade, as well as to strengthening production and export capacities of ACP countries. Under the Cotonou Agreement, some of these instruments like STABEX and SYSMIN proved largely insufficient in preventing the further sliding Africa's Terms of Trade. The STABEX facility (to stabilise the export earnings of certain raw materials) and SYSMIN (financing of the mining sector) have been merged into the European Development Fund (EDF). Others have been carried over and reformed, such as the Centre for Development of Industry (now the Centre for the Development of Enterprise). New financial instruments finally combine support of the private sector with trade promotion.

### **1.4 Results of the Lomé Convention**

Results of the Lomé Convention have been disappointing. In the 25 years between the signature of Lomé I and the expiration of Lomé IV, the share of ACP exports in European markets has fallen by half, from nearly 8% to about 3%<sup>1</sup>. The main beneficiaries are other developing countries such as South East Asian States, which enjoy a level of preferential access to the EU (the Generalised System of Preferences) that is less favourable than under Lomé convention.

Successful experiences of the use of preferences are in fact limited to some sectors and some countries. While it was hoped that they would stimulate exports and boost growth, the incapacity of ACP economies to produce more, better and a greater diversity of products has in fact prevented them from taking advantage of this privileged access. This is the so-called 'supply constraints' argument in which the preferential margin (the difference between levels of customs duties) is only one element of competitiveness.

The argument follows that other elements – such as production costs, product quality, exporters' capacity to adapt to changes in world demand, etc – count even more than preferential market access. These are areas where ACP countries confront enormous structural obstacles (low rates of saving, poor infrastructures, etc.) and where they are further handicapped by unsuitable economic policies, which often penalise the transfer of innovative technology, production and export. These elements have seriously contributed to delaying ACP's progress in comparison with Asia. Preferential margins can give a 'helping hand' to exports – as in the case of Mauritius – but they cannot compensate for a lack of basic competitiveness in ACP economies.

### **1.5 Irreversible Erosion of Trade Preferences.**

Even supposing that ACP countries were to succeed in improving considerably the performance of their economies, it is now very late to hope to reverse the trend of preference erosion. The value of preferences – the preferential margin - is irreversibly eroded under the impact of two phenomena:

- The EU is progressively lowering its trade barriers within the GATT framework, in favour of all WTO members or a specific group such as the Everything But Arms (EBA) initiative providing free access to the EU market for all LDCs. As stated earlier, it is also increasing its preferential agreements with other countries in Eastern Europe, Turkey,

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<sup>1</sup> See Muyakwa S. L. (2004) Paper presented to the Sensitisation Workshop on the ACP- EU Cotonou Agreement Workshop, Chipata, Zambia.

Maghreb and Middle East, South Africa, etc. The protocols are equally affected by factors over which the ACP has no control.

- The types of preferences granted are getting rather out dated. Tariff and quantitative restrictions are no longer the only instruments of European protection. Other obstacles, such as veterinary and quality standards, anti-dumping measures or the distortions caused by national legislation, play an increasing role against which preferences inherited from Lomé are useless.
- Furthermore the preferences have been eroded by the unilateral tariff reductions that some ACP member states undertaking through the SAPs under the auspices of the IMF/WB. Thus they have become preferred markets for Asian as well as USA products.

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

### **1.6 Summary so Far**

It is important to note that it is not the disappointing results, but the incompatibility with WTO rules is the key argument put forward by the EU to justify the termination of non-reciprocal preferences. Preferences infringe the principle of non-discrimination established by Article 1 of GATT. This is the cornerstone of the international trading system whereby all preferences granted to one member must automatically be extended to all others as well. Exceptions are certainly foreseen to this principle, which permit the conclusion of discriminatory agreements under the following:

- Either that they be reciprocal, in the case of free trade agreements which seal the project for political integration between WTO members (Article XXIV of GATT),
- Or they are granted by a developed country to all developing countries – or to a recognised sub-group, the only one being the least developed countries – without discrimination between the latter (the so-called ‘enabling clause’ permitting special and differential treatment of developing countries).

However, preferences inherited from Lomé convention are not eligible as exceptions. On one hand, the regime is non-reciprocal, thus it is not a free trade agreement. On the other hand it is discriminatory, since it is more generous towards the ACP than it is towards other developing countries. For these reasons, the EU had asked other WTO members for a waiver of Article I for Lomé IV- (1995-2000) which was granted. However, WTO members require concessions in exchange for granting a waiver. Safeguarding ACP trade interests thus has a price for Europe, which it is not prepared to pay for much longer. Consequently, the EU announced during the post Lomé negotiations that it would only ask for one more supplementary derogation, on a provisional basis, while waiting to put in place a regime fully compatible with WTO rules. The ACP and EU agreed at Cotonou in June 2000, on a new trade regime namely the concept of the Economic Partnership Agreements.

## CHAPTER TWO

### 2.0 Introduction to the Cotonou Agreement

In June 2000, the European Union (EU) signed a cooperation agreement with the Africa, Caribbean and Pacific (ACP) group of countries. The agreement signed in Cotonou (Benin) provides for the framework for the EU's cooperation with 77 ACP countries until 2020. The ACP-EU Partnership Agreement is a comprehensive aid and trade agreement concluded between 77 ACP (African, Caribbean and Pacific) countries and the European Union.

As earlier stated, the Cotonou Agreement is a successor to the Lomé Conventions, which allowed the ACP countries enjoy preferential trade with the European Community. Under the Lomé agreement, ACP countries could, *inter alia*, export certain products to the EU freely, without paying any tariff and were allowed to impose tariff on imports from the EU.

The Cotonou Agreement provides a new framework for **Trade cooperation, Development cooperation and Political cooperation** between the EU and ACP countries. One thing to note is that, the overall objective of the ACP-EU cooperation is poverty reduction in the ACP countries (Article 1 of CPA). This is what makes this agreement more important than past agreements because it has recognized the extent of poverty in ACP countries.

The Agreement lasts for twenty years and contains a clause allowing it to be revised every five years. Alongside the Agreement is a financial protocol covering each five-year period. This indicates the total resources that are available to the ACP through the European Development Fund (EDF). For the current period, the EDF (called the 9<sup>th</sup> EDF) contains Euro 15.2 billion for the ACP. In addition, outstanding funds from previous EDFs can be used (approximately Euro 10 billion)

The Cotonou Agreement builds on twenty-five years of ACP-EU cooperation under the IV successive Lomé Conventions. This provided a model of development cooperation based on the principles of partnership, dialogue, contractually agreed rights and obligations and predictability of (financial) support.

### 2.1 Principles Underpinning the ACP-EU partnership Agreement (Article 2 of CPA)

It is important to note that the ACP-EU cooperation is based on a set of fundamental principles and these include:

- **Equality of partners and ownership of development strategies:** In principle, it is up to ACP states, in all sovereignty, to determine how their societies and economies should develop.
- **Participation:** Apart from central government as the main partner, partnership is open to non-state actors, which include: civil society, private sector, and local government/authorities and members of parliament through the joint parliamentary assembly.
- **Dialogue and mutual obligations:** The Cotonou Agreement is supposed to create a platform of dialogue. The parties have assumed mutual obligations (e.g. respect for human rights). These will be monitored through dialogue.

- **Differentiation and regionalization:** The Cooperation Agreement will vary according to the partner's level of development, its needs, its performance and its long-term development strategy. Special treatment will be given to countries that are least-developed or 'vulnerable;' (such as landlocked or island states)

## **2.2 Actors in the Cotonou Agreement (Article 6 of CPA)**

The Cotonou Agreement is not only between central government and the European Community but also includes other actors who need to be involved for the agreement to succeed in its objective of poverty eradication. The actors of this partnership include:

- The State i.e. Local, national and regional.
- Non-State Actors:
  - Private sector
  - Economic and social partners, including trade organizations
  - Civil Society and the media

## **2.3 Areas of support**

Three main areas of support are identified. The first is economic development (including, for instance, support for structural adjustment). The second is social and human development (including, for instance, promotion of social dialogue). The third is regional integration and cooperation (an area where the EC has developed expertise and comparative advantage).

There is a comprehensive programme of action to support the private sector. A new Investment Facility aims to stimulate investment and strengthen the capacity of local financial institutions. In addition, resources are provided in the form of European Investment Bank Loans. Innovative also is the commitment expressed to support an ACP-EU Private Sector Business Forum to foster regular dialogue among ACP and EU private sector actors with governments.

Like many development frameworks, the agreement, takes gender, environment and institutional development as 'thematic or crosscutting issues' to be promoted in all development initiatives.

## **2.4 Governance Structure.**

ACP-EU cooperation is overseen by a set of 'joint institutions', including the ACP/EU Council of Ministers, the Committee of Ambassadors and the Joint Parliamentary Assembly.

### **➤ The ACP-EU Council of Ministers (Article 15 of CPA)**

The Council of Ministers comprises one representative of government from each ACP country, members of the council from the EU and members of the Commission of the European Communities. The council usually meets once a year and its functions include:

- conducting political dialogue.
- adopting policy guidelines
- Examining and resolving any issues capable of impeding the achievement of the objectives of the agreement.
- Ensuring the smooth functioning of the consultative mechanisms.

➤ **The committee of Ambassadors (Article 16 of CPA)**

The committee of Ambassadors comprises representatives of each member state to the EU, a representative of the commission (EC) and the head of Mission of each ACP state to the EU. This committee meets regularly and its functions include:

- To monitor the implementation of the cooperation agreements.
- To assist the Council of Ministries in its duties.

➤ **The Joint Parliamentary Assembly (Article 17 of CPA)**

The Joint Parliamentary Assembly comprises of equal numbers of EU and ACP Parliamentarians. The assembly meets twice a year in plenary sessions and has committees which meet on a regular basis. Its functions include:

- To promote democratic process through dialogue and consultation.
- To facilitate greater understanding and raise public awareness of development issues between the EU and ACP states, and ;
- To discuss issues pertaining to development and the EU-ACP partnership.

## **CHAPTER THREE**

### **3.0 Development and Financial Cooperation**

In Zambia, the development and financial cooperation aspect of the CPA is handled by the Ministry of Finance and National Planning. This provides for financial and technical assistance to ACP countries and is implemented in accordance with the development objectives, strategies and priorities established by ACP countries (Article 55 of CPA), which are laid out in their country strategy papers (CSP).

The financial and technical support is provided through the European Development Fund, which is given to ACP states as grants. Currently the CPA is in the 9th EDF.

The resources for the EDF are channelled through two facilities, the Grant Facility and the Investment Facility.

The **grant facility** is for the financing of long-term development and is used to support national indicative programs such as education and health.

The **investment facility** is for the financing of private sector development.

### **3.1 The Zambia European Community Country Strategy Paper**

The Zambia-EC Country Strategy Paper (2001-2007) has six elements. These describe the EC co-operation objectives, the national policy agenda, and an analysis of the political, economic and social situation, an assessment of past and ongoing co-operation, the response strategy and the Indicative programme, in addition to 12 annexes.

#### **3.1.1 EC Co-operation Objectives**

The overall objective for the community development objectives is to foster the campaign against poverty and to promote sustainable economic and social development in developing countries. In addition to this, the EC pursues fulfilment of other objectives related to consolidation of democracy and the rule of law, and the respect for human rights and fundamental freedoms.

EC Co-operation objectives and principles stated in the ACP-EU Partnership Agreement provide for support framework for the development strategies of each ACP state. The Zambia-EC Country Strategy Paper is therefore a statement of EC support for Zambia's development strategies. The ACP-EU Partnership Agreement offers support in the following areas:

- Economic growth and private sector development
- Respect for the rights of individuals and social development
- Co-operation and regional integration
- Capacity building and institutional support for democracy and market economy;
- Gender equality and sustainable environmental management

These and other measures intend to promote economic and trade co-operation to enable Zambia participate actively in multilateral trade negotiations. The EC co-operation policy remains committed to preferential, non-reciprocal treatment of products from least developed and landlocked countries such as Zambia and encourage them to take advantage of the "Everything But Arms" (EBA) initiative.

### **3.2 The National Policy Agenda**

The National Policy Agenda is a government policy committed to reducing poverty from the current 70% to 50%. In addition to this, the Government has adopted the United Nations' Millennium Development Goals (MDGs) that call for reducing poverty by half over the same period) by 2015. The strategy to achieve this objective will be through broad-based growth in agriculture and rural development, the provision of physical infrastructure, increased incomes for the urban poor through economic reforms (e.g. deregulation) aimed at improvement of productivity in the informal and micro-enterprise sectors and development of human resources through capacity building.

- **A complete set of government policy agenda includes the following issues:**

#### **Democracy, Human Rights and Good Governance.**

This refers to Government White Paper – The National Capacity Building Programme for Good Governance (1999), which sets an agenda for enhancing economic management and democracy, decentralisation and local government accountability and transparency; constitutionalism and human rights.

#### **Macroeconomics Policies**

The policy is to continue with external support for government to improve the general welfare of Zambians in return for completion of the structural and social adjustment reforms, restructuring and reforming public administration, as well as, undertaking measures to improve performance of agriculture, mining and tourism.

#### **Sectoral policies**

- In this respect, **transport sector** and road transport in particular is the priority focus of poverty reduction policy.
- The **private sector development policy**, hopes that investments in infrastructure, such as, improving the road network, would encourage private sector activities.
- The national policy agenda recognised the role of **agriculture** in international economic integration and stated the sector objectives. It was recognised that the provision of infrastructure would have a critical role in easing transportation of agricultural outputs and inputs.
- The CSP noted the need for diversification and growth of **manufacturing**. It noted the precarious nature of manufacturing sector performance, its lack of both comparative and competitive advantage within the region and low levels of productivity and unsatisfactory degree of installed capacity utilisation.
- The CSP offers **tourism** as a viable option for meeting the CSP objectives. It suggests that the success of tourism development would in turn require preservation and management of wildlife resources.

### **3.3 Cross Cutting Issues**

The government pursues sector wide assistance programmes (SWAPs) in **health** and **education** because of the critical needs of external assistance in these sectors to meet humanitarian sectoral needs. Both sectors have undergone a process of institutional reforms to raise private, household participation in the cost of delivering health and educational services.

The national policy agenda considers poverty reduction and institutional and structural reforms as key policy challenges facing Zambia. It offers transport sector reforms and rehabilitation as the pivot for poverty reduction.

### **3.4 The Response Strategy**

The response strategy adopted private sector development in agriculture, mining and tourism to be the prime actor of the economy and through its development generate employment and additional tax resources for the government. Therefore EC assistance would focus on:

- Government improvement of business environment;
- Improvement of road infrastructure
- Provision of loans and capital through the European Development Bank;

The suggested strategy for addressing these requirements is through:

- Government and private sector institutional and capacity building
- Focussing on transport infrastructure
- Continuation of loan facilities under the EIB.

As seen from above, agriculture was omitted from the response strategy. This omission reduces the scope for anti-poverty orientation of EC-Zambia Co-operation. The mid- term review process recommended the urgent inclusion of this sector.

#### **➤ Focal sectors**

Transport sector interventions are the main area of concentration of co-operation because of the crucial role of roads in easing access within and outside the country. Access to well maintained roads was considered to be a prerequisite for poverty reduction, for the development of domestic markets and regional integration. The nature of assistance is preventive maintenance of trunk, main and district roads to bring them to an acceptable standard. Focus is on elimination of backlog of rehabilitation needs and enhanced control of axle loads. Additional support is given to maintenance and rehabilitation of feeder roads and funding of the transport mode study and studies for rail track upgrading.

The Institutional development and capacity building is the second focus area. This is to be done by improving organisational performance and capacity of public, quasi-public and private institutions through upgrading of manpower conditions in the public sector and incentives for private sector growth. In this respect, the EU noted losses of efficiency and effectiveness of public administration due to HIV/AIDS, poor remuneration and sheer lack of skills. The EC therefore, offered support for building financial, economic management capacity, and public-private dialogue and co-operation with a wide range of non-state actors

#### **➤ Non focal Sectors**

The EC support will go towards provision of better Health and Education services, including HIV/AIDS through basket funding mechanism as well as the Sector Wide Approaches (SWAP).

➤ **Other Elements of the Support Strategy**

These refer to the activities of the European Investment Bank by providing 111 million Euros towards the balance of payments support (economic vulnerability due to export losses), awards for HIPC and other debt forgiveness initiatives, natural disaster preparedness.

### **3.5 The Indicative Programme**

The Indicative programme was given as follows:

Envelop A €40 Million broken down as follows:

i) Transport infrastructure € 90 Million, ii) Institutional Reform and Capacity Building € 40 Million and iii) Macro economic support € 90 Million iv) Other programmes (HIV/ AIDS, Education and Health) €20 Million.

Envelop B €11 Million to cover unforeseen needs as stipulated in the CPA Annex iv, article 3.2 (b).

This brings the total to €351 million plus, funds from the, budget lines and all ACP programmes.

In 2004, a mid- term review of the CSP was carried out. The Non-State Actors (NSA) were invited to take part in the evaluation. The NSA urged the EU to remove the unfavourable conditions and to broaden the markets for the beneficiaries rather than remain Euro-centred. They also stressed the need to restructure the programme to meet Zambia's environmental and economic needs.

The non- state actors then made recommendations as follows:

- It was recommended that an environment sector friendly fund should be instituted.
- It was recommended that funds should be sourced to create incubators for small and medium sized enterprises.
- It was recommended that the private sector should be provided with funds to mitigate the issues of HIV/AIDS.
- It was recommended that all efforts should be made to ensure that discussions between the EU and the non-state actors were always held in the presence of the Government.
- It was recommended that non-state actors should be more proactive in developmental issues.
- It was recommended that a focal point for non-state actors should be instituted in the EC country office and the Ministry of Finance and National Planning.
- It was recommended that in terms of institutional arrangement, the monitoring of the implementation of PRSP should be assigned to either the Ministry of Local Government and Housing or the Ministry of Community Development and Social Services.
- It was recommended that the position of the Members of Parliament and the civil society in the PRSP implementation process should be clearly demarcated

### **3.6 Some Observations**

It seems evident from the foregoing discussion that the government service, the private sector and civil society are the major beneficiaries of the Zambia-EC Co-operation Programme. It is not clear how the smallholder farmers and workers will benefit from this programme. Undeniably, better roads will assist them with greater opportunities for overcoming transportation difficulties

and improving access to transportation facilities and the development of markets for their products and inputs.

This raises questions about the poverty focus of the CSP. The reason for this low poverty focus may be due to continued reliance on received neo-liberal economic frameworks, mainly provided by the Bretton Woods Institutions. Other factors for inadequate anti-poverty orientation of the co-operation programme are the inability of Zambians to articulate the relationship between trade and poverty and inadequate institutional mechanisms for addressing trade related issues. Other reasons may be attributed to the following:

**a. Policy Formulation Capacity**

The articulation of the national policy agenda of the CSP and the selection of focal areas of co-operation shows the pre-eminence of the EC in the negotiation process. The ability of the EC side to drive the process and Zambia's inability to identify her trade and development objectives and therefore articulate policy positions and influences the outcome of the negotiation process come out clearly. For instance,

- The CSP did not articulate the argument that the continuous fall in prices of exports is responsible for income and foreign exchange losses and the major reason for increased poverty among Zambians.
- It failed to acknowledge the costs associated with import liberalisation and privatisation as insisted upon Zambia by Bretton Woods Institutions' loan conditions and WTO trade rules as being responsible for urban unemployment and threats to rural livelihoods.
- The CSP could not show that HIPC focus on debt sustainability rather than poverty reduction focus does not help to overcome the negative social impacts that the structural adjustment programme has had on Zambia.
- It should have argued that Zambia was already too integrated with the world economy and that efforts to improve trade would improve her debt service capacity and not necessarily result in poverty reduction in the absence of debt cancellation.

The OECD Guidelines (2001) for instance insist that a country should possess the following attributes to have better economic co-operation programmes:

- i. A coherent trade strategy that is closely integrated with the country's overall development strategy.
- ii. Effective mechanism for consultation with a broad range of actors, the private sector institutions, civil society, trade networks, Universities and other think tanks.
- iii. A strategy to enhance collection, analysis and dissemination of trade related information.
- iv. Existence of trade policy networks supported by local research institutions;
- v. Political commitment to regional efforts.

It is clear that all the above prescriptions / attributes are missing from Zambia's profile as shown by the CSP and the Indicative Programme. The CSP does not reflect a demonstrated attempt to promote national interests. A review of the CSP consultation schedule (Annex10) shows that the process suffered from inadequate preparations.

**b. Leadership**

A strong and well-informed political leadership is a prerequisite for effective country co-operation programmes.

**c. Participation**

Most institutions interviewed from both the private sector and civil society for this manual did not participate in the formulation of the CSP. It was felt that participation in this process is not critical for the agreement to succeed. The participation of non-state actors, including the media, is key as they are major stake-holders in the economy. Most institutions expressed interest in these issues and a desire to get more involved in the Cotonou Partnership Agreement.

**3.7 Conclusion**

The format for negotiations provided by the CSP, between EC and Zambia, provides EC countries with an opportunity to coordinate their assistance to Zambia. While this may be good, it may create an advantage for the EC to impose policy conditionality for aid. This may reduce policy ownership of initiatives of the Government of Zambia. The active participation of Civil Society might, however, bring about a balance in these negotiations.

- i. Negotiating teams should be broad based and include representatives of farmers' associations, civil society, private sector and trade unions.
- ii. The civil society organisations should improve their capacity to research and discuss national positions in order to help government to articulate national interests that lead to meaningful development programmes.
- iii. The citizen's right to development should be at the centre of co-operation programmes and policies. Encouraging liberalisation and globalisation should be done with social and economic policies directed at minimising social exclusion.

## **CHAPTER FOUR**

### **4.0 Trade and Economic Cooperation**

The trade and economic cooperation pillar of the CPA is overseen by the Ministry of Commerce Trade and Industry (MCTI). Currently, the main preoccupation of this pillar is the EPAs negotiations. Initially termed Regional Economic Partnership Agreements (REPAs) in the negotiating mandate of the European Commission, the agreements that Cotonou signatories have undertaken to negotiate as from 2002 are now called ‘Economic Partnership Agreements’ (EPAs)<sup>1</sup>. However, there is little difference between a REPA and an EPA. The EU still wants to negotiate these agreements with regional groupings of ACP countries, and are in essence Free Trade Agreements (FTAs).

A Free Trade Area (FTA) is a reciprocal preferential trade agreement, under which each party undertakes to abolish restrictions on imports from the other party, thus constituting positive discrimination towards one or several WTO members. The ‘plus’ of EPAs in relation to simple FTAs is the financial dimension – from the European Development Fund and the European Investment Bank (EIB) – which accompanies them and which should facilitate their implementation.

#### **4.1 The Three EPA Principles**

##### **4.1.1 Reciprocity**

The EU now grants almost free access to ACP products, but the reverse is not true – ACP countries do not grant preferential treatment to European products. EPAs foresee that ACP countries will offer reciprocity, i.e. they will progressively open their markets to European products in line with the WTO’s MFN treatment principle. This is in line with the EU practice of moving towards being WTO compliant). Non-reciprocal trade preferences granted until recently by Europe to several countries of the Maghreb and other areas have been transformed into FTAs. However, agricultural products are excluded. Financial aid should compensate the cost of trade liberalisation and of the economic restructuring implied. ACP countries not wishing to sign an FTA with Europe would lose the benefit of their present preferences – except for Least Developed Countries (LDCs) – and instead would presumably benefit from the EU’s Generalised System of Preferences (GSP) under the EBA arrangement.

##### **4.1.2 Regions**

The EU encourages ACP countries to sign free trade agreements, not individually but collectively as regional groups. This would limit the number of agreements (there are now 77 ACP countries) and contribute to sustaining regional integration efforts. It is up to the ACP countries to take the initiative to eventually entrust their negotiating mandate to a regional grouping.

##### **4.1.3 Special treatment for LDCs**

In accordance with EU proposals, the 39 least developed ACP countries (LDCs), in view of the special fragility of their economies, are not obliged to sign an EPA in order to retain their present level of access to the EU. If they do not wish to open their own markets to the EU, they can

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<sup>1</sup> Adapted from European Centre for Development Policy Management. (2001). Cotonou Info kit No. 14. Maastricht, The Netherlands.

choose to keep existing non-reciprocal trade preferences and are assured that whatever happens they will continue to have free access to the EU market from 2005 at the latest. If the EU Commission's Everything But Arms (EBA) initiative is adopted, then all LDCs products, including agricultural products, could enjoy free access.

The intention of the EPA designers whose principle was accepted at Cotonou, is thus to simultaneously attain several objectives. To strengthen integration between the ACP and the EU, to promote the economic liberalisation of ACP economies, to deepen their regional integration process, to increase access for European companies to their markets. These are all compatible with WTO rules.

#### **4.1.4 The Eastern and Southern African (ESA) Group**

Zambia is negotiating the EPAs under the Eastern and Southern African (ESA) Group of countries. The ESA-EU negotiations will be in the following three phases:

- Phase I - Setting of Priorities (March to August 2004)
- Phase II - Substantive Negotiations (September 2004 to December 2005)
- Phase III - Continuation and Finalisation (January 2006 to December 2007)

The negotiations are being carried out at two levels: the ministerial level and the ambassadorial/senior official level in six clusters and the ESA Group has selected six Ambassadors (based in Brussels) and six Ministers to lead the negotiations as follows:

<b>Cluster</b>	<b>Ministerial Lead Spokespersons</b>	<b>Ministerial Spokespersons</b>	<b>Alternate</b>
Development Issues	Sudan	DR Congo	
Market Access	Mauritius/Rwanda	Burundi and Zambia	
Agriculture	Malawi	Uganda and Ethiopia	
Fisheries	Madagascar	Seychelles and Djibouti	
Trade in Services	Zimbabwe	Rwanda and Djibouti	
Trade Related Areas	Kenya	Djibouti	

<b>Cluster</b>	<b>Ambassadorial Lead Spokespersons</b>	<b>Ambassadorial Spokespersons</b>	<b>Alternate</b>
Development Issues	Ethiopia	Zambia and Burundi	
Market Access	Kenya	Zimbabwe and Uganda	
Agriculture	Mauritius	Zimbabwe and Madagascar	
Fisheries	Eritrea	Seychelles and Madagascar	
Trade in Services	Malawi	Rwanda and Uganda	
Trade Related Areas	Sudan	DR Congo and Burundi	

Each ESA country, including Zambia, has established a National Development and Trade Policy Forum (NDTPF) which is both multi-sectoral (agriculture, trade, investment, services, etc) and representative of the public and private sectors and non-state actors (NSAs) involved in trade and development work. The function of the NDTPF is to determine what the optimal development? and trade negotiating position for the country is and to prepare briefs outlining these positions which are then to be used by the representatives of the country in the Regional Negotiating Forum (RNF) in preparation of the ESA position for negotiations with the EC.

## **4.2 Controversy over EPAs Impacts on ACP Countries**

### **4.2.1 EPAs Proponents Perspective**

Proponents of the EPAs expect the following positive impacts:

- The flow of direct European investment to the ACP countries
- The ‘locking-in’ of the trade liberalisation process in these countries this is expected to be trade creating. Thus increase consumer surplus and social welfare.
- The restructuring of ACP economies, by combining a modification of the framework of incentives for economic agents (propelling them towards a more efficient use of resources) with the financial and technical support of the EU.

### **4.2.2 The expected negative effects of EPA:**

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

### **4.2.3 An African Civil Society Perspective**

Many African civil society activists fear that EPAs will have the following effects on African economies<sup>1</sup>:

- Significant declines in government revenue. This will mean reduced social spending exacerbating poverty
- Closures of local manufacturing ventures, especially small and medium sized enterprises (SMEs)
- Put basic social services in the hands of non-national private sector operators
- Declines in inter-regional trade
- Opening up to European competition for all government tenders
- Dumping of cheap EU agricultural surpluses
- Loses and collapse of local retail sectors
- Continued capital flight from ACP economies
- Dispossession of indigenous land owners and lost livelihoods

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<sup>1</sup> See Kachingwe N. (2003) *Between a rock and a hard place: Africa faces no win situation in trade deal with Europe*. MWENGO, Harare.

### **4.3 Technical Feasibility**

Several preconditions are needed to enable the negotiation and the establishment of EPAs. These include:

- The effectiveness of ACP participation as regional groups depends on the progress of regional integration processes, which need to take place in a very short time. To sign a free trade area (FTA) with the EU, a regional grouping must be an effective free trade zone or a customs union. Apart from Southern African Customs Union (SACU), very few ACP regions have reached this stage.
- The trade negotiation capacities of ACP countries are very weak and those of the regions, apart from COMESA, are almost non-existent and thus must be considerably strengthened if true negotiations are to be held.

### **4.4 The Political Feasibility of EPAs**

In view of these difficulties, a strong political will is needed, on both the EU and ACP side, to put EPAs into place<sup>1</sup>. What support can the ACP count on? They accepted the reciprocity principle in Cotonou. Indeed, this move was driven by pragmatism, rather than by a firm belief in the gains to be expected from EPAs. Most ACP countries accepted reciprocity either.

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

The consensus of the ACP group at Cotonou about ‘fatalistic pragmatism’ should be transformed in the coming months under the influence of a double phenomenon:

- First, at the level of the ACP group, the study of options will probably continue to fragment their common position into different national and regional positions. The envisaged dismantling of the all-ACP trade regime requires that the ACP group reaffirms its *raison d’être* without this trade pillar, which was so important until now.
- Second, the various ACP actors whose interests are at stake – in particular the private sector (producers, exporters etc) and ACP civil society (consumers, trade unions, NGOs) – will endeavour to influence the position of their governments at national, regional and global level.

It is very difficult to have a clear vision of what situation will prevail after 2008. Certain ACP countries will choose not to negotiate and opt to ‘keep Lomé’. Others will negotiate EPAs as regional groups, others will negotiate individually, while others may try to obtain another type of agreement from the EU.

The European case is also complex. The Commission and its Member States are confronted with two indirectly opposing concepts:

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<sup>1</sup> Some commentators would call it a death wish for the ACP to go the route of EPAs. See also annex 2.

- The ‘bilateralists’ consider trade policy as a tool of foreign policy towards a given country or region. This is the vision which has inspired the EPA concept, as was the case with the EU-South Africa FTA or the European-Mediterranean Agreements, the agreements with Eastern European countries, etc.<sup>1</sup>
- The ‘multilateralists’ think that European trade policy objectives must be pursued within the WTO framework, by directly influencing the establishment and application of world trade rules. They argue that the recent FTAs between the EU and Morocco, Tunisia, Mexico and South Africa etc. fragment and undermine the multilateral trade system, and inspire a certain degree of scepticism.

It is the European Commission’s Trade Department (rather ‘multilateralist’) that put in place a project (the EPAs) that was developed by a more ‘bilateralist’ European Commission Development Department. If the Trade department were to judge that EPAs were not the best way of trading with the ACP in the future, the EU could be tempted to free itself of its Cotonou commitments by, for example, invoking other undertakings within the WTO framework. So it is not certain that the enlarged Union, with a reformed Commission would still be devoted in 2008 to applying ambitious preferential trade agreements with the ACP.

Questions for discussion:

- Can the EPAs succeed in hitting such a ‘broad target’?
- In particular, can they attain the development goals of ACP countries?
- How will the technical and political obstacles to the EPAs be surmounted?

#### **4.5 Conclusion.**

The trade discussion is concluded in the words of Kachingwe<sup>2</sup>. She poses the question: Issues for Civil society: is another world possible? Her response is as follows:

“Civil society and social movements have for too long been neglecting issues of multilateral trade. They have a duty to sound the alarm bell when in international arena; their governments are being pressured or enticed into agreements that are not in the national interest. They also have a responsibility to push governments to address structural inequities and inequalities between North and South in multilateral fora. Not enough pressure is being put on governments to take a firm stance against ill-conceived initiatives coming from the North.

The ACP Negotiating Guidelines clearly state, “EPAs will have to establish legitimacy in ACP states, particularly as regards their contribution to sustainable development of those countries.” It calls for the involvement of all stakeholders in the negotiations process, public scrutiny of the negotiations including parliamentary follow-ups, and inclusive and transparent negotiations process. But the stakeholders cannot be involved if they are not up to speed and informed on the issues.

The EPA negotiations are not simply an obscure diplomatic exercise. They are about lives, livelihoods and our regions’ economic prospects”. The ACP civil society movement should live up to this demand

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<sup>2</sup> Kachingwe N. Between a rock and a hard place (2003:9).

## **CHAPTER FIVE**

### **5.0 POLITICAL COOPERATION**

The Cotonou Agreement has given the political dimension a prominent role. This is because it has been established that **political dialogue** between the parties will provide a framework encompassing areas for action, which can help attain the overall objective of poverty eradication. The agreement provides the basic, broad guidelines for comprehensive, balanced and deep political dialogue leading to commitments on both sides. These guidelines emphasise the following key principles: flexibility, transparency, inclusiveness, continuity, and process approach.

Political dialogue is important in this agreement because it ensures the exchange of information and mutual understanding, and establishing common priorities of the parties.

The Cotonou Agreement builds on Lomé IV in respect of human rights, democratic principles and the rule of law, as essential elements of ACP-EU cooperation, whose violation could lead to a suspension of aid. Political dialogue also covers a wide range of other issues i.e. peace and security, global, regional and sectoral development cooperation policies, environment, gender, migration, cultural heritage, as well as specific issues, like arms trade, excessive military expenditure, drugs, ethnic, religious and racial discrimination.

It is clear from the foregoing that, the partnership has a strong political foundation. Through political dialogue, parties can discuss all possible issues of mutual concern. Serious cases of corruption, including acts of bribery leading to such corruption, are grounds to suspend cooperation.

#### **5.1 What is the Joint Parliamentary Assembly? (Article 17 of CPA)**

The ACP-EU Joint Parliamentary Assembly was created out of a common desire to bring together the elected representatives of the European Community - the Members of the European Parliament - and the elected representatives of the African, Caribbean and Pacific states ("ACP countries") that have signed the Cotonou Agreement: it is the only institution of its kind in the world.

It is the only international assembly in which the representatives of various countries sit together regularly with the aim of promoting the interdependence of the North and the South.

Since the entry into force of the Treaty on European Union and EU enlargement it has acquired a more prominent role. A substantial part of the work of the Joint Parliamentary Assembly is directed towards promoting human rights and democracy and the common values of humanity, and this has produced joint commitments undertaken within the framework of the UN conferences.

##### **➤ Composition and working methods**

The representatives of the 77 ACP states, who, under the Cotonou Agreement, must be members of Parliament, meet their 77 European Parliament counterparts in plenary session for one week twice a year. The Joint Parliamentary Assembly meets alternately in an ACP country and an EU country. The institution is governed by common democratic rules.

Two co-presidents who are elected by the Assembly direct its work. Twenty-four vice-presidents (12 European and 12 ACP) who are also elected by the Assembly constitute the Bureau of the Joint Parliamentary Assembly, together with the two co-presidents. The Bureau meets several times a year in order to ensure the continuity of the work of the Joint Parliamentary Assembly and to prepare new initiatives aimed notably at reinforcing and improving cooperation. It also considers topical political questions and adopts positions on all human rights cases.

Three Standing Committees have been established to draw up substantive proposals, which are then voted on by the Joint Parliamentary Assembly. These Committees began their work in March 2003 and are:

- \* Committee on Political Affairs
- \* Committee on Economic Development, Finance and Trade
- \* Committee on Social Affairs and the Environment

The Assembly regularly forms exploratory or fact-finding missions. The members of the Joint Parliamentary Assembly are thus in direct contact with the situation on the ground in the various developing countries that are signatories of the Cotonou Agreement.

The impact of the work of the Joint Parliamentary Assembly thus goes well beyond economic considerations and embraces the fundamental objectives of the development of mankind and the establishment of peaceful relations among the nations of the world. The ACP-EU Joint Assembly is a democratic, parliamentary institution, which aims to promote and defend democratic processes in order to guarantee the right of each people to choose its own development objectives and how to attain them.

## **CHAPTER SIX**

### **6.0 Role of Non- State Actors in the Cotonou Agreement**

At one point in history, the involvement of the civil society in issues of international trade was a far fetched idea. The reality, however, is now different. The civil society world over is very active in issues, once in the domain of governments.

It is therefore the aim of this chapter to highlight the background, rationale and Scope for Non-State Actors in the Implementation of the Cotonou Agreement.

#### **6.1 Definition of Non-State Actor (Article 6 of CPA)**

According to Article 6 of the ACP-EU Partnership Agreement, non-state actors include: private sector, economic and social partners, including trade unions organizations, civil society in all its forms and according to national character. The agreement goes further by to saying that recognition by the parties of non-governmental actors shall depend on the extent to which they address the needs of the population, on their specific competencies and whether they are organized and managed democratically and transparently

The definition of the civil society is more than enough but what matters is how individual governments involve the civil society in the ACP-EU cooperation framework.

#### **6.2 Background and Justification**

Prior to the Cotonou Agreement, the cooperation framework between the ACP and the EU was to a large extent state led. However, this did not mean that the civil society was entirely excluded, but their involvement depended solely on the discretion of individual ACP government. At that time, most of the ACP countries were not democratic states and this hampered civil society involvement/ and participation.

The Cotonou Partnership Agreement provides a broad range of new opportunities for non-state actors. For the first time, there are legal provisions that open the way for the involvement of civil society in the political dialogue, the national and regional programming, as well as in the formulation and implementation of cooperation policies. In addition to this, the Cotonou Agreement also foresees improved access to funding and capacity building support.

While the principle of civil society participation has been formally enshrined in the Cotonou Agreement, the question remains how these new opportunities can be nurtured and properly operationalised. In many ACP countries, civil society is now organizing itself to enter into dialogue with their governments, to help shape policies and to explore the scope for joint action between public and private actors. These are promising evolutions, which provide building blocks for mainstreaming civil society participation in ACP-EU cooperation.

Yet there are also many difficulties to be overcome, ranging from political resistance to working with civil society to a host of practical implementation problems.

In Zambia, the involvement of the civil society in the negotiations of the Lomé Agreements was unimaginable. Before the Cotonou Agreement, our governments were insulated and were reluctant to involve the non-state actors in such Agreements. There are of course cases in some ACP countries where the non-state actors were involved, but again this was at the discretion and

initiative of the ACP government concerned. The involvement of the non-state actors was not very emphatic in the Lomé Conventions.

The position of the EU on the involvement of the civil society has always been clear. They did not want to compromise the sovereignty of ACP state and allowed them to make their choices. The EU believed that the requests concerning civil society participation should come through ACP national governments. Interests of civil society should be reflected in the official 'negotiating position' of the ACP governments. The involvement of civil society should be a key concern for the ACP governments who should consult with their own constituencies, during the negotiating process. EC's role should be examined only as a secondary concern. The wind of democratic processes that swept across many ACP countries ensured that the voices of non-state actors were heard.

### **6.3 Scope for Non-state actors (Article 4 of CPA)**

The Cotonou Agreement recognizes the important role non-state actors could play in the development process. It is agreed that where appropriate, non-state actors shall:

- Be informed and involved in consultation on cooperation policies and strategies on priorities for cooperation especially in areas that concern or directly affect them, and on political dialogue.
- Be provided with financial resources under the conditions laid down in this Agreement in order to support local development process.
- Be involved in the implementation of cooperation project and programmes in areas that concern them or where these actors have a comparative advantage.
- Be provided with capacity –building support in critical areas to reinforce the capabilities of these actors, particularly as regards organizations and representation and the establishment of consultation mechanism including channels of communication and dialogue and to promote strategic alliances.

The above points give an impression that the Cotonou Agreement is open for non-state actor participation. However, it should be noted that even in this new agreement, the decision to involve the non-state actors is still the preserve of individual ACP governments. Non-State actors need to re-examine and deconstruct the concept of "Participation".

### **6.4 Role of the EU Delegate**

The EU is supposed to have a delegate in ACP countries to look at the concerns of the non-state actors. This EC delegate is supposed to among other things, facilitate the participation of the non-state actors. As a facilitator, the delegate is supposed to support capacity building for non-state actor's participation, facilitate dialogue between government and non-state actors etc.

CSOs should question the extent to which the EC delegate office is accessible. The civil society participated in EU Country support Strategy and the indicative programme need examining. Participation of non-state actor should be genuine. Participation should not just be a mere window dressing exercise. Non-state actors should not be used just rubber stamps

### **6.5 Involvement of Non state actor in the Review Process.**

Non-state actors had a chance to participate in the mid term review of the indicative programmes and country strategy paper (CSP). The partnership agreement provides for a comprehensive

review process and requires the government and the EU delegate to annually undertake an operational review of the indicative programme. Secondly, it requires them to undertake a midterm and end of term review of the CSS and the indicative programme in light of the current needs and performances.

It is important that non-state actors actively participate in these annual reviews and ensure that these reviews become public. The CSP and indicative programme should be popularized so that even a common person in the street should understand and begin to have interest in the implementation of the EC cooperation.

## **6.6 Funding for Non-state actors.**

The scope for non-state actors in the ACP-EU partnership agreement can only be enhanced with the availability of funds. In this regard, the Cotonou Agreement recognizes the need for non-state actors to be funded. This will be done in three ways. The first is directly through the European Development fund resources. For capacity building, the non-state actors can have direct access to funds via the EC delegation. The National Authorizing Officer is key in this case.

The second channel is through the National Indicative Programmes and thirdly through the NGO co-financing budget line, through which European NGOs can support the activities of their southern partners. However, it is important to note that all these three funding modes have their own advantages and disadvantages. We are yet to see which of the modes will be more effective for Zambian non-state actors.

Finally, while the non-state actors strive to participate fully in the partnership agreement, there is a problem of capacity. Most non-state actors lack the capacity to engage in issues of trade. This is not surprising because, the non-state actors were left out in the LOMÉ agreements, a chance which would have enabled them develop capacity over time. It is incumbent upon the EU and our government to assist in the development of the capacity of non-state actors to engage and participate in the negotiations and implementation of the partnership agreements. .

Questions for discussion:

- Is it by design or coincidence that civil society or non-state actors are featuring prominently in the Cotonou Agreement?
- What has changed?
- How genuine is this participation?
- Is this participation transparent?
- Is the participation a marriage of convenience?

## **6.7 Conclusion**

In conclusion, it is clear from the above presentation that opportunities are there and the scope is wide for non-state actors' participation in the Non-state actors. However the framework of participation needs to be clearly defined so that non-state actors take their rightful role. Non-state actors need to develop their capacity to effectively participate in the implementation of programmes under the Cotonou Agreement.

## **CHAPTER SEVEN**

### **7.0 Source and Resources on Trade and Development**

This is an introductory manual on the Cotonou Partnership Agreement. A lot of questions are not adequately covered! What can be done? Indeed, something can be done. First is the EC Country office in Zambia. The EC Delegation Office has a lot of information that can be accessed either directly or via the internet. In addition there are government institutions such as the Ministry of Finance and National Planning (handling development cooperation), the Ministry of Commerce Trade and Industry including the institutions under it (handling trade cooperation) and the Ministry of Foreign Affairs (handling political cooperation). There are also a number of organisations that have devoted their time and energy to assisting those interested in trade and development issues. We outline a few of these organisations below:

#### **7.1 Friedrich-Ebert-Stiftung (FES)**

The Friedrich-Ebert-Stiftung (FES) was set up in 1925 as the first German ‘political foundation’. As an internationally operating non-profit organization, FES today intends to promote democracy, development, social justice, peace and international co-operation through capacity-building, policy research and development, public dialogue, international exchange and networking as well as through the dissemination of information. To implement activities with its cooperating partners in civil society and in governments, the Foundation has established a network of close to 100 offices world-wide over the last forty years. In Africa, FES currently works in 21 ACP countries (e.g. in Zambia), where it, among other things, organises or supports information and training activities on the Cotonou Agreement, provides impact assessment studies, etc. It tries to ensure that lessons learned in the implementation of the Agreement are fed back into the European discussion, e.g. through its Brussels Office. FES also runs a specialised website on the internet ([www.fes.de/cotonou](http://www.fes.de/cotonou)).

#### **7.2 Civil Society Trade Network of Zambia**

The Civil Society Trade Network of Zambia (CSTNZ) formerly Zambia Trade Network has been formed by interested individuals and institutions to push forward the agenda of discussing trade and trade policy. The CSTNZ is composed of representatives and partners from Zambia Association for Research and development (ZARD), Friedrich-Ebert-Stiftung (FES), KEPA, MS-Zambia, Catholic Commission for Justice Peace and Development (CCJDP), Consumer Unity Trust- Africa Resource Centre (CUTS- ARC), Zambia Consumer Association (ZACA), Organisation Development and Community Management Trust (ODCMT) etc. The main thrust of the CSTNZ work programme is a) trade research, b) trade policy advocacy and c) trade capacity building.

#### **7.3 Organisation Development and Community Management trust (ODCMT)**

ODCMT is a grassroots NGO promoting sound environmental and ethical social practices for sustainable development, promoting corporate responsibility and policy change for the benefit of commodity producers.

#### **7.4 Consumer Unity Trust Society- Africa Resource Centre (CUTS- ARC)**

CUTS- ARC is a research and advocacy organisation. The organisation has extensive research work on trade, investment and competition policy.

### **7.5 The University of Zambia**

The Economics Department at the University of Zambia offers courses related to international economic relations. The department researches extensively on international trade and related issues like the Cotonou Agreement.

### **7.6 The COMESA Secretariat**

The Common Market for Eastern and Southern Africa brings together countries in the eastern and southern parts of Africa into one big regional economic and trade cooperation body. The organisation is currently the lead agency in the EPA negotiations for the Eastern and Southern African (ESA) group.

## **Annex 1: The EU-South African FTA**

In 1999, the EU and South Africa signed a Free Trade Agreement (TDCA). In contrast to the European-Mediterranean agreements, it covers agricultural products. Apart from the difficulties of the negotiations (four years and a number of changes on both sides) there are a few lessons for the ACP. South Africa is neither an LDC nor even a developing country (at the WTO it has chosen to be considered as a developed country). It represents for the EU a political and economic challenge quite out of proportion with any other ACP, and finally its negotiating capacity and independence make it a case apart. Two elements however deserve attention:

- The agreement barely considers the impact on South Africa's partners within SADC and above all in the Southern Africa Customs Union (SACU);
- Members of SACU (Botswana, Lesotho, Namibia, Swaziland), having no barriers in their trade with South Africa are de facto already members of a sort of 'virtual EPA' with the EU, even though they did not take part in the negotiation of the agreement.

## **Annex 2: Some Options to the EPAs**

The erosion of the relative value of preferences is inevitable and their impact on ACP development has been very weak. Why worry about keeping them? For two main reasons: The first is that without them, ACP countries, which are not LDCs would 'be moved into the EU's GSP,' and would thus see an increase in the absolute level of barriers to their exports and would face an increase in certain customs duties. The second reason is not economic. The EU, mainly the Commission and some Member States such as France as well as the ACP wish to retain a specific trade dimension to their cooperation, without which the partnership would appear weak.

To render the preferential regime compatible with WTO rules, two solutions are on offer to signatories of the Cotonou Agreement.

- Either transform non-reciprocal preferences into FTAs, while respecting certain rules contained within Article XXIV of GATT, or;
- Abolish the discriminatory character of preferences by extending the benefits to all developing countries (by extending the GSP granted by the EU to all these countries).

In the negotiations, the EU opted for the first solution and carried the argument against a group of ACP countries who preferred the status quo, which the EU did not want. At Cotonou, the two parties undertook to negotiate reciprocal agreements, i.e. The EPAs. The second solution did not attract any party, since it amounted to renouncing a specific trade agreement between the ACP and the EU, which had symbolic value. Harmonisation with the GSP would actually imply the disappearance of the trade dimension in ACP-EU cooperation since all developing countries, ACP or not, would benefit from the same non-reciprocal preferences.

Another option, which is still possible, at least in principle, is for the EU to abolish trade preferences and to radically reduce its MFN tariffs to the benefit of the ACP and other WTO members, by means of a global offer to be made during the multilateral trade negotiations. Such an ambitious liberalisation project would however need the agreement of all European actors within a framework, which would go far beyond the renegotiation of its agreements with the ACP.

**Annex 3: ACP Countries by Region**

<b>Southern Africa</b>	<b>Central Africa</b>	<b>East Africa</b>	<b>West Africa</b>	<b>Caribbean</b>	<b>Pacific</b>
Angola	Burundi	Comoros	Benin	Antigua and Barbuda	Cook Islands
Botswana	Cameroon	Djibouti	Burkina Faso	Bahamas	East Timor
Lesotho	Cape Verde	Ethiopia	Gambia	Barbados	Fiji
Malawi	Central African Republic	Eritrea	Ghana	Belize	Kiribati
Mozambique	Chad	Kenya	Guinea	Cuba <sup>1</sup>	Marshall Islands
Namibia	Democratic Republic of Congo	Madagascar	Guinea Bissau	Dominica	Micronesia
South Africa <sup>2</sup>	Equatorial Guinea	Mauritius	Ivory Coast	Dominican Republic	Nauru
Swaziland	Gabon	Seychelles	Liberia	Grenada	Niue
Zambia	Republic of Congo	Somalia	Mauritania	Guyana	Palau
Zimbabwe	Rwanda	Sudan	Mali	Haiti	Papua New Guinea
	Sao Tome and Principe	Tanzania	Niger	Jamaica	Samoa
		Uganda	Nigeria	St-Christopher and Nevis	Solomon Islands
			Senegal	St. Lucia	Tonga
			Sierra Leone	St. Vincent and the Grenadines	Tuvalu
			Togo	Suriname	Vanuatu
				Trinidad and Tobago	

**Annex 4: EU Member Countries.**

Belgium, France, Germany, Italy, Luxembourg, Netherlands, Denmark, Republic of Ireland, United Kingdom, Greece, Portugal, Spain, Austria, Finland, Sweden, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

<sup>1</sup> Cuba is a member of the ACP Group, but has not signed the Cotonou Agreement.

<sup>2</sup> South Africa is a member of the ACP Group and the Cotonou Agreement. However aid granted to South Africa is taken from the EU budget, not the EDF. South Africa is only an observer to the EPA negotiations, as it already has negotiated a free-trade agreement (TDCA) with the EU (see also annexe 1).

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