



Foundation for world
agriculture and rural life

**How can the Africa, the Caribbean and the
Pacific countries benefit from the economic
partnership agreements?**

**Synthesis of the seminar organized by FARM
November 28 and 29, 2006**

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The European Union and the countries of Africa, the Caribbean and the Pacific (ACP) are facing a historic moment in their relations as they come to a turning point which could have long-term consequences for local agriculture everywhere. The EU has undertaken negotiations with ACP countries over proposed new trade agreements which could potentially inaugurate a whole new era of solidarity in development. Despite their crucial importance, the substance of the negotiations and their impact on agriculture are not widely understood. What trade regimes would be of benefit to the ACP? What are the changes envisioned by the new agreements? How can the ACP participate to their advantage? What are the means to establish regional markets and support local production? The debate over the advantages and disadvantages of the new agreements has been lively. Many models have been constructed and impact studies carried out and their results do not always coincide. The considerable amount of diverse and even divergent information does not make it any easier to see clearly amidst the general debate. The following attempt to summarize the main points and conclusions arising from the seminar organized by the Foundation for world agriculture and rural life (**FARM**) on the 28th and 29th of November, 2006 is offered in the hope of adding some analytic clarity to the EPA debate.

1. THREE TRADE REGIMES REGULATE ACCESS TO THE EUROPEAN MARKET BY ACP FARM PRODUCTS UNTIL THE END OF 2007

It is important at first to take a look at some figures that frame the debate (*cf. table 1*). The European Union is the chief trading partner of the ACP countries; in 2005, 23% of ACP exports (by value) were towards the EU, but only 3% of EU exports were in the direction of the ACP. Agricultural products represent 28% of ACP exports to Europe and 12% of EU exports to the ACP.

Table 1 : Trade between the EU and ACP countries

EU imports from ACP countries - 2005 (excluding South Africa)				EU exports towards ACP countries - 2005 (excluding South Africa)			
Sector	Millions of euros	Share of total EU imports	%	Sector	Millions of euros	Share of total EU exports	%
TOTAL	36 138	3.07	100.0	TOTAL	30 763	2.90	100.0
Of which:				Of which:			
Farm products	10 039	12.40	27.8	Farm products	3 809	6.16	12.4
Energy	13 211	5.29	36.6	Energy	2 129	5.48	6.9

Source : DG Trade, European Commission

Access to EU markets by ACP goods in general and farm products in particular is currently regulated by one of three regimes:

- trade clauses of the Cotonou Agreement
- the Everything But Arms initiative concerning least developed countries
- the WTO generalized preference system

ACP exports towards the EU are carried out mainly under one of the first two regimes.

1.1 The Cotonou Agreement maintains a non-reciprocal preferential trade regime until the end of 2007.

Development cooperation between the EU and ACP countries was formalized by the Yaoundé Agreement in 1963. The signing of the first Lomé Convention in 1975 put in place the **system of preferential treatment** that would regulate EU-ACP trade for more than 30 years and which is due to expire at the end of 2007. ACP exports towards the EU are subject to lower tariffs (often zero) than exports from other countries. The difference in the tariff is known as the **preferential margin**. ACP advantages include not only these **tariff preferences** but also **non-tariff preferences** such as exemption from quotas on the quantity of imported goods. Preferences under this regime, whether tariff-related or other, are non-reciprocal; ACP countries are not required to offer European goods special access to their markets.

Preferences applied to farm products are often very limited. Tropical products that do not rival European farm goods are allowed into the EU tariff-free. Other productions are subject to certain restrictions (partial tariff reduction, quotas, seasonal restrictions linked to European crop seasons) as European Community preferences remain the rule. Bananas, sugar, rum¹ and beef are the object of special "**protocols**". Specified quantities (quotas) of bananas and rum can enter the European market freely, while certain amounts of beef and sugar benefit from European domestic prices, which are higher than world prices, as well as from reduced tariffs.

ACP goods like those from other countries are subject to **non-tariff barriers** of the EU as well. By far the most consequential barriers are the sanitary and phytosanitary norms (SPS). These measures are aimed at ensuring food safety and animal and plant health for the wellbeing of humans, animals and their environment. The EU has adopted very strict and specific norms which are difficult for ACP producers and ACP infrastructure to respect. Products that would otherwise enjoy free access

¹ The rum protocol ceased to exist after the 1996 agreement on spirits between the EU and the US.

to European markets are refused on SPS grounds. The impact of norms on individual ACP countries depends a good deal on the structure of a country's exports, that is, how much of total exports is represented by a particular product. For example, Guinea Bissau exports only three products subject to norms, but together they represent 98.7% of this country's exports while South Africa's 583 normalized products account for only 24.6% of its total exports. (Disdier, Fontagné, Mimouni)

1.2. The Everything But Arms regime grants free access to EU markets for goods from Least Developed Countries.

The tariff regime established by the Lomé and Cotonou Agreements was at first applied to all ACP countries, until February 2001. Starting from that date the EU decided that all goods except arms and munitions coming from the Least Developed Countries (LDCs), whether or not they belong to the ACP group, would benefit from free access to EU markets. This initiative is known as Everything But Arms (EBA). Three goods – bananas, sugar and rice – were subjected for an initial period to non-taxed quotas before being gradually liberalized. The liberalization of the banana was completed in January 1, 2006, while sugar and rice are now tariff-free up to a certain quantity limit (tariff contingent amount). By 2009, sugar and rice from LDCs will enjoy full and free access to EU markets. The EBA initiative has introduced a new trade regime whereby ACP countries do not all benefit from the same access to EU markets. LDCs among the ACP enjoy full and tariff-free access while non-LDC countries from the ACP group see their exports subjected to restrictions.

1.3. The WTO's Generalized System of Preferences grants preferential trade conditions to ACP countries that are less advantageous than those stipulated by Cotonou or by the EBA regime.

The Generalized System of Preferences (GSP) applies to exports from all ACP countries. It covers 7,000 of the 10,000 goods listed by customs nomenclature, or the major share of industrial goods and many farm goods. Simply put, 3,500 goods are accepted on a tariff-free basis while another 3,500 are considered Sensitive Products. ACP export goods in the latter category are granted a 3.5% reduction on the tariff applied to any country not having signed a trade agreement with the EU (textile and clothing receive a 20% reduction)². The GSP offers undeniable trade preferences but

² Sources: "Developing countries, international trade and sustainable development: the function of the Community's generalised system of preferences (GSP) for the ten-year period from 2006 to 2015" , Communication of the European Commission, 07/07/2004 – OF C242 of 29/09/2006 EC Rule 980/2005 – OJ L169 of 30/06/2005

they are less generous than those granted under the Cotonou Agreement or the EBA initiative. For this reason, no ACP country exports any farm goods under the GSP regime.

Taken together these trade regimes yielded the following results:³ from 1999 to 2003, 97% (by volume) of ACP exports towards the EU encountered no tariff barriers, either as a result of preferential agreements or through application of general rules. The remaining 3% were subject to Most Favored Nation (MFN) clause, that is, those rules that apply to any nation non-signatory of a specific agreement. The final result is that 60% of agriculture products from ACP countries encountered neither tariffs nor quotas. In value terms, 88% of farm exports by non-LDCs in the ACP group were not subject to any barrier.

1.4. The preferential margin granted under various regimes is steadily diminishing.

The preferential margin benefiting ACP countries has been diminishing over time due to three phenomena. First of all, international trade liberalization carried out in the framework of the WTO has served to reduce tariffs overall on EU imports. As a result, the margin between tariffs applied to ACPs and those applied to other countries has shrunk. Secondly, the EU has signed a number of bilateral agreements since 1963 that reduce tariff barriers on selected goods from signatory countries. All in all, 35 countries and 12 regional entities, representing 65 nations in all, have signed bilateral agreements with the EU⁴. As more and more countries benefit from preferential agreements, the ACP group's preferential margin shrinks in relative terms. Thirdly, successive waves of Common Agricultural Policy (CAP) reform have had the effect of lowering European internal market prices to meet world prices. This in turn creates downward pressure on the prices encountered by ACP producers in the context of trade protocols.

³ Source: DG Trade, "Opening the door to development – developing country access to EU markets 1999-2003"

⁴ Source: DG Trade, European Commission - 12 countries signed both a national and a regional agreement.

2. STARTING IN 2008 A NEW TRADE REGIME THAT IS WTO-COMPATIBLE NEEDS TO BE IMPLEMENTED.

2.1. The EPA are free trade agreements between two customs unions

The end of the system of non-reciprocal preferences granted by the EU to ACP countries is in sight since this system is incompatible with WTO rules, and in particular since it infringes on the principle of non-discrimination established by the first article of the GATT. The text allows for two exceptions to this principle:

- when free trade agreements or discriminatory agreements are reciprocal;
- when non-reciprocal preferences are granted to all developing countries or all LDCs, in a non-discriminatory fashion.⁵

The Lomé Agreements are not compatible with these exceptions. First of all they are non-reciprocal since the ACP do not open their markets in the same way to European goods. Secondly, they are discriminatory since they apply only to the ACP group, which is a subset of all developing nations. The EU sought and was granted a waiver to article 1 by the WTO for the Lomé IV-bis Agreement (1995-2000). A second waiver was granted for the prolongation of the EU preferential system, which comes to term on December 31, 2007. Normally new agreements that are compatible with WTO rules should be drafted in order to conform to the WTO framework or otherwise this organization's "common rules" can be invoked. The EU and the ACP have decided to establish new agreements.

According to the Cotonou Agreement, signed in 2000 by the EU and 76 ACP countries, the EPA are slated to take effect on January 1, 2008. This Agreement stipulates that the EPA are Free Trade Agreements (FTA) between the EU and six ACP regions. Cotonou calls for the creation of regional markets by establishing regional customs unions (*cf. table 2*). These regional customs unions are therefore a precondition to the signing of any EPA. The Agreement makes it clear that the EPA must conform to WTO rules, which would in theory preclude any recourse to yet another waiver request.

The EPA would fall into the OMC category of bilateral agreements where a "substantial part" of trade is liberalized (GATT Article XXIV). No further specification of the share of trade to be liberalized is provided. According to the EU's interpretation this means 90% of total trade between two partners, with this figure representing the average share of trade liberalized for each partner. Applying this

⁵ This principle is established by the Enabling Clause which forms the basis for special and differentiated treatment for developing countries within the WTO -- GATT, decision of 28 November, 1979 (L/4903)

interpretation means that the share of trade liberalized by the EU could be greater than that by the ACP so long as the average is 90%. In this way **the EPA are assymetric**. Nearly the whole of ACP exports towards Europe already enter EU markets without any trade barriers; trade liberalization would therefore have to be implemented above all by the ACP countries. **What is at stake for the EU seems minor compared to the trade impact on the ACP**. For the EU, only the sugar industry seems likely to be adversely affected by the EPA. To sum up, the EPA are reciprocal, assymetric FTA between the EU and each of six ACP regions.

2.2. The twin consequences of opening up markets: loss of tariff revenue and competition by imported goods against local goods.

EPAs may be assymetric. It is not hard to imagine that the EU does away with all trade barriers against ACP imports while ACP countries eliminate only 80% of their barriers, thus respecting the 90% average aimed at by the EU. 20% of ACP imports from Europe can be protected by selecting sensitive goods. It should be noted, however, that Article XXIV of the GATT precludes the exclusion of an entire sector on the grounds of sensitivity. Therefore, it is impossible to exclude the entire agricultural sector from negotiations, regardless of the share of trade agriculture represents. The possibilities opened up by this exclusion are considerable and the European Commission is in favor of it. Trade liberalization can cause difficulties if tariff earnings drop significantly (a major source of ACP public income) following lower barriers, and also if competition, direct or indirect, occurs between European goods and those produced by the ACP. The loss of fiscal income is variable and can reach as high as 70% of such income before liberalization in the case of central African countries. (*cf. graph 1*).

Table 2: The six regions negotiating EPAs – LDCs in italics

Regions	Member States
Economic Community of West African States (ECOWAS) and Mauritania	<i>Benin, Burkina Faso, Cape Verde, Ivory Coast, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria</i>
Economic and Monetary Community of Central Africa (EMCCA) and Sao Tomé- and-Principe	Cameroon, Congo, Gabon, <i>Equitorial Guinée, Central African Republic, São Tomé-and-Principe, Tchad</i>
Common Market of Eastern and Southern Africa (COMESA)	<i>Burundi, Comoros, Congo (Democratic Republic of), Djibout, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles</i>
East Africa	<i>Angola, Botswana, Lesotho, Mozambique, Namibia, Swaziland, Tanzania</i>
Caribbean	Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, <i>Haiti, Jamaica</i>
Pacific	Cook Islands, Micronesia (Federated States of), Fiji, <i>Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua-New-Guinea, Salomon Islands, Samoa</i>

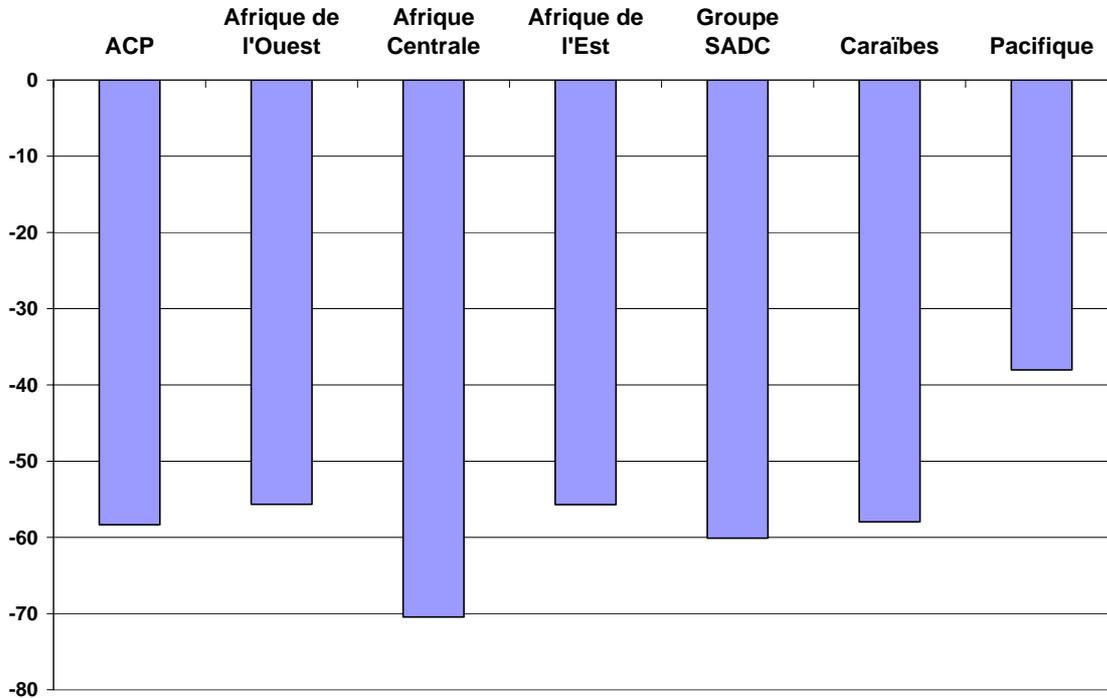
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ACP agricultural systems are less competitive than European agriculture. Simply opening up ACP markets to EU goods could result in a precipitous drop in local production with subsequent problems for food sovereignty, in addition to the social consequences that stem from 63% of ACP workers working in agriculture⁶. The most sensitive products are cereals, dairy and meat including poultry. This sensitivity is increased by the fact that these goods constitute the major share of ACP agricultural production. That is, falling farm incomes would lead to a wave of rural-to-urban migration toward cities that are not able to offer much employment, or to international migration. In either case, the situation would become quickly critical.

⁶ The world food and agriculture situation – FAO 2005. In ACP countries, 61% of the population is agricultural and 65% is rural.

Graph 1: Loss of agricultural tariff income on EU products

(variation in % of initial earnings) – from Laborde, Fontagné, Mitaritonna, CEPII 2006



A careful choice of sensitive products would make it possible to protect the most susceptible industries and to maintain some share of previous tariff income. In the final analysis, the arbitration between tariff income and farmer protection is a political issue. If farmers are to be defended it must be by professional agricultural organizations who can make themselves heard in negotiations led by ministers of trade and finance, who do not necessarily give priority to agricultural concerns. The choice of sensitive products is all the more complicated for having to be determined at the regional level, meaning that a regional debate must be imposed on top of the national debate. The interests of countries making up a regional entity may diverge (some of the regions contain both LDCs and non-LDCs), the choice of which goods to declare as sensitive will be determined by political economical considerations rather than by a purely socio-economic rationality. (Hermelin, Faivre-Dupaigre, Ribier, 2006).

At the same time, some goods can be protected by non-tariff barriers (Bricas, CIRAD 2006). For example, ACP country infrastructure may well be unable to guarantee the cold chain necessary for consumer safety, in which case sanitary norms would limit imports of frozen meat from the EU and would protect local meat raisers. This protection in any case does not concern more than a few goods.

2.3. Regional integration can create opportunities for local productions

If trade with the EU is liberalized without liberalizing trade among ACP countries, there is a real risk that these countries will trade with the EU to the detriment of other ACP producers. In order to avoid this phenomenon of trade diversion, which goes against the notion of development embodied in the Cotonou Agreement, the EU aims to establish regional markets. The effects of regional integration are not well known and constitute a subject of lively debate.

2.3.1. Regional integration seems difficult...

In the current state of affairs, most regional agreements have not been implemented, and only the EMCCA has more or less completed its integration. The main reasons for this delay include the lack of infrastructure and the state of national-level markets. The lack of roads and means of communication is a sizeable impediment to the circulation of goods among countries. The circulation of goods is made that much more difficult by poor governance in the form of many points of illegitimate taxation that are allowed to exist. For example, within the region of East Africa, between Youndé (Cameroon) and Bangui (Central African Republic) there are 128 control points set up to levy unjustified taxes and tolls. (Laborde, Fontagné, Mitaritonna CEPII 2006). For another thing, markets in the same region may be very similar and therefore have a low level of complementarity. When several countries all have high demand for a good but low supply, they are obliged to go outside the region. For example, the rate of complementarity between Comoros and the rest of the COMESA region is estimated at 5% (Adriamamonjarison, 2006). Finally, the creation of regional markets will lead eventually to a loss of tariff revenues since such markets entail the abolition of tariffs among member countries.

2.3.2. ...but may well lead to development through trade

Since customs unions are not currently in effect, regional integration would likely spur considerable gains in terms of trade and improved competition. The change in trade among ACP countries is forecast as positive for all regions and ranging from 10% to 55% depending on region, except for Central Africa (-2%, according to Laborde, Fontagné, CEPII 2006). The latter is already an integrated zone and would suffer some loss of trade diverted to other ACP regions.

The economies – including agriculture – of ACP countries are not ready to face massive low-priced imports. Agricultural exports are the cornerstone of these economies and destabilization is a looming risk; it could lead to reduced national budgets and a wave of small farmer bankruptcies. But

there are ways for APC countries to benefit from the EPA. Agreements that open up the European market are only of value to countries with some sort of supply capacity, but such capacity is in fact quite weak. At the same time it must be said that in the absence of functioning regional markets, it is impossible to measure the true production potential of these countries. It is likely that the Valley of the Niger River or that of the Senegal River would suffice to supply most of the grain needs of West Africa. This would require the organization of true regional markets so that the EPA would work in favor of development as is hoped. At the same time it should not be forgotten that trade is a factor of peace.

2.3.3. The means for accomplishing regional integration exist but have not been perfected

In order to bring about regional integration, financial means and lengthy time frames are both needed. Since the EPA are part of the Cotonou framework, the European Development Fund (EDF) could supply the financial resources necessary for improving infrastructure. The 9th EDF represents a sizeable sum of money, about 15 billion euros. All the same, these funds are only *potentially* and not effectively available, depending as they do on disbursement mechanisms. As of December 31, 2005, only 2.6 billion out of 9.2 billion euros allocated had been spent⁷. Procedural reform is needed but it is nevertheless true that considerable money is available for infrastructural investment.

There remains the question of time. Article XXIV of the GATT establishes that the implementation of a free-trade zone should occur within a "reasonable length of time" without further specification. It is commonly thought that ten years is a reasonable length of time but there is no official interpretation. The European Commission has confirmed its commitment to creative solutions, and the WTO made provisions for longer trade agreement transition periods for developing countries than for developed ones. Room for lengthening the implementation period to 15 or 20 years likely exists. A long time period is a necessary condition for developing countries to be able to benefit from the EPA.

In order to make the best possible use for development of the prospect of open regional markets and access to the EU market, a favorable macroeconomic framework as well as sound regional policy are needed. But it becomes clear in the course of debate that there is a high level of incoherence between national and regional policies. Worse, regional agricultural policies are practically never mentioned, even though without such policies there is a large risk that opportunities presented by the EPA will be missed. The situation is all the more complex for the lack of existing agricultural

⁷ European Union Court of Auditors, annual report 2005 /OJ C263/1 du 30/10/2006)

development models in ACP countries. ACP decision-makers hold the family farm in opposition to modern agriculture and are unable to integrate these two models into one vision of modern and innovative family farming. It is therefore urgent to reinforce the policy expertise of ACPs in this area.

3. IF THE EPA ARE NOT SIGNED THE COMMON RULES OF THE WTO WILL LIKELY BE APPLIED, UNLESS SOME CREATIVE SOLUTIONS ARE FOUND.

The Cotonou Agreement, Article 37, calls for a differentiation between LDCs among ACP countries and non-LDC ACPs, and for a search for alternatives for the non-LDCs who do not wish to sign an EPA. It should be noted that the EBA regime is a promising alternative for least developed ACPs. All ACP countries in signing the Cotonou Agreement have chosen to negotiate the EPA with the EU and to form regional ensembles. Nonetheless, any ACP country has the right to leave EPA negotiations at any moment. In addition, public debate of the EPA and their potential for solving the problems of development has grown considerably. As a result increasing numbers of observers, especially from civil society, have been led to examine alternatives. To simplify, most alternatives to the EPA can be grouped in two categories, depending on the degree of their WTO-compatibility. Incompatible alternatives mostly would necessitate either a modification of article XXIV of the GATT, in order to do away with the reciprocity of ACP preferences, or a permanent waiver to WTO common rules concerning the ACP countries, which would amount to a change in the rules. The waiver obtained by the EU comes to term on December 31, 2007. WTO members are currently incapable of pursuing Doha round talks. The EU continues to assert that it will not ask for any additional waiver since doing so would place the EU in a position of inferiority vis-à-vis other WTO members in future negotiations. In this context, a change in WTO rules seems unlikely. Therefore, the analysis below takes under scrutiny only those alternatives requiring no modification in WTO rules.

3.3. If the EPA are not signed, ACP countries will be subject to the GSP regime

If the EPA talks are not successful, non-LDC ACP countries will come under the GSP. There is a variant known as GSP+ that is more favorable to exporting countries. It provides for greater benefits than the GSP, but less than the Cotonou Agreement, to countries that apply the rules concerning good governance, the fight against the drug trade, labor law and human rights. Some have proposed extending the GSP+ to all ACP countries which do not sign an EPA. In any event the European

Commission is quite attached to the idea of promoting good governance through trade policy and wants to see respect for various conventions continue to be a sine qua non for access to GSP+. At the same time, many ACP countries do not satisfy these good governance conditions.

Therefore, if the hypothesis of the unlikelihood of major change to existing trade regimes is held, then the GSP becomes the likely alternative to which ACP countries can refer when considering whether or not to sign an EPA.

3.4. A lightened version of the EPA could take advantage of the vagueness of WTO texts.

The wording of GATT Article XXIV is inexact and as a result leaves wide room for manoeuvre in talks. On one hand it establishes that liberalization ought to concern the "substantial part of trade relations"; what percentage of trade does that signify? 90% as interpreted by the EU, or perhaps 85% or 80%. And how is this share to be measured? As a share of volume traded, is that in tons as stipulated by the EU? Or rather in the number of tariff lines?

On the other hand, Article XXIV calls for FTAs to be implemented within a "reasonable length of time". But what does that mean in real terms? The EU proposes 10 to 15 years, but why not 18, 20 or even 25 years? An alternative to the European Commission's current proposition would be a less ambitious agreement drawing the maximum leeway from the lack of precision in WTO rules concerning FTAs. Some authors are labelling this alternative the "EPA-lite". It would consist of an FTA freeing 80% of trade according to an asymmetric format: 100% for the EU and 60% for the ACPs. And the implementation would take place over 25 years. What are the risks associated with this alternative? A lightweight EPA is based on loose interpretations of WTO texts, interpretations which the latter could decide to contest. Nevertheless, no FTA has ever been questioned by the WTO so far. A dispute could come from a WTO member instead. The looser the interpretation the greater the risk of it being contested.

3.3. National EPAs would take into account differences between LDCs and non-LDCs but would halt regional integration.

The Cotonou Agreement calls for six EPAs to be concluded, one for each of the ACP regional formations, while not ruling out the possibility of other configurations such as country-by-country accords. This alternative offers LDCs the chance to hold onto the EBA regime, which is more advantageous than an EPA because non-reciprocal and containing no exclusion of sensitive goods. The non-LDC PMAs could negotiate on a national basis by adapting the agreement to the

characteristics of their own economies. Nonetheless countries with little weight geo-politically would find themselves in difficulty when trying to work the agreement to their benefit. Certain legal considerations support the idea of national signatories. The ACP regional ensembles are not declared to the WTO as customs unions. It is possible to notify the WTO of the signing of an agreement country by country but certain ACP countries are not members of the WTO⁸. How should such cases be handled? It should also be noted that national notification could be envisioned in the context of EPAs negotiated at the regional level, since a framework agreement would be enacted regionally and would not be subject to WTO notification. In any case, national level agreements would signify the end of the construction of regional markets. By concluding isolated national-level agreements, an individual nation commits to maintaining its own tariff regime, and regional-level harmonization becomes impossible.

In theory the EPAs are to be concluded by December 31, 2007. In light, however, of the current progress in talks, the likelihood of a signature in time is growing dimmer and dimmer. A number of uncertainties remain. Will LDCs want to sign an EPA? If no agreement, what will be the reaction of the WTO? What trade regime will be applied as of January 2008?

These uncertainties argue in favor of a rapid conclusion to talks. It is important, however, not to reach half-baked agreements and in so doing let a historic opportunity for development get away.

⁸ ACP countries which are signatories of Cotonou and which are not members of the WTO: Cape-Verde, Comoros, Erithrea, Ethiopia, Equatorial Guinea, Liberia, Sao-Tomé-and-Principe, Seychelles, Sudan, Bahamas, Cook Islands, Kiribati, Marshall Islands, Micronesia, Nauru, Niue, Palau, Western Samoa, Tuvalu, Vanuatu.