

THE NEW ACP-EU [COTONOU] AGREEMENT:

A USERS GUIDE

Part 3

**THE TRADE PROVISIONS OF THE
NEW AGREEMENT**

Produced By

**Trade & Development Studies Centre - Trust
[TRADES CENTRE]
Harare**

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Foreword

Trade and Development Studies Centre- Trust [TRADES CENTRE] with the support of Friedrich Ebert Stiftung - Zimbabwe undertook an initiative to produce User Guides on ACP – EU Cotonou agreement in four series covering the major areas of ACP-EU co-operation namely trade aspects, financial and technical co-operation, role of non-state actors and political dialogue. The User's Guide seek to; lead concerned actors through the various provisions of the Lomé Convention, provide an analysis from an ACP perspective of the new arrangements, identify issues likely to arise in the course of implementation and inform in simple language the content of the agreement. The User's Guides provide simplified and basic introduction to the new ACP-EU agreement for those in the ACP who are likely to be drawn into its implementation. The target group is ACP member states government officials, non-state actors in ACP states seeking to become involved in EU-ACP co-operation, ACP Parliamentarians with responsibilities related to the implementation of ACP-EU co-operation, the media in ACP countries, concerned academics and research institutions in ACP countries and general public. They seek not only to outline the new agreement, but place it in the context of ACP countries own efforts to promote their own economic and social development.

In the area of trade co-operation, the new Cotonou ACP-EU agreement is essentially an agreement to maintain the status-quo temporarily while negotiating future trade arrangements. Notwithstanding that Lomé IV trade arrangements have been maintained temporarily in the Cotonou agreement, the new agreement still remains a difficult and complex agreement for ACP economic operators to be able to effectively utilise. The task of simplifying the agreement is not easy because while the basic text is smaller, the accompanying annexes now stretch to nearly 500 pages of which 399 pages [including annexes to Protocols] deal with the trade regime to be applied during the “preparatory period”¹. The main challenge for ACP is to come up with proposals of new trade arrangements that address their development concerns.

Specific objectives of this Guide on the Trade Aspects of the New Agreement are to: outline the general trade arrangements to be applied during the “preparatory period including the issue of commodity protocols, expose the objectives and principles underpinning ACP-EU economic and trade co-operation, explore options of future ACP-EU trade arrangements and the basis for the negotiation of longer-term, WTO compatible trade arrangements

Trade and Development Studies Centre and FES share the hope that through these User's Guides, ACP countries will be in a better position to take advantage of the innovations in the new agreement as well as to enable them to take appropriate measures to mitigate effects negative effects emanating from the new engagement

Dr. M. Tekere – TRADES CENTRE.

Dr. F. Schmidt - FES - Zimbabwe

¹ Annex I contains a detailed table of contents of the annexes and a short guide to the various sections, including a guide on how to access these annexed texts through the world wide web.

Abbreviations

ACP	African Caribbean and Pacific
CAP	Common Agricultural Policy
COMESA	Common Market for eastern and Southern Africa
EDF	European Development Fund
ENGDOs	European Non-Governmental Development Organisation
EPAs	Economic Partnership Agreements
EU	European Union
FTA	Free Trade Area
FES	Friedrich Ebert Stiftung
GDP	Gross Domestic Product
GSP	Generalised System of Preferences
LDCs	Least developed countries
NAOs	National Authorising Officers
NGOs	Non- Governmental Organisations
NSAs	Non State Actors
Non-LDCs	Non –Least Developed Countries
NEW ERA	New Enhanced Regional Agreements
REPAs	Regional Economic Partnership Agreements
SADC	Southern African Development Community
TDCA	Trade and Development Co-operation Agreement between South Africa and The European Union
US	Untied States of America
WTO	World Trade Organisation

1 WHAT DO THE NEW TRADE PROVISIONS COVER?

The trade provisions of the new ACP-EU agreement are dealt with under Part 3 Title II, Articles 34 to 54, under the heading of “Economic and Trade Co-operation”. These provisions cover:

- the objectives and principles underpinning ACP-EU economic and trade co-operation;
- the general trade arrangements to be applied during what the EU refers to as the “preparatory period (2000-0228) ;
- the commodity protocols;
- the modalities and procedures for the negotiation of longer term frameworks for ACP-EU trade relations;
- institutional arrangements for joint consultations on trade issues;
- commitments on co-operation in international fora;
- trade in services and trade related areas.

The new trade provisions cover two important areas. Firstly, **the basis for ACP-EU trade relations for the coming 8 years**. Secondly, **the basis for the negotiation of longer-term, WTO compatible trade arrangements**. The first component of the new trade provisions, extends the existing non-reciprocal trade preferences until January 1st 2008. The second component includes a commitment to introduce wherever possible, moves towards the establishment of reciprocal trade preferences between the EU and ACP countries. This will involve ACP countries granting trade preferences to EU exporters which are not extended to other OECD countries, in exchange for an extension of current preferential access to the EU market.

It is this commitment to a movement away from non-reciprocal trade preferences towards the introduction of reciprocal trade preferences by 2008, which constitutes a fundamental shift in the basis of ACP-EU trade relations.

2 OBJECTIVES AND PRINCIPLES

The primary aim of economic and trade co-operation is seen as being:

“fostering the smooth and gradual integration of the ACP States into the world economy”²

It is asserted that through the smooth and gradual integration of ACP countries into the world economy both **sustainable development** and **poverty eradication** will be promoted. The Ultimate objective of ACP-EU economic and trade co-operation is seen as being:

“to enable the ACP states to play a full part in international trade”³

Emphasis is placed on promoting ACP states active participation in multilateral trade negotiations and assisting ACP states in managing the challenges of globalisation and facilitating their transition to a liberalised global economy.

Against this background the aim of ACP-EU economic and trade co-operation is seen as being to:

- enhance the production, supply and trading capacities of ACP states;
- produce a new trade dynamic
- strengthen ACP trade and investment policies;
- improve the capacity of ACP states to handle trade-related issues.

All this, it is maintained, should:

“be implemented in full conformity with the provisions of the WTO, including special and differential treatment, taking account of the Parties' mutual interests and their respective levels of development”⁴.

In principle the new agreement commits the ACP and the EU to a **“strengthened and strategic partnership”** which will adopt a comprehensive approach and build on the achievements of previous ACP-EU co-operation agreements. It commits ACP and EU countries to **“using all means available to achieve the objectives set out”, “by addressing supply and demand side constraints.”** It emphasises the importance of trade development measures in establishing national development strategies. Significantly, the agreement emphasises how **“economic and trade co-operation shall build on regional integration initiatives of ACP States”⁵.**

Perhaps of some significance to ACP countries, are the general provisions on objectives and principles, which commit ACP-EU economic and trade co-operation to taking:

“account of the different needs and levels of development of the ACP countries and regions”⁶,

² Article 34.1

³ Article 34.2

⁴ Article 34.3

⁵ Article 35.2

⁶ Article 35.3

and reaffirm the attachment of all parties to:

“ensuring special and differential treatment for all ACP countries and to maintaining special treatment for ACP LDCs and to taking due account of the vulnerability of small, landlocked and island countries.”⁷

TRANSFORMING THE BASIS OF ACP INTEGRATION INTO THE WORLD ECONOMY

Establishing the primary aim of ACP-EU economic and trade co-operation as “*fostering the smooth and gradual integration of the ACP States into the world economy*”, begs the question as to the basis on which ACP countries are integrated into the world economy. It assumes that closer integration of ACP countries into the world economy will automatically lead to sustainable development and the eradication of poverty. However, it needs to be borne in mind that African and Caribbean economies have been closely integrated into world trade since at least the time of slave trade. This however has not provided the basis for either sustainable development or the eradication of poverty.

The major issue which has been left un-addressed within the ACP-EU approach to economic and trade co-operation is the need to **transform the basis of ACP countries integration into the world economy, in ways which facilitate the eradication of poverty and the promotion of sustainable development.** Only if ACP-EU economic and trade co-operation is aimed at enhancing the production, supply and trading capacities of ACP states in ways which **transform the basis of ACP economies integration into the world economy, will the smooth and gradual integration of ACP economies into the world economy become force for poverty focussed sustainable development.**

It remains to be seen whether, in practice, the framework for ACP-EU co-operation will be strong enough to address this fundamental challenge.

While it is difficult to see how these provisions could be given precedence over the commitment to “*full conformity with the provisions of the WTO*”, it nevertheless provide some leeway for ACP government to negotiate with the EU, over the basis on which future long term ACP-EU trade relations are to be established.

The EU is wedded to REPAs. The emphasis placed on how economic and trade co-operation will build on regional integration initiatives of ACP states, potentially has important implications for the EU’s approach to the negotiation of reciprocal preferential trade arrangements. While the final text of the new ACP-EU agreement refers only to economic partnership agreements and makes no reference to **regional** economic partnership agreement, it should be noted that the EU Development Policy Statement of May 2000, continued to use the designation regional economic partnership agreements, when referring to the future long term basis for ACP-EU trade relations. Thus despite ACP criticisms over the lack of a sufficient institutional basis for the negotiation of **regional** economic partnership agreements, the EU appears to remain wedded to this concept.

⁷ Article 35.3

3 THE TRANSITIONAL TRADE ARRANGEMENTS

3.1, The General Trade Provisions

The transitional trade arrangements established for the period running from March 2000 to December 31st 2007 need to be seen against the background of the commitment made to:

“conclude New World Trade Organisation (WTO) compatible trading arrangements⁸”.

Since it is recognised that the new trading arrangements would need to be introduced gradually it was agreed that during the preparatory period:

“the non-reciprocal trade preferences applied under the Fourth ACP-EC Convention shall be maintained”⁹.

This means that until January 1st 2008 ACP exporters will continue to enjoy **duty free access for exports to the EU market of all goods deemed to “originate” in ACP countries.**

WHAT IS “CUMULATION”?

The rules of origin under ACP-EU agreements define what constitutes a good "originating" in an ACP country. Only “originating” goods are allowed to benefit from the duty free access provisions of ACP-EU agreements. The “cumulation” provisions allow a good produced ("originating") in one ACP country to be treated as if it were a good produced ("originating") in any ACP country. This allows one ACP country to use inputs produced (or more precisely "originating") in a second ACP country, without losing the benefits of the trade preferences extended under the ACP-EU agreement. This encourages trade and co-operation between ACP countries, with different resource endowments.

From 1995 ACP-EU agreements have, allowed ACP countries to more extensively use products “originating” in neighbouring non-ACP developing countries, (where the ACP and non-ACP country formed part of a "coherent geographical entity") without losing the "originating" status which allows the product to benefit from duty free access under the ACP-EU agreement. This is known as the “regional cumulation” provision. The extent to which “regional cumulation” with neighbouring non-ACP developing countries is allowed has been elaborated on in some detail under the new agreement.

This is, in large part, an extension of the trade arrangement applied under the Fourth Lomé Convention, although there are some modifications, mainly dealing with **issues of cumulation and administrative procedures.**

⁸ The Cotonou Agreement, Part 3, Title 11, Chapter 2, Article 36.1

⁹ The Cotonou Agreement, Part 3, Title 11, Chapter 2, Article 36.3

The detailed provisions dealing with ACP market access, during what the EU refers to as the “preparatory period”, are set out in Annex V to the new ACP-EU agreement. Annex 5 includes 5 Protocols and various annexes. These Protocols and annexes to Protocols deal with:

- the details of the trade regime to be applied during the preparatory period (2000-2008) (annex V);
- the definition of the concept of originating products (annex V, Protocol 1);
- the processing required on non-originating materials in order for manufactured products to obtain originating status and hence qualify for duty free access (annex II to Protocol 1 attached to annex V);
- movement certificates and associated administrative arrangements (annexes IV, V, VIA, VIB, VII to Protocol 1 attached to annex V);
- derogation applications (annex VIII to protocol 1, attached to annex V);
- the specific processing requirements for textile products to be granted originating status (annex IX to Protocol 1, attached to annex V);
- textile products excluded from cumulation provisions in Article 6(3) (annex X to Protocol 1, attached to annex V);
- the cumulation provisions to be applied under Article 6(3) to South African originating materials after 3 and 6 years of application of the South Africa-EU Trade and Development Co-operation agreement (annexes XI and XII to Protocol 1, attached to annex V);
- the products not covered by the cumulation provisions (annex XIII to Protocol 1, attached to annex V);
- fisheries products temporarily excluded from the cumulation provisions (annex XIV to Protocol 1, attached to annex V);
- a joint declaration on cumulation (annex XV to Protocol 1, attached to annex V);
- the Sugar Protocol (Protocol 3);
- the Beef and Veal Protocol (Protocol 4);
- the Second Banana Protocol (Protocol 5).

Despite a commitment to simplifying the ACP-EU agreement, these provisions are extensive and complex. However, as under earlier Lomé Conventions the commitment to granting ACP countries duty free access is qualified by: **on-going restrictions on access for agricultural and processed agricultural products falling under the EU’s Common Agricultural Policy; the detailed provisions of the rules of origin.**

Nevertheless the EU also renewed its pre-existing commitment to examining ACP requests for improved access for agricultural exports on a case by case basis. Although, equally, pre-existing provisions with regard to **safeguard measures**, which allow the EU to re-introduce import controls where ACP exports threatened to disrupt the EU market, have been extended.

The new text through annex XI and annex XII to Protocol 1 does however elaborate on the extent to which South Africa raw materials and intermediate products can be used under the cumulation provisions by neighbouring ACP countries, without losing originating status. These provisions however, will only apply 3 and 6 years (annex XI and XII respectively) after the entry into force of the EU-South Africa Trade, Development and Co-operation agreement. While for Southern African ACP countries, this represents an improvement on the provisions of the Fourth Lomé Convention, it remains to be seen to what extent these new provisions will encourage investment in the production of new export products, using South African raw materials or intermediate products.

SIMPLIFICATION: NOT A SIMPLE TASK

While one of the major aims of the recent negotiations was to simplify the ACP-EU agreement, this has been only partly achieved. While the basic text is smaller, the accompanying annexes now stretch to nearly 500 pages. This includes 399 pages dealing with the trade regime to be applied during the “preparatory period”¹⁰. This includes annexes to Protocols that are themselves attached to annexes to the main text! The new agreement thus remains a difficult and complex agreement for ACP economic operators to be able to effectively utilise.

In addition, the new agreement has reaffirmed the importance attached to the Commodity Protocols, which allow ACP countries preferential access for **beef, sugar and banana** exports. This being said however it was recognised that there was a need to review the commodity protocols:

“as regards their compatibility with WTO rules”¹¹

This review however would be undertaken

“with a view to safeguarding the benefits derived therefrom, bearing in mind the special legal status of the Sugar Protocol.”¹²

The general provisions also committed the ACP and the EU to the establishment of a **Joint Ministerial Trade Committee**. This Joint Ministerial Trade Committee is scheduled to meet once a year with a particular focus on: multilateral trade negotiations; the impact of liberalisation on ACP-EU trade; the impact of liberalisation on the development of ACP economic; how best to preserve the benefits of the existing ACP-EU trade arrangement.

¹⁰ Annex I contains a detailed table of contents of the annexes and a short guide to the various sections, including a guide on how to access these annexed texts through the world wide web.

¹¹ Article 36.4

¹² Article 36.4

3.2, The Beef and Veal Protocol

The provisions allowing preferential access for traditional suppliers of beef to the EU were rolled over, allowing the export of the following tonnage of de-boned beef and veal:

Botswana	18,916
Namibia	13,000
Zimbabwe	9,100
Madagascar	7,579
Swaziland	3,362
Kenya	142

In Declaration XXVI the EU committed itself to: establishing appropriate rules and procedures for the application of the Beef Protocol; facilitating year round marketing and assisting in addressing supply side constraints. The EU also agreed to consider requests from least developed ACP countries to export beef and veal under preferential conditions. The new agreement thus secures the current levels of access to the EU market granted Beef Protocol beneficiaries until January 1st 2008.

3.3, The Sugar Protocol

The EU reaffirmed its commitment to import an agreed volume of ACP sugar at guaranteed prices for an indefinite period. Some 19 ACP countries, to varying degrees benefit from the Sugar Protocol.

ACP Sugar Quotas (Tonnes White Sugar)

St Kitts + Nevis	14,800	Guyana	157,700
Belize	39,400	Swaziland	116,400
Barbados	49,300	Fiji	163,600
Trinidad & Tobago	69,000	Mauritius	487,200
Malawi	20,000	Jamaica	118,300
Tanzania	10,000	Madagascar	10,000
Zimbabwe	25,000	Congo	10,000
Kenya	5,000	Uganda	5,000
Surinam	4,000	Ivory Coast	2,000
Zambia	0		

While ACP sugar exporters will continue to enjoy the benefits of high internal EU prices, it should be noted that the EU is now considering extending the process of CAP reform to the sugar sector. As a consequence in the coming years the high returns enjoyed on ACP sugar exports to the EU market could well decline.¹³

¹³ This being said, the weakness of the EURO has already resulted in income losses in US \$ terms for ACP sugar exporters. The actual impact of any reductions could thus be off set by any recovery in the US \$ value of the EURO.

THE SCOPE FOR REFORM OF THE EU SUGAR REGIME

In a study conducted for the European sugar industry¹⁴ it was concluded that **if the price reduction was modest (20%) and import constraints were retained in place, the impact would be minor**. Returns to the industry would drop but this would be shared with farmers. While farmers net revenues would diminish, sugar would still remain a profitable activity compared to other product. In addition, the reduction would be cushioned by the self financing nature of the export refund scheme in the sugar sector, since price reductions would require lower export refunds. It noted however that a deeper price cut (50%) would put the sector under stronger pressure. This would not necessarily eliminate sugar beet from the EU cropping pattern, but some beet factories particularly in Southern Europe would be unable to survive. If these factories closed, farmers in the areas served by these factories would be driven out of beet production.

From an ACP perspective deep cuts in internal EU prices would profoundly effect the benefits derived from the Sugar Protocol. The net effect on ACP sugar producers would however depend on **how the EU managed the process of reform**. If reform was conducted in such a way as to reduce EU exports to the world market, then increases in world market prices could to a certain extent compensate for losses on exports to the EU market. However, the extent of this compensatory effect would depend on each individual ACP countries exposure to the world market.

3.4, The Banana Protocol

In the light of the WTO rulings on bananas the new agreement makes only limited commitments to protecting the interests of ACP Banana producers. Specifically it commits the EU to

“examine where necessary the measures aimed at ensuring the continued viability of their banana export industries and the continuing outlet for their banana in the Community market”¹⁵

the measures to be implemented to ensure the continued viability of ACP banana exports are not elaborated on in the new ACP-EU agreement, beyond a commitment to:

“pursuing through all the means available... measures designed to enable ACP states ... to become more competitive”¹⁶.

Thus, solely on the basis of the new ACP-EU agreement, the future of the ACP Banana regime looks very uncertain. This uncertainty will profoundly effect those ACP countries where Bananas constitute the principal source of foreign exchange earnings. The following

¹⁴ “Scope and Consequences of a CAP reform for Sugar” CEFS

¹⁵ The Cotonou Agreement, Protocol 5 Article 1.

¹⁶ The Cotonou Agreement, Protocol 5, Article 2.

table illustrates the importance of the Banana Protocol at the time of the creation of the single internal market, which required a restructuring of the EU banana regime.

Banana exports as a % share total exports to EU			
Dominica	88.6%	St Vincent	62.5
Belize	32.4%	Grenada	19.5%
Jamaica	16.5%	Surinam	9.4%
Cape Verde	9.0%	Ivory Coast	6.0%
Cameroon	6.3%	Somalia	0.1%¹⁷

3.5, The Rum Protocol

Although the Rum Protocol has now expired, under Declaration XXV the EU has committed itself to supporting an integrated sector specific programme to enhance the competitive position of ACP rum exporters. The following table illustrates the earlier significance of the Rum protocol for its principal beneficiaries.

Country	Share of Total Exports to EU
Trinidad and Tobago	42.2%
Bahamas	13.5%
Guyana	5.3%
Barbados	3.9%
Jamaica	2.6%

3.6, Additional Provisions

The new agreement also contains a commitment on support to ACP rice exports. In Declaration XXIV on rice the EU commits to financing an integrated sector specific programme for the development of ACP rice exports. This programme will include:

- improvement of conditions of production and enhancement of quality through assistance in the areas or research, handling, harvesting, transport and storage;
- enhancing the competitiveness of existing rice exporters;
- assisting ACP rice exporters in meeting environmental and waste management standards and other international and EU norms;
- assistance marketing and trade promotion;
- assistance in developing value added products.

The new agreement also commits the EU to assisting ACP countries in developing their service sectors, particularly in the fields of tourism, financial services, telecommunications, culture, construction and related engineering services.

The new agreement also contains provisions on a range of trade related areas, with the EU committing itself to assisting ACP countries in strengthening their regulatory frameworks with regard to: competitions policy, intellectual property rights; standardisation and certification, sanitary and phytosanitary standards measures; trade and environmental issues; labour standards and consumer policy.

¹⁷.Somalia was an important exporter of bananas up to 1990

4 FUTURE TRADE ARRANGEMENTS

4.1, The Commencement of Negotiations

It has been agreed that during the period when the transitional trade arrangements are in place, negotiations will commence on the establishment of reciprocal preferential trade arrangements. Specifically it has been agreed that **Economic Partnership Agreements** will be negotiated with those:

“ACP countries which consider themselves in a position to do so, at the level they consider appropriate and in accordance with the procedures agreed by the ACP Group, taking into account regional integration process within the ACP¹⁸.”

It has furthermore been agreed that the

*“Negotiations of the **Economic Partnership Agreements** shall aim notably at establishing the timetable for the progressive removal of barriers to trade between the parties, in accordance with the relevant WTO rules¹⁹,”*

and that such agreements will lead to the conclusion of :

“new WTO compatible trading arrangements, removing progressively barriers to trade between them and enhancing co-operation in all areas relevant to trade²⁰.”

More specifically the new agreement stipulates that:

“Formal negotiations of the new trading arrangements shall start in September 2002 and the new trading arrangements shall enter into force by 1 January 2008, unless earlier dates are agreed between the Parties²¹.”

However, it is also stipulated that:

“the period up to the start of the formal negotiations of the new trading arrangements shall be actively used to make initial preparations for these negotiations²²,”

and that furthermore:

“all the necessary measures shall be taken so as to ensure that the negotiations are successfully concluded within the preparatory period²³.”

¹⁸ The Cotonou Agreement, Part 3, Title II, Chapter 2, Article 37.5.

¹⁹ The Cotonou Agreement, part 3, Title II, Chapter 2, Article 37.7.

²⁰ The Cotonou Agreement, Part 3, Title II, Chapter 2, Article 36.1.

²¹ The Cotonou Agreement, Part 3, Title II, Chapter 2, Article 37.1.

²² The Cotonou Agreement, Part 3, Title II, Chapter 2, Article 37.2.

²³ The Cotonou Agreement, Part 3, Title II, Chapter 2, Article 37.2.

4.2, A Qualified Commitment to Alternatives

While provision is made under the agreement for assessing the situation of non-least developed countries which decide that they are not in a position to enter into **Economic Partnership Agreements** and for examining

“all alternative possibilities, in order to provide these countries with a new framework for trade which is equivalent to their existing situation and in conformity with WTO rules²⁴,”

the general thrust of EU policy is **strongly towards the negotiation of reciprocal preferential trade arrangements in the form of Economic Partnership Agreements.**

Thus for example, while it is agreed that:

“The Parties will regularly review the progress of the preparations and negotiations and, will in 2006 carry out a formal and comprehensive review of the arrangements planned for all countries”,

it is stipulated that this review is intended simply to

“ensure that no further time is needed for preparations or negotiations”.

THE QUESTION OF WTO COMPATIBILITY

The WTO itself does not stipulate what a WTO compatible free trade area should cover, beyond the stipulation that it should cover substantially all trade. The EU however in recent negotiations has sought to interpret the concept of WTO compatibility as:

- covering around 90% of total trade;
- excluding no sector
- being set in place over a 10 to 12 year period.

Against this background, when in any agreement with the EU reference is made to “conformity with WTO rules” or “new WTO compatible trading arrangements”, this can reasonably be taken to mean free trade areas which exclude no sectors, cover around 90% of all trade and are established over a 10 to 12 year period.

Thus, once again, it is apparent that the principal direction of EU policy is towards reciprocal preferential trade arrangements, in the form of so-called Economic Partnership Agreements. In the case of South Africa this type of agreement has been called a Trade, Development and Co-operation Agreement, while the name changes, the basic arrangement to be established after the transitional period remains the same, **a WTO compatible free trade area.**

²⁴ The Cotonou Agreement, Part 3, Title II, Chapter 2, Article 36.6.

This being said, in the case of least developed countries the EU has committed itself to starting in 2000:

“a process which by the end of multilateral trade negotiations and at the latest 2005 will allow duty free access for essentially all products from all LDC²⁵”.

This, it is maintained, will build:

“on the level of the existing trade provisions of the fourth ACP-EC Convention and which will simplify and review the rules of origin, including cumulation provisions, that apply to their exports²⁶.”

4.3, Matching EPAs to Levels of Development

For those ACP countries who consider **Economic Partnership Agreements** appropriate, it is held that the process of negotiations:

“shall take account of the level of development and the socio-economic impact of trade measures on ACP countries, and their capacity to adapt and adjust their economies to the liberalisation process²⁷.”

Against this background it is held that the negotiations will therefore be:

“as flexible as possible in establishing the duration of a sufficient transitional period the final product coverage, taking into account sensitive sectors, and the degree of asymmetry in terms of timetable for tariff dismantlemen²⁸t.”

²⁵ The Cotonou Agreement, Part 3, Title II, Chapter 2, Article 37.9.

²⁶ The Cotonou Agreement, Part 3, Title II, Chapter 2, Article 37.9.

²⁷ The Cotonou Agreement, Part 3, Title II, Chapter 2, Article 37.7.

²⁸ The Cotonou Agreement, Part 3, Title II, Chapter 2, Article 37.7.

Least Developed Countries and Economic Partnership Agreements

According to the EU proposals least developed countries should retain the right to **non-reciprocal trade preferences**. This appears to be straight forward enough. It appears to recognise the right of least developed countries to “*special and differential treatment*”, as enshrined in the WTO agreement. However, the EU mandate goes on to qualify this with regard to **those least developed countries which form part of regional groupings**.

In those cases where least developed countries are part of regional groupings, the least developed countries will be expected to carry all the same obligations as are negotiated regionally by the region as a whole. The Commission has recognised that this could entail extra adjustment costs for least developed countries and so has committed itself to providing additional aid from EDF resources to help with the adjustment costs which will arise.

Given the composition of ACP regional groupings, most of which contain a mixture of least developed and non-least developed countries, this proviso on the right of least developed countries to non-reciprocal trade preferences could have important implications for countries which are amongst some of the poorest in the world.

However, this flexibility is qualified by the stipulation that this flexibility must remain

“in conformity with WTO rules then prevailing²⁹.”

In the text of the agreement it is implicitly recognised that the introduction of reciprocal trade preferences with the EU will pose a major competitive challenge to producers in ACP countries. It is therefore proposed that:

“The preparatory period shall also be used for capacity-building in the public and private sectors of ACP countries, including measures to enhance competitiveness, for strengthening of regional organisations and for support to regional trade integration initiatives, where appropriate with assistance to budgetary adjustment and fiscal reform, as well as for infrastructure upgrading and development, and for investment promotion³⁰.”

²⁹ The Cotonou Agreement, Part 3, Title II, Chapter 2, Article 37.7.

³⁰ The Cotonou Agreement, Part 3, Title II, Chapter 2, Article 37.3.

5. ASSESSING PROPOSALS FOR FUTURE ACP-EU TRADE RELATIONS

5.1, Review of the Options

In terms of future ACP-EU trade arrangements beyond January 1st 2008, the new ACP-EU agreement allows for two broad options:

- the progressive introduction of reciprocity in trade relations with the EU;
- an extension of non-reciprocal preferences.

Within each of these broad options a number of variations exist. For most ACP countries 7 theoretical options can be identified. These can be summarised as follows:

ECONOMIC PARTNERSHIP AGREEMENTS

- 1) bilateral economic partnership agreements, negotiated independently at the national level;
- 2) bilateral economic partnership agreements, negotiated within a co-ordinated regional framework;
- 3) regionally negotiated economic partnership agreements;

ALTERNATIVE POSSIBILITIES

- 4) existing GSP Preferences;
- 5) enhanced GSP preferences;
- 6) full access under GSP for Least Developed Countries;
- 7) some still to be defined alternative trade arrangement.

Each of these options needs to be considered in turn, from the very different perspectives of individual ACP countries.

THE NEED FOR A HARD-NOSED ASSESSMENT OF THE ECONOMIC IMPLICATIONS OF FUTURE TRADE POLICY OPTIONS

The EU has made a hard-nosed economic assessment of the proposed free trade area agreements with developing countries, based on the EU's position within the global economy and a strong commitment to the protection of its sensitive sectors. It has recognised that **encouraging developing countries to eliminate tariffs on imports from the EU at a faster rate than on imports from other OECD countries, will result in EU suppliers gaining a competitive edge in developing country markets.**

It is recognised in Europe that if free trade areas can be negotiated with developing countries, which secure for EU exporters preferential access to developing country markets, whilst at the same time maintaining tariff protection around EU sectors which are highly “sensitive” to the introduction of free trade, then **the EU has little to lose and a lot to gain, from the conclusion of free trade area agreements with developing countries.**

Underlying the EU's approach to free trade area negotiations with developing countries is a hard-nosed assessment of where EU interests lie in the context of evolving global trade. There is an urgent need for ACP governments to make a similar hard-nosed economic assessment of the impact of the various options for future ACP-EU trade relations on their prospects for sustainable poverty focussed economic growth.

5.1.1, Independently Negotiated National Economic Partnership Agreements

For those ACP governments which made this choice, this option would involve each individual ACP government negotiating a timetable for the introduction of duty free access for substantially all EU exports. South Africa's experience suggests these negotiations would require the deployment of considerable administrative effort over a long period of time. It would however enable individual ACP governments to tailor any reciprocal agreement to their own particular needs. It would, for example, allow each ACP government to identify those economic sectors where the introduction of free trade with the EU would involve high adjustment costs and allow them to negotiate the exclusion or deferral of tariff reductions in these “sensitive sectors”. It would also allow each ACP country to identify those specific areas where immediate benefits could be derived from improved terms of access to the EU market.

**THE SCOPE FOR IMPROVEMENT:
THE CASE OF THE BEEF PROTOCOL**

At the time of the discussions around the EU Green Paper on Future ACP-EU relations, Namibian beef farmers proposed moving away from a **Beef Protocol** which restricted duty free access to exports of de-boned beef, towards a **Meat Protocol**, which would, within agreed tonnage limits, allow the export of a range of raw and processed meat products to the EU. This it was felt would stimulate meat processing and diversification in ACP countries currently allowed access under the Beef Protocol. The EU however, as in so many areas related to the CAP, proved unreceptive to this innovative and forward looking proposal.

It is this type of improvement in market access however, which individual ACP countries could seek to secure in the coming years within the framework of any bilateral free trade area negotiations with the EU.

However, for many years now ACP governments have been seeking to foster closer regional co-operation and more recently a gradual process of regional market integration. This has important implications. If neighbouring ACP countries grant preferential access to EU exports on the basis solely of their national economic concerns, this could generate problems for neighbouring countries with whom they are trying to integrate. An example from Southern Africa will serve to illustrate this point.

Under a future reciprocal agreement with the EU, Mozambique may decide to allow the duty free import of subsidised EU milk powder to promote the development of local production of value added long life dairy products. Zimbabwe, for its part, may seek to exclude the duty free import of milk powder under any reciprocal arrangement, so as to promote and encourage dairy farming in Zimbabwe. This could create problems in introducing free trade in the dairy sector under the SADC Trade Protocol. Mozambican UHT milk production, based on subsidised exports of EU milk powder, could undercut Zimbabwean UHT milk production, based on local milk production in market throughout the region, undermining the basis for the development of the Zimbabwean dairy industry. While nominally rules of origin provisions in the SADC Trade Protocol are intended to address this type of problem the reality is that few if any Southern African customs services are currently capable of enforcing such rules of origin.

This type of problem could be reproduced across many sectors, in many ACP regions, particularly in sectors linked to CAP distorted agricultural products. Negotiating economic partnership agreements at the national level could thus prove very difficult.

5.1.2, Co-ordinated National Negotiations

In order to avoid this type of problem an effort could be made amongst ACP governments to co-ordinate their nationally led processes of negotiations, with neighbouring countries. This would involve each ACP country taking into account the “sensitivities” of its neighbours in terms of their trade relations with the EU. However, in many regions of the ACP, neighbouring countries have very different economic structures and hence may have very different sensitive sectors. Any process through which neighbouring ACP countries took

account of each others sensitive sectors could result in extremely long lists of products excluded from the coverage of any free trade area agreements with the EU.

Problems of co-ordinating national positions could prove particularly difficult where non-least developed ACP countries sought to fully respect the rights of their least developed country neighbours to continued non-reciprocity in their trade relations with the EU. Problems are also likely to arise given the limited capacity of many ACP governments to accurately assess the likely impact of any reciprocal preferential trade arrangement with the EU on economic sectors of major significance to their national economic development. This could well generate a situation whereby an approach is adopted of “**if in doubt, keep it out**”.

This raises the wider question of the administrative capacity available to individual ACP governments to effectively engage in reciprocal preferential trade negotiations with the EU. As the EU-South Africa experience of free trade area negotiations illustrates, the conduct of these negotiations can be very labour intensive and can monopolise the administrative capacity of whole departments over an extended period of time. The question therefore arises as to how well equipped individual ACP countries are to meaningfully negotiate reciprocal preferential trade agreements with the EU, **particularly if not only national but wider regional considerations have to be taken in to account.**

5.1.3, Regionally Negotiated Economic Partnership Agreements

The position advanced by the European Commission during much of the recent negotiations was in favour of **regional economic partnership agreements**. However, it needs to be borne in mind that in many respects this Commission proposal was a last resort. It was deemed to be impractical to conclude a reciprocal preferential free trade area agreement with the ACP as a whole, since this would have required the introduction of free trade not only between the EU and ACP countries but also amongst ACP countries. This it was felt would be far too difficult to achieve. Equally it was felt that it would be an administrative impossibility to negotiate 70 separate free trade area agreements with 70 individual ACP countries. The answer to these polar impracticalities was the idea of negotiating free trade area agreements on a regional basis.

This was subsequently rationalised on the basis that, regionalisation would allow **different trade treatment** to be accorded **different regional groupings** of ACP countries which were at **different levels of development**. However, this post facto rationalisation of the EU's approach falls down on a basic and indisputable fact, namely that **the diversity within the ACP Group as a whole is mirrored in the diversity within ACP regions**.

This raises a major problem for the EU, one which it has yet to effectively address, namely: **how can regionally specific agreements be structured in ways which accommodate the diversity which exists within each of the ACP regions?**

This problem of the diversity within ACP regions is compounded by the absence of any firmly established and functioning regional institutions capable of taking a lead in trade negotiations leading to tariff reductions throughout a region. In no ACP region (with the possible exception of the Caribbean) do the institutional structures exist to allow the negotiation of regional tariff reduction schedules **at a regional level**. Indeed, in virtually all ACP regions there are only very insecure conditions for the creation of such regional

institutions. This poses a major problem for the EU, for without such regional institutions **how is the EU to negotiate regional economic partnership agreements?**

The EU's response to this problem has been twofold. Firstly to place increased emphasis on EU support for regional integration and regional capacity building. This is now the dominant focus of the EU's approach to regional co-operation under the new ACP-EU agreement. Secondly, to propose that if regional integration is insufficiently advanced in an ACP region to allow for the negotiation of free trade area arrangements at a regional level, the EU should **conclude an agreement with each of the individual countries in the regional group in line with the 2008 deadline.** This emphasis on national free trade area arrangements concluded within a regional framework is currently the formulation which the European Commission is implicitly promoting. Such sophistry however leaves the fundamental problem of how to address intra-regional diversity singularly un-addressed.

At the formal level these factors resulted in references to **regional** economic partnership agreements being dropped from the text of the final agreement. This being said the recent EU Development Policy Statement continues to refer to **regional economic partnership agreements**, when discussing future ACP-EU trade relations.

Undoubtedly, negotiating an agreement regionally, would make it easier to reconcile a reciprocal preferential trade agreement with the EU, with moves towards regional market integration amongst ACP countries. However, given the composition of most ACP regions, it is very difficult to see how such regional agreements could be concluded without **completely disregarding the rights which the majority of ACP countries have to an extension of non-reciprocal preferences, by virtue of their status as least developed countries.**

It is very difficult to see how conducting negotiations for economic partnership agreements regionally can be reconciled with the rights which least developed countries have under the WTO to "special and differential treatment", including the right to continued non-reciprocal preferences. One option of course would be to **limit regional reciprocal agreements to non-least developed countries.** However, in most ACP regions (again with the exception of the Caribbean) this could get very messy. A consideration of the circumstances prevailing in Southern Africa will illustrate the problems that can arise.

With Botswana, Namibia Lesotho and Swaziland de facto embroiled in the EU-South Africa TDCA (through their membership of the Southern African Customs Union) this would leave only **Zimbabwe, Mauritius** and the **Seychelles** negotiating a reciprocal preferential trade arrangement with the EU. It is by no means clear that the governments of Zimbabwe, Mauritius and the Seychelles see themselves having a common interest in jointly negotiating a reciprocal preferential agreement with the EU. The sizes and structures of their economies are very different, as are their capacities to enforce rules of origin. What is more, Mauritius and the Seychelles would appear to enjoy certain rights as small island nations, which Zimbabwe does not share.

It is difficult to see therefore what would be the actual basis for negotiating **regionally** any reciprocal arrangement between the EU and Southern Africa. This leaves aside completely the issue of the appropriate institutional basis for the conduct of such regional negotiations.

The Problem of CAP Distortions

Given the importance of the agricultural sector to the production and export profile of many ACP countries, a major area of concern under any moves towards free trade with the EU, is the impact EU aid programmes to the agricultural sector under the CAP, on ACP agricultural sectors.

Despite all the talk of free trade, in the agricultural sector the EU remains firmly committed to **managed trade**. This means the EU will continue to maintain place import restrictions on CAP and CAP related products, whilst at the same time providing large volumes of public aid to European agriculture. This commitment to **managed trade** will remain for as long as **the CAP generates internal EU prices that are higher than world market prices**.

Despite this continued commitment to managed trade with regard to access to the EU market and the disposal of European surpluses, the EU would like to see the tariffs applied by developing countries to European **agricultural and processed agricultural exports reduced**. This fits in well with the current trajectory for the reform of the CAP. This involves **moving away from price support and towards increased direct aid to farmers**. In the beef, dairy and cereals sectors, some price reductions have already been introduced and these will continue until EU prices are more in line with world market prices. This will then provide the basis for more competitive EU agricultural and processed agricultural exports.

While EU export refunds will be reduced through this process of reform, large volumes of public aid (around 40 million EURO per annum) will continue to be made available in the form of **direct aid**, to the EU agricultural sector. Even a reformed CAP will thus, continue to **massively distort the operation of agricultural markets** to the detriment of agriculturally dependent developing economies. It is against this background, that the introduction of free trade with the EU in the context of the proposed **economic partnership agreements** will need to be carefully assessed by ACP governments.

5.1.4. New Enhanced Economic Agreements – A Viable route for ACP

Under the NEW ERA options, ACP countries would choose to enter into reciprocal trade arrangement with EU regionally or individually BUT phasing in of reciprocity is done according to achievement of some basic development thresholds in ACP countries and maybe in combination with timeframes. Reciprocity should not be based on time frames alone. The starting point is that on one hand, ACP countries are carrying out autonomous trade liberalisation measures as part of economic reforms, regional integration and WTO and they have agreed to all conditions including ‘essential elements’ that are key to macroeconomic performance while on the other hand they face serious capacity problems to enable them to compete with EU in a free trade arrangement. ACP countries are facing various capacity constrains; human development, debt burden, deficiency in economic infrastructure, weak private sector, commodity dependence, etc that reduce their ability to compete with the EU. To ensure free trade arrangements with the EU will not undermine regional processes and cause undue hardships introduction of reciprocity in favour of the EU need to be tied to improvements in some of the critical thresholds such as human development index, debt servicing, poverty indices, shifts in commodity dependence etc. Development assistance from

EU for the ACP to achieve development some of the thresholds is needed enable ACP states to eventually compete with EU firms under conditions of free trade.

The advantage of tying phasing in of reciprocity to development thresholds, is a possibility of 'early harvest' in terms of fuller reciprocity in favour of the EU if they provide more aid. In other words, introduction of reciprocity according to achievements of certain developmental thresholds would mean that if these or some of the thresholds are achieved sooner than the deadline then there is possibility of 'early harvest' in terms of reciprocating in favour of the EU. There is also a possibility to combine the thresholds and time frame, which would address the concerns of both parties. In such an approach ACP countries would not seek long transitional period since the landmark for reciprocity will be thresholds. Further, the EU has to pay a price for the market access they are seeking in the ACP/ACP since by accepting reciprocity the ACP including ACP are also paying for maintaining current market access conditions in the EU. The outcome is a win-win situation in which the EU secures market access and ACP get support to address their development constrains than merely opening up.

5.1.4.1, Essential elements of the New Enhanced Economic Agreements

- agreed measures of development & overall vulnerability of each ACP state determine pace & extent of liberalisation
- LDC members of ACP retain their special access to EU markets without reciprocity for extended period
- opening of ACP markets is related to agreed benchmarks in reform of the CAP
- EU trade diversion avoided by liberalising to ROW, WTO MR giving improved access to non-EU markets
- aid component of ERA is used to enhance trade capabilities and increase export diversification
- aid is also used to cushion the transition to more liberal trading conditions (especially changes in protocols
- there is a contract enforcement mechanism (including dispute procedures) in place
- rules of origin are simple and facilitate cumulation

5.1.4.2, Recommendations

- ✓ ACP as a group or as regions should seek to initiate establishment of a unique, and innovative free trade agreement with the EU that addresses its development concerns.
- ✓ ACP regions should among other options consider seriously the NEW ERA model of a free trade agreement with the EU
- ✓ The EU and ACP should recognise the centrality of agriculture in ACP countries [poverty alleviation and meeting basic needs] so that they can craft a free trade area in which trade distortive effects of the CAP can be minimised.
- ✓ The ACP should defer any moves towards free trade area in CAP distorted agricultural products until such time as the issue of CAP distortions has been comprehensively addressed.
- ✓ ACP countries should right away start to determine products that are very sensitive and semi- sensitive so as to take educated decisions regarding products for front and back loading of tariff reductions in an free trade arrangement with the EU.
- ✓ Within any moves towards free trade with ACP, the EU should firmly commit itself to the 'special protocol' approach in those sectors of vital importance to national and regional development within ACP region.
- ✓ Rules of origin and cumulation should be relaxed to stimulate ACP exports to the EU.

- ✓ The financial development and aid issues should be integral to the agreement i.e., tying the level of support and achievement of thresholds to opening up ACP markets to EU products
- ✓ ACP/LDCs should before moving into some reciprocal trade arrangement with EU remember that even without reciprocating to the EU they can still enjoy the same market access in the EU i.e., Lome equivalent - the EU has made a commitment to this.

5.1.4.3, The New ERA Option – STRATEGIC OPTIONS – Using SADC/ACP example

STEPS	Decisions, Options and Strategies	Fallback position
I	Step I in 2000. SADC to take the initiative of proposing to establish Free Trade Agreement [FTA] with EU based on the NEW ERA approach. <i>“according to the emerging agreement from 2002 negotiations of FTA between different ACP regions and the EU are scheduled to start”</i> . If SADC leaves other regions to engage EU it will be very difficult to influence position of the EU towards the NEW ERA.	SADC to wait to see what decisions other ACP regions take or what the ACP as a whole decide. <i>“ according to the emerging agreement from 2002 negotiations of FTA between different ACP regions and the EU are scheduled to start”</i>
II	2000: Refrain from agreeing in principle to free trade agreements [FTA] based on timeframes and propose thresholds. SADC/ACP may then have to take the lead in the WTO in pushing for necessary changes that allow FTA to use thresholds as important parameters in place of timeframes i.e. FTA that include developing and developed states.	
III	2002-4: Lobby strongly for EU's GSP to be enhanced to be Lomé-equivalent and bound within WTO. This is important for those ACP countries that might not want to go into a FTA with the EU. [so far GSP is at the discretion of EU)	Improved GSP is a better fall-back if NEW ERA negotiations do not reach satisfactory outcome for ACP countries that do not want FTA with the EU
IV	2004-7: If EU refuses New ERA and they propose a new GSP not Lomé-equivalent, then ACP as a whole but ACP non LDCs in particular could then move on with a time based free trade agreement with the EU, BUT they should fight for longer transitional periods and to ring fence their sensitive sectors and products. The issue of rules of origin and the EU CAP should be conditional to such negotiations	SADC/LDCs could then fall back to super GSP that is guaranteed them within WTO. The EU has committed to offer LDCs, Lome equivalent preferences. This means that they necessarily do not have to offer reciprocity to EU such as is foreseen in FTAs.

THE CHALLENGE OF ENHANCING ACP COMPETITIVENESS

It is widely recognised that the deployment of EU assistance to ACP countries over the past 25 years has largely failed to bring about structural changes in the majority of ACP economies. Against this background, it is an open question as to whether the deployment of a declining volume (in real terms per capita) of EDF resources will prove sufficient to enhance ACP competitiveness (over the next 8 to 18 years) to such a degree as to enable individual ACP enterprises to be able to compete effectively with far larger EU enterprises, under conditions of free trade.

5.1.5, Reversion to Standard GSP Scheme

In terms of preparing for negotiations, the option of reversion to non-reciprocal GSP treatment would pose no challenges for ACP governments, since **the EU's GSP system is established and applied unilaterally by the EU**. Thus, accepting non-reciprocal GSP trade treatment is a simple process. However, its implications for certain ACP countries would be quite profound, since the current GSP regime over a number of products offers ACP exporters less preferential access compared to that established under previous Lomé Conventions. Once again this can best be illustrated with reference to particular ACP countries.

In the case of Southern Africa the preferences extended under the previous and the current ACP-EU agreements provided the countries of the SADC region with a significant margin of preference (greater than 3%) over current GSP preferences for approximately 35.9% of the regions exports to the EU. For individual SADC countries the importance of Lomé preferences is even more pronounced. In the case of Botswana, Lesotho, Namibia and Swaziland, over 50% of total exports are in products on which Lomé margins of preference over GSP exceed 3%.

As a consequence a reversion to GSP trade treatment would lead to the re-imposition of customs duties on over 1/3 of what ACP SADC countries currently export to the EU.

While given the export profile of Southern African countries, the margins of preference enjoyed are higher than the average for the ACP as a whole, reversion to GSP treatment would undoubtedly, to varying degrees, have an impact on exports from virtually all ACP countries.

While in general EU import duties are low, and the preferences ACP exporters enjoy over GSP exporters are on average only 2%, this average hides a number of **tariff peaks and escalations**, which will effectively make it very difficult for a range of existing exports to continue. These products range from **clothing and textile** exports, where the current trade is based on high turn over and low profit margins, to **beef** exports which are dependent on the waiving of 92% of the agricultural levy.

The impact of the re-imposition of duties, which GSP treatment would entail, on actual trade flows will vary considerably, not just from sector to sector but from product to product. In some products, where sellers markets currently exist, such as white fish exports, the re-imposition of duties as high as 15% would be unlikely to have any significant impact on ACP exports. However, the loss of tariff quota access for canned tuna exports would be likely to result in an immediate termination of all current ACP canned tuna exports. This would effect countries as diverse as Fiji and Senegal, the Solomon Islands and Ghana, Mauritius and Madagascar, the Seychelles and the Ivory Coast. In some instances, where countries would have to revert back to the sale of frozen tuna loins, this would reduce export earnings from the tuna sector by as much as 63%.

Overall, while the situation will vary greatly from region to region and ACP country to ACP country a reversion to the current GSP treatment would be likely to seriously effect the trade performance of a large number of ACP countries. Ironically, the worst effected would be those ACP countries that have been most successful in attracting investment for the exploitation of ACP trade preferences. In regions such as Southern Africa, reversion to GSP treatment could have **serious implications for not only the future trade performance and external payments situation of the countries concern but even their general economic stability**. Thus, while application of the existing GSP system would appear the simplest of options, it is in many respects the least desirable. This is why, under any efforts to secured continued non-reciprocal preferential access to the EU market, consideration needs to be given to **enhancing existing levels of GSP preferences, especially for the non-least developed ACP countries**.

THE IMPACT OF THE LOSS OF CANNED TUNA PREFERENCES ON THE SEYCHELLES

The fisheries sector in the Seychelles accounts for 95% of total visible exports to the EU. Since 1993 the value of fisheries products exported to the EU has tripled, largely as a result of the development of canned tuna exports. The opening of the cannery in 1994 saw the creation of first 600 and subsequently, 1,200 jobs and considerable value added to the raw tuna prior to export (a 200% increase in the value of the product exported). Indeed, the per capita value of Seychelles tuna exports is equivalent to US \$ 493 per capita, over 27 times larger than the annual per capita allocation of EU aid to the Seychelles.

The loss of current preferences for canned tuna exports would be likely to result in:

- the loss of fully 29% of the jobs currently provided by the fisheries sector in the Seychelles or 4% of total formal sector employment;
- a net loss of export earnings of US \$ 23 million, (assuming alternative markets can be found for raw tuna, without any consequent depression of the price).

This would be equivalent to a loss of export earnings of US \$ 333 per capita. It would also make redundant over 22.5 MECU of investment in the tuna canning plant, a level of investment greater than the total of all EU NIP aid to the Seychelles under all previous Lomé Conventions.

5.1.6, Enhanced GSP Treatment

As with the current GSP scheme, any enhanced GSP scheme would be extended unilaterally by the EU. As a consequence, this option would impose no negotiating burden on ACP governments. However this does not mean that ACP governments could play no role in influencing the scope of any enhanced GSP scheme. Indeed, all current indications are that ACP governments would need to **actively and strongly lobby EU member states governments for the introduction of an enhanced GSP scheme**. At present, it is unclear just how committed the EU is to enhancing GSP preferences for non-least developed ACP countries to “Lomé equivalent” levels. The March 31st 1998 EU General Affairs Council statement declared that any future ACP-EU arrangement:

“should at least maintain current market access for ACP countries”.

The new ACP-EU agreement appeared to endorse this position by committing the EU to examining:

“all alternative possibilities, in order to provide these countries with a new framework for trade which is equivalent to their existing situation”³¹.

These commitments appear unequivocal. They appear to suggest that if the governments of non-least developed ACP countries so chose, Lomé equivalent preferences could be extended on a non-reciprocal basis. However, the debate in the EU following the March 31st General Affairs Council meeting, suggested that there was no agreement within the EU Council of Ministers on either the **desirability** or **practicality** of enhancing GSP preferences to Lomé equivalent levels.

In terms of the **practicality** of enhancing GSP preferences, it needs to be borne in mind that the EU’s current GSP scheme is far from uniform. Indeed, it is **one of the most complex of the EU’s trade policy instruments**. Currently, the same product exported under the GSP scheme, may attract quite different levels of duty depending on the country of origin and even the conditions under which it is produced. What is more there does not always appear to be any objective criteria underpinning this differential treatment.

THE SITUATION OF LEAST DEVELOPED ACP COUNTRIES

The EU is committed to starting a process in 2000 which will lead to the extension of duty free access for **essentially all products of least developed countries by 2005**. The EU is committed to doing this in the context of multilateral trade negotiations. Against this background least developed ACP countries might well be best advised to **direct their existing trade negotiating capacity to encouraging and promoting the comprehensive extension of duty free access to all least developed country exports, in a WTO context**. Efforts in this regard could then focus on promoting movement in those areas where **a real export potential exists and where residual market access restrictions are likely to remain in place within the “essentially all” provisions, already made by the EU**.

It should be noted however, that the EU’s commitment to granting duty free access for “essentially all” exports from least developed countries, will be implemented in a GSP context. As such it is likely to face the same difficulties with regard to **quota restricted access**, which currently exist for all aspects of the GSP scheme. As a consequence, it is difficult to see how current **quota restricted** duty free access, granted under ACP-EU trade arrangements could be incorporated in to a GSP framework, since it is likely to be very difficult to retain country specific quotas within the GSP scheme. This is an issue which will need to be clearly elaborated in consultations with the EU.

³¹ The Cotonou Agreement, Part 3, Title II, Chapter 2, Article 37.6

EU imports of shrimp from 8 different GSP beneficiaries attract duties ranging from 0 to 12%, while duties applied to cotton t-shirts can range from 0 to 12% depending on the GSP beneficiary undertaking the export. As recently as 1995, the EU gave especially favourable GSP treatment to Venezuela (GDP per head US\$ 8120), without any country challenging this measure. **There would thus appear to be considerable scope for some kind of special treatment to be accorded non-least developed ACP countries under an enhanced GSP scheme.**

This however, leaves unresolved the question of the **political will of European Union member states**, to ensure that a non-punitive alternative to **economic partnership agreements** is made available as an option to non-least developed ACP countries. **It is in trying to generate a political will amongst EU member states in favour of the establishment of a non-punitive alternative, that the efforts of non-least developed ACP governments will need to be directed.**

5.1.7, Alternative Possibilities

The EU's commitment to "alternative possibilities", appears to be limited to variations on the GSP scheme, given that this commitment is qualified by references to the need for "conformity with WTO rules". This being said it is conceivable that the EU could seek a modification of existing WTO rules, so that the option of **economic co-operation agreements**, involving the introduction of only "*elements of reciprocity*" could become a viable WTO acceptable alternative to the introduction of full WTO compatible free trade area arrangements.

ECONOMIC CO-OPERATION AGREEMENTS

The concept of **Economic Co-operation Agreements** was put forward in the Commission Political Guidelines published in October 1997 (COM(97)537, final, 29.X.97). It involved the introduction of only "elements of reciprocity" in ACP-EU trade relations, and constituted a kind of half way house between non-reciprocity and full reciprocity. However, under pressure from the Commission's Trade Directorate the proposals for the establishment of partially reciprocal economic partnership agreements were deleted from the final EU negotiating mandate for the recent ACP-EU Lomé IV renegotiations.

This however, would require a radical change in the positions of both the Trade Directorate of the European Commission and EU Member States, all of which have already implicitly rejected this option as a viable possibility.

Against this background ACP governments may be best advised to explore this option only as a very last resort. This being said, if inappropriate reciprocal preferential trade arrangements are being proposed, then no alternative possibilities should be ruled out, no matter how unlikely they may appear, without at least initially exploring the possibilities.

6 TIME TABLE FOR DEVELOPING ACP-EU TRADE RELATIONS

A close examination of the text of the ACP-EU agreement reveals the following proposed timetable for the development of ACP-EU Trade relations:

2000 to September 2002	Exploratory Discussions and Self Selection
September 2002	Commencement of Negotiations
2004	Exploration of Alternative Possibilities with Non-LDCs
2005	Non-reciprocal duty free access for essentially all products of LDCs
2006	Formal and comprehensive review of progress
December 2007	End of preparatory period
By January 2008	Conclusion of economic partnership agreements
January 2008	Entry into force of economic partnership agreements
2008-2018/20	Transitional implementation of economic partnership agreements
2018/20	Establishment of WTO compatible Free Trade Area arrangement

A number of important points arise from this envisaged timetable for the development of ACP-EU trade relations. The first point is that, with negotiations for the establishment of economic partnership agreements scheduled to commence in September 2002, **ACP governments have very little time in which to make some fundamental choices as to the nature of their future trade relationship with the EU.** The first fundamental choice is whether to accept EU proposals for the negotiation of some form of **economic partnership agreement**, as the basis for trade relations with the EU beyond 2008, or whether to opt for a **non-reciprocal relationship based on GSP, enhanced GSP or some undefined “alternative possibilities”**.

This is a difficult choice for ACP governments to make, since all relevant information will not be available. In the case of non-least developed countries an exploration of alternative possibilities will only be initiated in 2004, while least developed countries will not know the full extent of the non-reciprocal preferences to be extended within the framework of the EU’s commitment to duty free access for essentially all LDC products, until 2005. Governments of ACP countries will thus be asked to make a choice in 2002, without any clear understanding of the alternatives available. This makes it very difficult to weigh up the pros and cons of various options given the specific national and regional circumstances facing individual ACP countries.

The second point to note is that the EU is likely to seek “**exploratory discussions**” with ACP governments even before September 2002. Before September 2002, ACP governments will need to have a clear idea of the issues and concerns that they would like to see addressed, within any moves towards free trade.

The third point to note is with regard to the concept of “self-selection”. The EU is seeking to highlight this process of self-selection as a major concession, through which **ACP countries are free to choose the most appropriate basis for their future trade relations with the EU**. The reality however in many ACP regions is quite different. In many ACP regions processes of market integration are underway which will mean that the “self selection” choice of one ACP country could have profound implications for the “self-selection” options open to neighbouring ACP countries.

This is particularly the case given the highly heterogeneous composition of ACP regions. In only 1 ACP region are non-least developed countries in the majority. In all other ACP regions least developed countries form the majority of countries. How then, in the context of efforts to promote regional market integration between neighbouring ACP countries, can **a least developed ACP country opt for continued non-reciprocal trade relations with the EU, while a neighbouring non-least developed country opts for the introduction of reciprocity in its trade relations with the EU?**

The problem this creates is illustrated by the current experience of Lesotho. Lesotho, a least developed country, is a long-standing member of the Southern African Customs Union. As a least developed country Lesotho has the right to non-reciprocal preferential access to the EU market. However, as a member of the Southern African Customs Union, **Lesotho finds itself embroiled in a reciprocal preferential trade agreement with the EU, as a result of the sovereign decision of the South African government to select reciprocity as the basis for its future trade relations with the EU**. The Lesotho government was not consulted on this agreement and would like to up-hold its right to non-reciprocal preferential access to the EU market. However, in practice, this will not be possible, unless Lesotho leaves the Southern African Customs Union and reintroduced effective border controls. This option is completely unrealistic for Lesotho, given its economic links to the South African economy.

Unless current efforts to promote regional integration amongst ACP countries are to be abandoned, there are very real limits to the ability of neighbouring ACP countries to choose different options for their trade relations with the EU.

A fourth major point of concern is the scope of the proposed “*formal and comprehensive review of progress*” which is scheduled to take place in 2006. Theoretically, entering in to negotiations in September 2002, should in no way commit ACP countries to a particular type of outcome. However, as has been previously indicated, this process of review is intended solely to **endorse the main trajectory for the development of future EU trade relations with the ACP, namely economic partnership agreements**. It makes no provision for redirecting or re-assessing the timetable for these on-going negotiations. This is a major shortcoming in the current agreement, for, as we shall see, the European Commission has yet to get to grips with the difficulties which will be faced in pursuing their favoured option for future EU-ACP trade relations.

COMMENT

With an exploration of alternative possibilities for non-least developed countries only being initiated in 2004 and with the full extent of non-reciprocal preferences to be extended to least developed countries only being apparent in 2005, it would seem appropriate to initiate substantive negotiations only after a formal and comprehensive review of the options in 2006. This would then allow ACP countries to make an informed choice as to the practical implications of the options faced.

The final point to note is that while it is envisaged that a full WTO compatible free trade area arrangements will not be in place between the EU and “self selected” ACP countries until 2018 or 2020, **the decisions which will effect the future trajectory of EU-ACP trade relations will need to be made not by 2018 but by September 2002.**

TRADE AND DEVELOPMENT STUDIES CENTRE TRUST [TRADES CENTRE]

We are pleased to inform our long standing and prospective partners about the formal establishment of Trade and Development Studies Centre Trust [TRADES CENTRE] formerly known as Lome Trade Research Unit [LOTRU] as an independent research and training centre incorporated and registered with the Deeds Register in Zimbabwe. It is a non-profit making organisation controlled by a Board of Trustees whose members are eminent persons drawn from various sectors in southern Africa.

Our Vision. The economic renaissance of southern Africa and its poor communities in the Third Millennium will more than ever before depend on the impact of current fundamental global changes in the international, regional and national trading policy regimes being driven by the momentum of technological revolution, information technology and the neo-liberal philosophy, yet in the same region this problem issue is not subjected to assiduous close scrutiny. The aim is to establish a rigorous, consistent and ongoing programme on trade and development policy research, analysis and capacity building on ACP-EU co-operation, EU-SADC trade relations, US-SADC trade [AGOA], WTO, national trade and development issues. TRADES CENTRE'S vision is to develop into a southern Africa regional Centre of excellence on policy research, analysis and civil society capacity building on trade and development issues.

Our Objectives. The main objective of Trade and Development Studies Centre is policy-relevant training and research particularly focusing on the nexus between trade and development, aid and development, poverty reduction and welfare improvement in the context of WTO, post Lome IV ACP-EU co-operation, COMESA/SADC-EU co-operation, the SA-EU trade and development co-operation agreement, US-SADC [AGOA] trade, regional trade/economic agreements and national trade and development policies. A central objective of TRADES CENTRE is to provide southern Africa with technical, analytical support in developing and backstopping their positions in multilateral and inter-regional trade negotiations and support regional integration. TRADES CENTRE will also strive to build the capacity of poor communities on trade issues in order to assist them in meeting challenges posed by emerging trade regimes.

Our Approach. TRADES Centre aims to undertake practical, realistic, concrete and technically competent research work and training of civil society that produce feasible and implementable results taking into account the circumstances existing on the ground. Like its predecessor [LOTRU], the TRADES CENTRE will adopt both a demand driven and a proactive approach in bringing up issues that affect its target group.

Our bias. TRADES CENTRE is biased in favour of developing countries in particular southern Africa and its poor communities. Our aim is to analyse trade and development issues from the perspectives of southern Africa's poor communities, to explore the implications of the various international, regional and bilateral trade agreements, regional integration, national trade and development policies and other policy options on southern Africa for the poor.

Our Target Groups. Consumers of the results of the work of TRADES CENTRE include small scale farmers, consumer and faith groups, workers *unions*, *informal traders*, *policy makers*, *parliamentarians*, *business community*, NGOs and donor community. It is therefore the objective of TRADES CENTRE to improve the capacity of its target group to engage and interpret policy issues and decisions as they impact on the poor.

Resources. The main resource for the TRADES CENTRE is its pool of professionals and expertise within its permanent establishment, associated members and international experts and consultants committed to working in support of TRADES CENTRE vision. It receives financial support from various donor agencies and also generates resources from its own activities with no profit motive.

Deliverables. The results of the TRADES CENTRE activities will timeously be delivered and made publicly available through conferences, seminars and workshops for the target groups, briefing materials, publications, circulation in mass media, training programs and tutorials..

Philosophy. Generation and delivery of quality products timely. Practical, realistic research and training easily accessible and implementable and which produces concrete policy proposals aimed at improving the welfare of poor people and communities in southern Africa.

In its efforts to meet its objectives and deliver results TRADES CENTRE values the support by you and your organisation and we look forward to close co-operation in future. We welcome partnerships including funding.

Dr Moses Tekere:

Director and on Behalf of the Board of Trustees