

## Negotiating Economic Partnership Agreements

### Agriculture



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The aim of this *InBrief* series is to identify the key issues at stake within the various chapters of the Economic Partnership Agreements (EPAs) being negotiated between the European Union and six African, Caribbean and Pacific (ACP) regional groupings. Each *InBrief* addresses one chapter, offering an overview of the trade or trade-related provisions, highlighting their relevance for the ACP and identifying a range of policy options for the negotiations.

Under the Cotonou Partnership Agreement (CPA), signed in 2000 by the European Union (EU) and the African, Caribbean and Pacific countries (ACP), current non-reciprocal trade preferences are to be replaced by Economic Partnership Agreements (EPAs). One of the main features of these EPAs, which are intended to play their part in sustainable development and poverty reduction, is that they place trade between the ACP regions and the EU on a more reciprocal footing. In view of its socio-economic importance for the ACP countries and the share of trade between the ACP and the EU for which it accounts, agriculture is a key sector in the EPA negotiations. The scope of these negotiations is also to be seen in the broader context of the agricultural negotiations at the World Trade Organization (WTO) and the reform of the EU's Common Agricultural Policy (CAP) (section 1). At present, agricultural trade between the ACP countries and the EU is already facing many challenges, ranging from the erosion of ACP trade preferences on the EU market to the establishment of standards and to supply-side constraints within the ACP countries. These are described in section 2, stressing the issues specific to the least-developed countries (LDCs), areas of agreement and disagreement between the LDC and non-LDC ACP countries, and links between the EPA and WTO negotiations as regards these issues. In section 3, EPA issues are examined

from the point of view of the EU, specifying a possible negotiating strategy based on the free trade agreements (FTAs) which it has previously signed. This analysis is then used to pinpoint various negotiating options for the ACP countries, including the development dimension of EPAs (section 4); by way of conclusion, the provisions that could be adopted to construct an "ideal" EPA are then discussed (section 5).

### 1 EPAs in the context of international agricultural negotiations

#### *Problems surrounding agriculture at the WTO and the main questions concerning the ACP countries in the Doha Round*

Agriculture, as a result of the particular role which it plays in food security, job creation, export revenue and rural development, has always been a sensitive area in trade liberalisation talks. Long excluded from global liberalisation processes under the GATT,<sup>1</sup> the agricultural sector was finally included when the Uruguay Round negotiations were being concluded in 1994.

The various strands of the Agreement on Agriculture (AoA) signed in 1994 are being

negotiated in the new negotiating round launched at November 2001 at the 4<sup>th</sup> WTO Ministerial Conference at Doha (Qatar). This new round, known as the "Development Round", which put forward the principle of special and differential treatment (S&DT) for the developing countries, has not so far managed to achieve the objectives set at Doha (see Box 1 for a summary).

Within the WTO, the ACP group made it clear at a very early stage that it needed an appropriate margin of manoeuvre if countries were to implement agricultural policies supportive of their development goals, poverty reduction strategies, food security and livelihood concerns. The group also wanted to be able to gain improved market access for its primary and processed agricultural products.

Although some progress was made in July 2004 with a framework agreement on (liberalisation) modalities and in December 2005 at the 6<sup>th</sup> WTO Ministerial Conference in Hong Kong (China),<sup>2</sup> negotiations were suspended in July 2006 as no compromise could be reached. This means that many of the concerns put forward by the ACP group prior to the Hong Kong conference in December 2005 are still very relevant, especially the need to:

- take practical steps in the area of preference erosion (in accordance with paragraph 44 of the framework agreement of July 2004) by designating ACP export products likely to suffer preference erosion as “sensitive products”;
- find favourable ways of identifying and treating special products<sup>3</sup> and apply special safeguard mechanisms<sup>4</sup> (for instance, by making special products eligible for the special safeguard mechanism) ;
- review and clarify Blue and Green Box domestic support criteria<sup>5</sup> to ensure that measures under these boxes have minimal or no trade-distorting effects.

### ACP agricultural products and their European market access: Cotonou Agreement, GSP and EBA initiative

If we are to understand the agricultural issues connected with the Economic Partnership Agreements (EPAs), we need briefly to look at the European market access conditions for ACP agricultural products.

ACP products enter under one of the following three schemes:

- trade provisions of the Cotonou Partnership Agreement (CPA);
- the generalised system of preferences (GSP) applied to all developing countries;

- the “Everything-But-Arms” (EBA) initiative reserved for the least-developed countries (LDCs).

#### CPA

The CPA provisions on European market access are based, for the transitional period from 2000 to 2007, on the non-reciprocal trade preferences granted to the ACP countries. The principle is in most cases (some 97% of products) one of non-reciprocal duty- and quota-free access. There are nevertheless three important provisions:

- the application of detailed rules of origin (RO);
- the existence of the safeguard clause;
- exceptions arising from the application of the EU’s Common Agricultural Policy (CAP); these exceptions, which concern the access of ACP agricultural product exports covered by the CAP, and potentially competing agricultural products covered by the CAP, are set out in the following documents:
  - Annex V and Declaration XXII of the CPA,
  - the various product-specific protocols (sugar, bovine meat and bananas) under which specific volumes of these products can be exported to the European market at a reduced rate of duty and which guarantee, in the case of the sugar and bovine meat protocols, the same price level as guaranteed to EU producers.

#### GSP

Under the generalised system of preferences (GSP) applied by the EU, imports from 178 developing countries and territories can enter the EU market at lower tariffs or duty-free. The EU scheme grants special advantages to the 49 LDCs (EBA initiative – see below) and to countries which have implemented specific standards on working conditions or the environment. The EU’s GSP is implemented in ten-year cycles and general guidelines are drawn up. The previous cycle ended in 2005 and a new GSP has been adopted for the period 2006-2008 in line with the Commission’s proposal. This proposal is intended to improve the current system in various fields: simplification (reduction of the number of arrangements from five to three), extension of the range of products covered, concentration of advantages on those developing countries most in need and the introduction of a system of additional advantages called “GSP+” to encourage sustainable development.

#### EBA initiative

Adopted by the Council of the EU in February 2001, the EBA regulation allows duty-free access by all imports from LDCs with no restrictions on quantity, with the exception of arms and munitions. A specific timetable has also been drawn up for the progressive liberalisation of imports of fresh

**Table 1. Breakdown of the EU’s agricultural and agri-food imports by tariff regime and preference group**

| Year 2000            |   |             |                 |             | Imports (EUR '000) |             |                 |            |
|----------------------|---|-------------|-----------------|-------------|--------------------|-------------|-----------------|------------|
| Preference group     | MFN* <sup>1</sup> (pref. country)* <sup>2</sup> | %           | Pref.           | %           | MFN                | %           | Total           | %          |
| ACP (other than LDC) | 50595   | 0.1         | 5103610         | 9.9         |                    |             | 5154205         | 10         |
| Other preferences    | 2642860   | 5.1         | 7835250         | 15.2        |                    |             | 10478109        | 20.3       |
| MFN                  |   |             |                 |             | 11599325           | 22.5        | 11599325        | 22.5       |
| LDC                  | 74663   | 0.1         | 1236987         | 2.4         |                    |             | 1311650         | 2.5        |
| GSP                  | 18510733  | 35.9        | 4567045         | 8.8         |                    |             | 23077778        | 44.7       |
| <b>Total</b>         | <b>21278850</b>                                 | <b>41.2</b> | <b>18742892</b> | <b>36.3</b> | <b>11599325</b>    | <b>22.5</b> | <b>51621066</b> | <b>100</b> |

**Table 2. EU nominal average protection against agricultural and agri-food products (from developing countries) by groups of countries/arrangements in 2000**

| Pref. Group       | Average duty | Average duty             | Imports from preferential countries       |                 |
|-------------------|--------------|--------------------------|---|-----------------|
|                   | MFN %        | Preferential countries % | Percentage imports covered by preferences | Total 1000E     |
| ACP (+LDCs)       | 20.7         | 5.3                      | 98.6                                      | 6485610         |
| Other preferences | 20.7         | 2.7                      | 74.6                                      | 10499303        |
| GSP               | 20.7         | 17.9                     | 19.8                                      | 23052814        |
| <b>Total</b>      | <b>20.7</b>  | <b>25.9</b>              | <b>46.8</b>                               | <b>40037728</b> |

Source: Tables 4 and 7 in Gallezot, J., *Real access to the EU’s agricultural market*, 24 July 2003, [http://trade.ec.europa.eu/doclib/docs/2003/july/tradoc\\_113490.pdf](http://trade.ec.europa.eu/doclib/docs/2003/july/tradoc_113490.pdf)

\*1 MFN: Most Favoured Nation

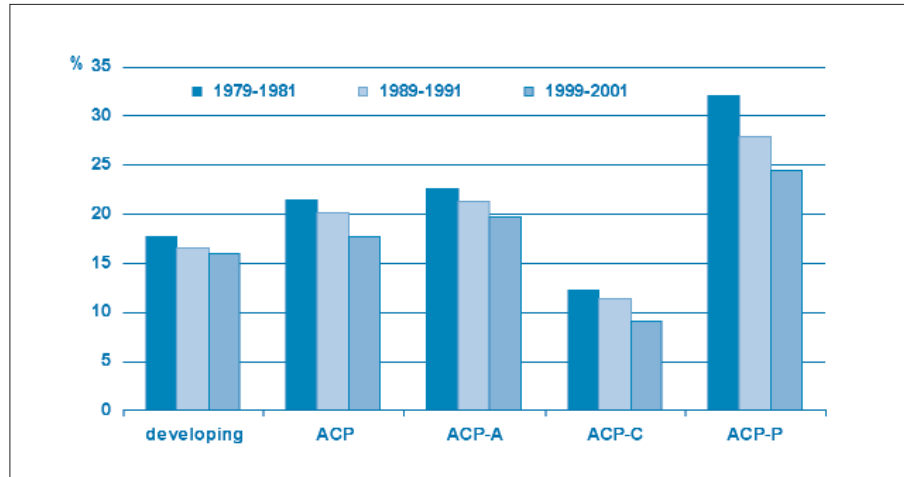
\*2 Corresponds to the residual tariffs on imports from countries benefitting from a preferential access.

bananas, rice and sugar. While bananas were effectively liberalised in January 2006 (application of the tariff-only system), sugar and rice imports will be fully liberalised only

in 2009. In the meantime, quota-based duty-free access has been granted.

Although the EBA initiative is part of the GSP, it states that the special arrangements for LDCs will be maintained for an unlimited period and that they will not be included in the periodic renewal of the Community's generalised systems of preferences.

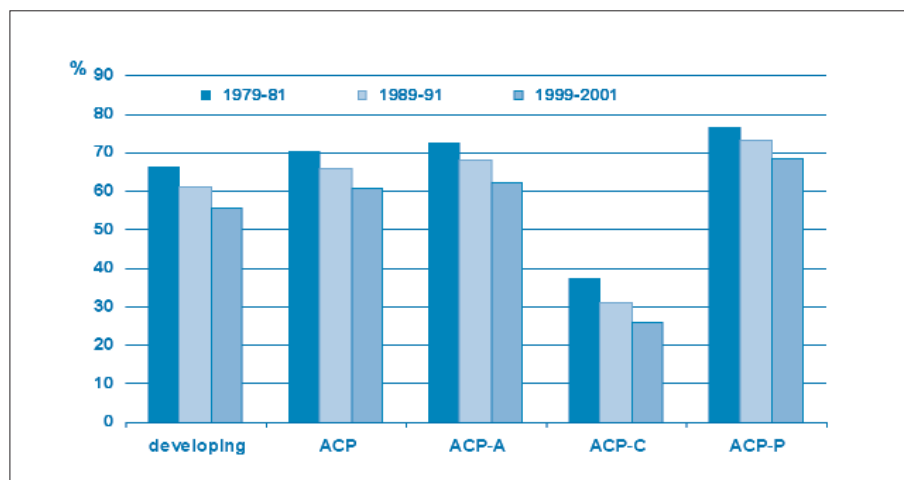
**Table 3: Share of agriculture in GDP**



**CAP reform: issues of importance for the ACP countries**

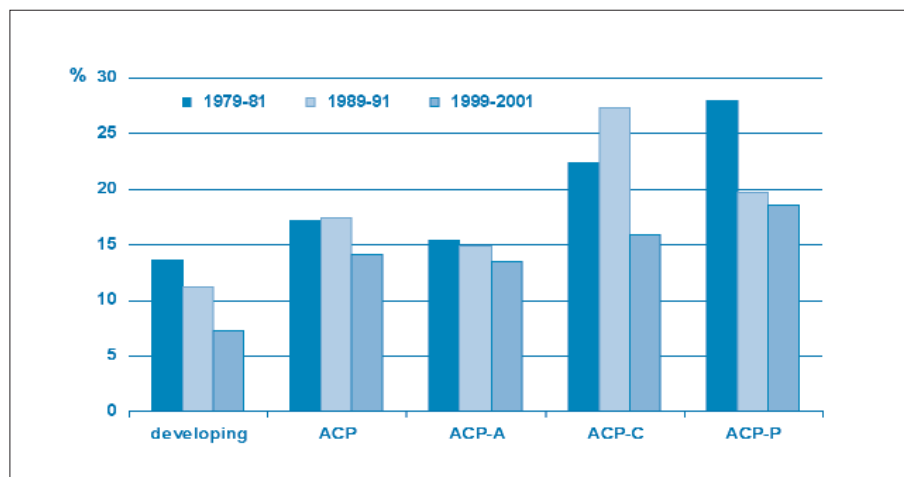
The access conditions discussed above have to be seen in the context of the interactions between EU trade and agricultural policy. The current reform of the CAP is having a direct impact on the EU's stance on trade negotiations and is an important parameter in the current EPA negotiations. The current reform of the CAP is having two types of impact on the ACP countries: on the one hand, European market access conditions and, on the other, effects on ACP markets.

**Table 4: Share of agriculture in employment**



The reform of the CAP, with the shift away from the price support system (under which high prices were guaranteed for staple agricultural products) to the system of direct aid for farmers, is reducing staple agricultural product prices in the EU and therefore reducing the advantages that ACP exporters have up to now enjoyed as a result of the preferential access of ACP agricultural products to the EU market. This process has already started in the bovine meat, rice and sugar sectors. Lower domestic prices enable the EU, moreover, to reduce its border protection thereby eroding the preferential margins of the ACP countries in comparison with those of other developing countries.

**Table 5: Share of agriculture in trade**



While the current reform of the CAP is having an impact on the access of ACP countries to the EU market, it could also have repercussions on ACP markets as a result of competition with imports of EU agricultural products whose prices are falling. One of the main goals of the reform is in practice to make exports of agricultural products from the EU more competitive. Opening up ACP markets in an uncontrolled way to EU agricultural imports could have serious consequences for national and regional ACP agricultural sectors (see section 3).

**2 The importance of agricultural trade for the ACP countries**

*Importance of agriculture for the ACP countries*

Agriculture is a key sector in the economy of most of the ACP regions in terms both of the share of GDP for which it accounts, and employment and trade. Except in the Caribbean region, over 65% of the labour force are employed in agriculture (55% in

Source: FAO. ACP-A: Africa ; ACP-C: Caribbean; ACP-P: Pacific



the other developing countries). Agricultural exports continue to account for a very considerable share of trade, if oil products are excluded. One of the main features of these exports, however, is that they are highly concentrated on a very small number of staple products which also suffer from highly volatile prices and low revenue elasticity.

### Current major issues in ACP agricultural trade

While the agricultural sector is obviously important, its ability to continue to contribute sustainably to economic development will depend in particular on the ability of the ACP countries and regions to meet a number of challenges connected with agricultural trade. These challenges can be grouped under two headings: ACP product access to external markets and competition from imports in national and regional ACP markets.

These challenges are discussed briefly below solely from the point of view of ACP-EU agricultural trade, as the EU is the main trading partner in at least four of the six ACP regions (African regions). Agricultural exports from the ACP countries to the EU are nevertheless declining in proportional terms: from 63% in 1990 to 55% in 2003. Similarly, agricultural products now account for only 17% of total ACP exports to the EU in comparison with 26% in 1995.<sup>6</sup>

#### Preference erosion

For over thirty years, the ACP countries have benefited from trade preferences in the EU market under the Lomé Conventions and the Cotonou Agreement. The value of these preferences is currently being eroded for three different reasons:

- multilateral trade liberalisation within the WTO,
- bilateral trade liberalisation (as a result of the free trade agreements (FTAs) which the EU is concluding with other trading blocs,
- CAP reform.

Although the impact of these factors differs for different products and for different countries, they are nevertheless a matter of serious concern for the ACP group as a whole.<sup>7</sup>

#### Tariff and non-tariff barriers

Over and above the problem of preference erosion, the ACP countries are having to cope with a whole series of constraints connected, on the one hand, with residual tariffs on some export products and, on the other hand, with the rules of origin and the sanitary and phytosanitary (SPS) measures imposed by the European market.

Although the Cotonou Agreement allows

duty-free access for most ACP exports, this principle is subject to restrictions for some sensitive products for which there continue to be tariff barriers (special duties). Although this is an issue which in practice involves only the non-LDC ACP countries (as the LDCs benefit from the EBA initiative), it is nevertheless an important one for some countries (for instance table grapes from Namibia).

The second type of constraint, connected with rules of origin and the question of SPS standards,<sup>8</sup> applies to all the ACP countries.

The rules of origin and cumulation conditions which shape the duty-free access of ACP products to the European market have long been and in some cases still are a major barrier to ACP exporters. These rules are particularly significant in the field of added value food products for which packaging products account for a significant proportion of the cost of the finished product.

SPS standards are becoming an increasingly important issue, especially as European regulations are becoming tougher and tariff barriers are being substantially reduced. Technical standards (for instance the quality of packaging) are also tending to place real barriers in the way of exports from the ACP countries. The standards applied in Europe are felt to be very strict, and much tougher overall than international standards. The entry into force in January 2006 of the Community Regulation on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare (882/2004) is, for instance, placing two major barriers in the way of the ACP countries:

- (i) exporting enterprises' compliance with the EU's technical health safety standards for foodstuffs;
- (ii) institutional capacity in terms of certification and verification of compliance.

A study commissioned by the CTA (2003)<sup>9</sup> showed that 17 ACP countries produced some 83% of ACP product exports in regions likely to be the most affected by SPS measures, the worst hit being horticultural and fisheries products.

In addition to European public standards, private standards imposed by economic operators under codes of conduct are proliferating. The CTA study (2003) showed in particular that importers and large retail chains in the EU were including the EU's legislative requirements in sectoral codes of practice (Eurepgap, for instance) which very often went beyond health and safety concerns to include social and environmental requirements under the pretext of compliance with SPS standards. The cost involved

in complying with these standards may be too high especially when export volumes are relatively small.

#### Import competition

The challenges connected with the European market access of ACP products are being exacerbated by further challenges from competition from imported products in the markets of ACP countries; this competition is often branded unfair because of the domestic and export subsidies practices used by the developed countries and the EU in particular. This issue is closely linked to the reform of the EU's CAP (see section 1) which is of crucial importance in particular for the African ACP countries which are closely linked to the EU market in terms of both imports and exports.

While this trade may be a source of low-cost imports and help to improve food security especially in the net-food-importing developing countries (NFIDCs), its effect may also be to weaken the industrial development base provided by agriculture in the ACP countries; in turn, this has repercussions on employment and livelihoods in rural regions.

#### Problems connected with production capacity

To conclude, trade potential in the ACP countries, especially the African LDC members of the ACP group, is being undermined by low production capacity despite potential improvements in terms of market access and import competition.

Supply-side problems in general range from the lack of public infrastructure (obsolete road and rail networks), high transaction costs, the lack of reliable public services (electricity and water supplies, for instance), costs arising from the lack or shortcomings of institutional and political frameworks (leading to corruption, exchange rate fluctuations and high inflation) and low labour

#### The LDCs of the ACP Group

The following points need to be taken into account when examining the least-developed countries of the group of ACP countries:

- most non-LDCs are in one ACP region (the Caribbean);
- over half of all members of the ACP group are LDCs;
- over 60% of the population of the ACP countries live in LDCs\*.

\* This figure does not include the population of South Africa which is an ACP country but is not considered to be a full member of the ACP Group for the purpose of trade negotiations.

productivity (which can be explained by the lack of education and health facilities and accommodation).

In the agri-food sector in particular, adverse meteorological conditions combined with the lack of irrigation systems, the instability of the land system, low technological levels and weak institutions are having a direct impact on the production capacity of the ACP countries. Their processing and marketing capacity is also very limited because post-harvest and processing equipment and technologies are lacking, and market information systems are inadequate and lack reliability. While the lack of financial resources and capital is also a major aspect, their capacity to manufacture high-quality products is undoubtedly one of the main challenges facing ACP exporters of agricultural products. The institutional capacity of ACP governments to efficiently verify compliance with the EU's health safety standards for foodstuffs in order to provide certification (see the preceding section on SPS measures) seems to be a particularly significant point in this respect.

Problems linked with production capacity are therefore a very significant issue for the ACP countries and should be a major focus of EPA negotiations.

### Particular features of the LDCs

Although the main agricultural trade issues discussed above apply to the ACP countries as a whole, there are some fundamental differences between the least-developed ACP countries and the others. While, in the case of market access, for instance, residual tariff barriers are not an issue for the least-developed ACP countries, they are likely to find it more difficult to resolve the problems connected with SPS measures and with production capacity.

In the case of trade negotiations, the distinction between LDCs and non-LDCs is leading to different treatment both in the WTO and from the point of view of EPAs. Under the WTO rules, the least-developed ACP countries may claim non-reciprocal trade preferences. This right cannot be disputed at the WTO, in contrast to the right granted under the trade provisions of the Cotonou Agreement. In practice, the EU has recognised this right through the "Everything-But-Arms" initiative (see the section above). However, in the EPA negotiations, the ACP LDCs, as members of a customs union, should be subject to the same reciprocal tariff reduction obligations as the other ACP countries of the region.

In this context, the ACP LDCs would be quite

right to ask what additional advantages they would gain from signing an EPA when all their domestic products already benefit from duty- and quota-free access to the EU market under the EBA initiative. From the point of view of market access, deciding to sign an EPA therefore has more to do, in the case of the LDCs, with the issue of the non-tariff advantages from which they could benefit under an EPA. This could concern, for instance, more favourable rules of origin and cumulation, cooperation and support measures in order to meet SPS standards, and the inclusion of a development strand enabling them genuinely to profit from duty-free access.

In the context of the EPAs, the distinction between LDC and non-LDC ACP countries is clearly a factor likely to place regional integration processes on a less secure footing.

### Links between EPA and WTO negotiations to address the challenges of agricultural trade<sup>10</sup>

As mentioned in the introduction, the ACP countries are involved in two parallel trade negotiations (see Box 2 for a summary).

In general, the WTO and EPA negotiations differ in a number of respects:

- The WTO negotiations are taking place in a multilateral forum, while the EPAs are being negotiated in the context of bilateral negotiations between the ACP countries and the EU.
- Each WTO member country may put forward its own negotiating position, although, in the case of the ACP countries, positions generally tend to be put forward by groups of countries. The EPAs are being negotiated between ACP regional integration zones and the EU.
- Negotiation timetables do not have the same deadlines, although there is some overlap. Although the Doha Round talks were suspended from July 2006 to February 2007, and there is considerable doubt as to whether the Round can be completed by the end of 2007, the CPA has set a cut-off date for EPA negotiations at 31 December 2007.

These parallel negotiations are nevertheless linked and may have an effect on one another:

- They cover similar issues as regards agricultural trade by the ACP countries.
- It is important for the ACP countries to have an overall vision of these negotiations so that they can pinpoint any linked negotiating points. Progress in the WTO negotiations and in the definition of multilateral rules necessarily has an impact on the EPA negotiations, as what-

ever emerges from these latter negotiations has to comply with WTO rules. In contrast, progress in EPA negotiations may make it possible to construct WTO negotiating positions. These positions could be put forward by the whole of the ACP Group when the countries have common interests which go beyond the framework of regional integration.

- Recent developments in the two negotiating forums seem to show, moreover, that the negotiating timetables are being reversed. Difficulties in progressing the agricultural negotiations at the WTO and the repeated failure to find a compromise mean in practice that the negotiation timetable is slipping forward in time: there are still doubts about the completion of the Round by the end of 2007. The EPA negotiation deadline nevertheless seems much less flexible as it is linked to the second derogation which the EU obtained from the WTO for its non-reciprocal trade preference regime with the ACP countries. It is more difficult to envisage this provisional derogation, granted on the proviso that it was the last and intended to bring the EU-ACP trade regime into compliance with WTO rules, being continued beyond 1 January 2008.<sup>11</sup> Several ACP regions have nevertheless indicated that the EPA negotiations could (or should) be extended beyond 2007, if necessary.

Some specific points of the WTO negotiations are having a direct impact on the EPA negotiations:

### Article XXIV of the GATT

This Article, which derogates from the GATT principle of the most favoured nation, states that a country or group of countries may grant preferential trade treatment to another country or group of countries, if the relations between these countries are governed by a free-trade area or a customs union, i.e. if trade preferences are reciprocal. The article defines a free-trade area or a customs union in a very imprecise way and merely states that they must cover substantially all of trade. The EU has undertaken to reform its trade regime with the ACP countries in order to comply with this article. In its previous free-trade agreements concluded with other developing countries, the EU has interpreted this as meaning that 90% of trade should be covered and that asymmetrical reciprocity is possible.

At the 5th Ministerial Conference in Cancún, the ACP Group called for a revision of Article XXIV to take account of the differences in levels of development between the two parties and to specify "substantially all of trade", transition periods and the principle of reciprocity. The idea is that, in the case of an EPA with the EU, the ACP countries can

limit the introduction of reciprocity and therefore the risk of increased competition from EU imports in their markets.

With a view to specifying Article XXIV, it would seem sensible for the ACP countries first to make progress in the EPA negotiations and to find a compromise with the EU on what is covered by “substantially all of trade” and how far to go with asymmetrical relations. The ACP countries could then put forward a detailed position, possibly with the EU, in the multilateral forum. At the same time, keeping the article relatively hazy can be seen as a way of ensuring margins of manoeuvre, but may also run of risk of numerous disputes about the interpretation of the article.

### In short ...

Although the WTO and EPA negotiations differ in several respects, they are in practice closely linked. The two negotiations are increasingly taking place in parallel because of the time lag in the WTO negotiating timetable. Managing this growing interaction between the two negotiations is no easy task for the ACP countries. They have to ensure that the outcome of EPA negotiations complies with WTO rules. They need, moreover, to obtain a maximum margin of manoeuvre in the WTO negotiations to provide a favourable multilateral framework for the EPA negotiations which have to conform to this framework. WTO negotiations have made little real progress with the re-negotiation of Article XXIV of the GATT which sets the framework for free-trade areas, and will probably not reach any conclusion in the near future. It is therefore important for the ACP countries to make progress with the EPA negotiations by finding a compromise with the EU so that they can then take a detailed negotiating position to the multilateral forum.

WTO negotiations on special products and the special safeguard mechanism are more advanced. The ACP countries may draw on proposals made at the WTO. They will also have to ensure, however, that the outcome of the EPA negotiations complies with the principles decided at multilateral level.

The recent suspension of the WTO negotiations has nevertheless changed the situation. Many of the ACP regions are negotiating, with the EU, the inclusion of a revision clause, linked to the outcome of the WTO negotiations, in the text of the EPA, if this outcome turns out to be more positive than the provisions adopted at EPA level.

This kind of revision of Article XXIV would not enable the LDCs to avoid reciprocity in the framework of the EPAs, but simply to limit it. It is hard to see how, in a regional integration zone which has signed an EPA, countries could claim their LDC status at the WTO in order to avoid reciprocity when their non-LDC neighbours were introducing reciprocity, while ensuring the liberalisation of substantially all of trade. The only way in which the LDCs could avoid reciprocity would be not to sign an EPA.

### Special products

In the Framework Agreement of July 2004 and the Hong Kong Declaration, the WTO authorises the LDCs, under the rules on special and differential treatment (S&DT), to designate an appropriate number of special products for reasons of food security, rural development and poverty reduction (see Box 1). These products would then benefit from special treatment as regards the application of the tariff reduction formula. Practical methods for the treatment of special products nevertheless remain to be defined. Proposals have been put forward, some by the ACP countries (in the context of G33).<sup>12</sup> Designating special products could therefore provide a basis for pinpointing products which could be excluded from EPAs. The problem remains, however, that each ACP country can put forward its own list of special products to the WTO, but the list of products to be excluded from the EPA has to be drawn up at regional level: this means that countries which may have different interests as regards EU imports may have to find a consensus.<sup>13</sup>

### Special safeguard mechanism

In the same way as for special products, the Agreement of July 2004 and the Hong Kong Declaration make provision for a special safeguard mechanism (SSM) which may be used by developing countries in the case of imports on a massive scale or sudden falls in import prices. The methods by which this mechanism is to operate are also being negotiated: trigger mechanism (automatic or special procedure), duration, eligible products and, in particular, links with special products, and content (additional duties and/or quantitative reductions), etc. Here again, the WTO negotiations may have an impact on the EPA negotiations and pave the way for a special safeguard mechanism for EU imports. This provisional mechanism could apply to those products which have not been excluded from the EPA, but could also apply to other products if the continued duties on those products do not appear enough to protect against the damaging effects of competition from European imports. Negotiating a mechanism of this kind in an EPA would obviously be much easier if the WTO negotiations were sufficiently

advanced. It could nevertheless draw on the WTO proposals and negotiations even if the Doha Round has not been completed.

### Where the ACP countries agree

As mentioned above, LDC status means that these countries are not treated in the same way as the other developing countries, both in the WTO negotiations (tariff reduction exemption) and in bilateral dealings with the EU (EBA initiative for market access). This special treatment may mean that LDC and non-LDC ACP countries have differing interests as regards some of the points being negotiated, but may largely agree on other points even if there are differences as to the details:

### Trade preference erosion: towards a loss compensation mechanism

The generalised reduction of the duties applied within the WTO, and therefore the reduction of preferential margins for the ACP countries, is affecting both LDCs and non-LDCs. The reform of the CAP, reflected in particular by falling agricultural product prices, is also affecting all the ACP countries. As there is less of a differential between European internal prices and world prices, the duties charged by the EU are being reduced and this is again eroding the preferences of all the ACP countries. Moreover, the reduction of the internal prices from which exports from the ACP countries benefited, under the product protocols, is affecting all the ACP countries whether or not they are LDCs. In the case of sugar in particular, although the protocol is to be retained in the reform of the Common Market Organisation (purchase of duty-free quotas), the European internal price will be decreased by 36% over four years. The LDCs are also affected as they will receive the same price as the non-LDC ACP countries, i.e. the new European internal price. The ACP countries as a whole are therefore likely to suffer export revenue losses which may well be over EUR 300 million.<sup>14</sup> Countries like Mauritius which are highly dependent on the sugar protocol will be particularly badly hit. In this context, both LDCs and non-LDCs are calling for partial compensation of these revenue losses and for adjustment measures.

### Issues connected with SPS standards: towards greater technical assistance

As mentioned above, the development of sanitary and phytosanitary, and technical, standards at a time when tariff barriers are substantially declining, is tending to become the real barrier to exports from the ACP countries. Exports from ACP countries, especially those from the LDCs which are less able to comply with these standards,

are undoubtedly being limited by these standards. Any lowering of the level of European standards seems problematic because they mirror growing consumer requirements. It may nevertheless be possible for the LDC and non-LDC ACP countries to call with one voice for the inclusion in the EPA negotiations of the technical assistance that they need to be able not just to respect these standards but also to certify compliance with them, which requires suitable certification bodies, laboratories, and human and technical resources.

### Structural supply-side constraints: towards greater resources

Over and above European market access conditions, which may differ depending on whether or not ACP countries have LDC status, structural constraints connected with supply capacity are preventing all the ACP countries from being able fully to profit from the export opportunities available to them. For instance, low production and marketing capacity in the LDCs is one of the main curbs on the EBA initiative. If they are to build their capacity, the ACP countries

#### In short ...

The LDC and non-LDC ACP countries have similar interests as regards a number of issues, at both bilateral and multilateral level. If they are to take concerted action to put these interests across, the ACP countries will first need to make their development strategies consistent.

First, it is in the interests of all the countries to call for effective compensation for losses resulting from the erosion of preferences that they are suffering as regards European market access. This erosion is the result of the WTO reduction of the tariffs that the EU applies to imports from all its trading partners, the development of bilateral agreements between the EU and other developing countries and the reform of the CAP. Second, it is in the interests of all the ACP countries to call for ambitious technical assistance so that they can meet the EU's requirements as regards compliance with SPS standards. Third, it is in the interests of all the ACP countries to benefit from ambitious and readily accessible funding from the EU allowing them to tackle the structural constraints which they face from the point of view of their agricultural supply capacities. Lastly, it is in all their interests to negotiate defensive trade instruments – special products and special safeguard mechanisms – enabling them efficiently to protect themselves against competition between national output and imports from the EU.

need to be able to benefit from more substantial development aid, whether or not they sign an EPA. The development strand of the EPAs, which is now one of the key points for negotiation, should be accompanied by sufficiently ambitious financing to help the ACP countries to tackle the structural problems which weigh heavily on their production capacity. The LDC and non-LDC ACP countries should here again be able to find common ground. The immediate issue is not so much one of obtaining more financing, but of ensuring that existing financing is channelled more into agricultural development as a concentration sector.

### Special products and special safeguard mechanisms: towards ambitious mechanisms

As mentioned above, while the LDCs are exempt from tariff reductions in the WTO negotiations, they may nevertheless designate an appropriate number of special products and benefit from a special safeguard mechanism in the same way as the other developing countries under the S&DT framework. In practice, being able to maintain tariff levels is not always enough to provide protection against import competition in local markets and with local production. The possibility of applying additional tariffs to, or of reducing quantities of, imports is a particular concern for the LDCs and the other developing countries. In the EPA negotiations, the LDCs need to draw up, together with the non-LDC ACP countries of their regional integration zone, a list of products which they would like to see excluded from the EPAs, and could negotiate a special safeguard mechanism specifically for EU imports. This should enable the LDC and non-LDC ACP countries to reach a consensus through which special/sensitive products can be designated and safeguard mechanisms can be defined in a consistent way in the WTO and EPA negotiations.

### Where the ACP countries differ

In contrast to the above, the interests of the LDC and non-LDC ACP countries seem to differ as regards at least two key agricultural trade issues:

#### Residual tariff barriers

For the LDC and non-LDC countries, the abolition of residual tariff barriers is one of the

major opportunities which an EPA with the European Union may offer. Even though European market access is very open in practice to imports from the ACP countries, there are still duties on some products which are very important for the ACP countries, which the EU has retained because imports could compete with domestic production in the EU. The Cotonou Agreement (Declaration XXII relating to Annex V) states that the ACP countries may ask for new agricultural products to be included under the principle of duty and quota exemption. Such an application nevertheless has to be reasoned and inclusion is far from easy to obtain.<sup>15</sup>

The Cotonou Agreement also reaffirmed the Lomé product protocols for sugar, bovine meat and bananas.<sup>16</sup> For the non-LDC ACP countries, these protocols represent quantitative restrictions accompanied in some cases by residual duties. They allow a certain quantity of exports from the ACP countries at a reduced or zero rate of duty, and in the case of sugar and beef, allow the ACP countries to benefit from the European internal price (higher than the world price and stable).

The abolition of residual tariff barriers is therefore a major issue for the non-LDC ACP countries when negotiating EPAs. The same may not be true, however, of the LDC ACP countries since the EBA initiative from which they benefit has allowed them quota- and duty-free access to the European market since 2001 (2006 in the case of bananas and 2009 in the case of sugar and rice).

### The product protocols (bananas and sugar)

The differing interests of the ACP countries as regards the product protocols are not just shaped by their LDC or non-LDC status, but also by their level of competitiveness and dependence on the protocols. These differing interests may be especially marked if the status of the product protocols in the EPA is up for negotiation and is thus still uncertain. The issues are particularly pronounced for the sugar protocol, which concerns the largest number of beneficiary ACP countries and which is affected by the reform of the Common Market Organisation for sugar (CMO Sugar) where it is planned to reduce the European internal price from which the ACP countries benefit by 36%.

### Product protocols

| Sugar                         | Bovine meat                               | Bananas                       |
|-------------------------------|---|-------------------------------|
| Duty-free within quota limits | Specific duties of 8% within quota limits | Duty-free within quota limits |
| European internal price       | European internal price                   |                               |



There are two main options as regards the status of the sugar protocol in the EPA: either the protocol is separate from the EPA, and therefore excluded from the products covered by the EPA, for all the eligible ACP countries, since it has been attached to the Lomé and Cotonou Agreements (option A); or the protocol is incorporated in the EPAs (option B). The European Commission has made it clear that it prefers option B.<sup>17</sup>

Under option A, sugar quotas would continue to be allocated to each country whether or not they sign an EPA. If they do not sign, the ACP LDCs would have free access to the European market in 2009 under the “Everything-But-Arms” initiative

### In short ...

While the interests of the various ACP countries often converge, this is not true of all the issues involved in the agricultural trade negotiations currently under way.

A major difference between the ACP countries which have LDC status and those which do not lies in the area of improving access to the European market. While the non-LDC ACP countries are able to benefit from improved access to the European market as a result in particular of the abolition of the tariff peaks and residual tariffs which the EU has up to now retained, this is not the case for the LDC ACP countries. The latter already benefit from duty-free, and will soon benefit from quota-free, access for all their exports to the EU under the “Everything-But-Arms” initiative. Full liberalisation of European market access is not therefore a particular concern for them. If, in the context of the EPAs, the EU were fully to liberalise access to its market for all the ACP countries, the preferential EU market access which the LDC ACP countries currently enjoy would be eroded, in contrast to the non-LDC ACP countries.

Another major difference between ACP countries concerns the reform of the product protocols which is currently under way: in particular sugar and bananas. Here, differences between the ACP countries have more to do with their level of competitiveness and dependence on these protocols. Those ACP countries which are not very competitive or highly dependent on the protocols are keen to safeguard as many of the advantages that they currently enjoy as they can. The more competitive ACP countries or those less dependent on the protocols do not take the same stance, as they could well be able to gain market shares from less competitive ACP countries.

and would receive the guaranteed European price. This price is guaranteed, however, only up to the complete reform of the CMO Sugar in 2009/2010. A reference price will then be used to set the guaranteed price under the preferential import regime. The non-LDC ACP countries would continue to benefit from the protocol and their situation would remain unchanged, unless the protocol were to be amended as a result of the reform of the COM Sugar, as for the LDCs. Failure to sign an EPA would not change anything as sugar is not covered by the GSP. The risk of a complaint to the WTO against the protocol should not, however, be ruled out: the sugar protocol does not come under the GSP but under the Cotonou trade regime, with the same WTO derogations; the derogation for the Cotonou unilateral trade regime applies in practice to the protocol and will end at the end of 2007. It may be that quotas remain unchanged or that the European Commission decides to increase them in order, for instance, to compensate for the reduction of the European internal price<sup>18</sup>. The winners under this option would be the more competitive countries (Malawi, Zimbabwe, Swaziland, Zambia, Tanzania) which would take market shares from countries not using their quotas (assuming that quota allocation is not global but specific to each country and is based on net export surpluses).

Under option B, access conditions and price guarantees remain open for negotiation by the LDC and non-LDC ACP countries. For the LDCs in particular, negotiations need to cover the possibilities of free access to the European market from 2008 if they sign an EPA, as well as price guarantees, in order to determine whether the EPA provides additional benefits over and above the EBA initiative. For the non-LDCs everything also remains to be negotiated: both access levels in terms of quantity, whether free as under the EBA or with quotas (augmented or not) or with safeguards, and price guarantees. However, as the EPAs take a regional approach, the quotas are likely to be allocated to each ACP region signing an EPA, then distributed between the countries of the region, in all likelihood giving priority to traditional exporters. In the Caribbean region for instance, Guyana, Belize or Jamaica could be among the winners to the detriment of the “sugar islands” whose current problems, bearing in mind their high production costs, are likely to be exacerbated by the reform of the CMO Sugar. Thought is also needed about those countries which are not LDCs and not signatories to the protocol, but potential exporters of sugar to the EU under the EPAs.

Bananas are another example. Under the banana protocol, the ACP countries enjoy duty-free access to the European market within the limits of their tariff quotas. Non-ACP exports, largely from Ecuador, Costa Rica and Colombia (“dollar bananas”) were taxed at EUR 75/tonne up to their quota limit and very heavily thereafter (EUR 850/tonne). From 1 January 2006, a tariff-only system at EUR 176/tonne has replaced the system of tariff quotas by zones of origin, with the exception of the ACP countries for which a tariff quota has been retained. At present, the main ACP beneficiaries of banana quotas are Cameroon and Côte d’Ivoire in Africa and the Windward Islands (St Lucia, St Vincent, Dominica) and Jamaica in the Caribbean. The competitiveness of these two producer regions is nevertheless very different. Caribbean bananas are now not just competing with dollar bananas but also with African bananas. The current level of duty does not in practice seem sufficient to protect Caribbean bananas against competition from dollar bananas, whereas it appears to enable African bananas to maintain market shares.

In addition to the difference in status between LDCs and non-LDCs, which is a key factor, other factors may cause the interests of ACP countries to differ. For instance, the very different place which agriculture occupies in the Caribbean region (largely dominated by services) and in the African regions may mean that differences arise when the agricultural elements of EPAs are being negotiated. Each region is attaching importance to this sector in the negotiations and is defending offensive or defensive interests in these negotiations depending on the extent of this sector’s socio-economic role. It is also clear that net-food-importing countries do not have the same interests as those in which local production is high. This makes it very difficult to achieve a regional consensus and even more so a consensus among all the ACP countries.

### 3 Agricultural trade: main issues for the EU

Following this analysis of agricultural trade issues for the ACP regions and an examination of those issues about which the ACP countries tend to agree and differ, we shall now look at issues for the European Union and examine the agricultural component of the free-trade agreements which the EU has signed with other regional trading blocs and, lastly, describe the EU’s negotiating stance on the agricultural questions raised by EPAs.



### *The main agricultural trade issues for the EU*

The EU's agricultural trade policy is closely linked to the CAP and the reform process which has been under way since the 1990s and is intended to:

- lower intervention prices, i.e. the threshold price from which the Union intervenes to support European internal prices or guaranteed prices. This tends to close the gap between domestic prices and world prices;
- compensate for intervention price reductions by direct aid which is unconnected with price levels or quantities produced (decoupled aid);
- reduce duties on imported products as there is less need to protect the European internal market to support prices (because guaranteed prices are lower);
- reduce export subsidies which have also become less necessary because European products are more competitive as guaranteed prices are lower.

The most recent reform of the CAP has introduced major changes for a number of leading products, such as sugar. Reforms of the CAP have always allowed the EU to anticipate WTO negotiations and to take offensive positions. The European Union considers that it has made the adjustments needed to bring its agricultural policy in line with WTO rules, and is trying to get the other WTO members (chiefly the United States) to undertake similar reforms. CAP reforms have also enabled the EU to announce a substantial reduction of its Amber box support – the EU was one of the WTO members making most use of this kind of support. As a result of the 2003 reform, the EU announced at the last WTO Ministerial Conference in Hong Kong that it would end export refunds by 2013 provided that disciplinary methods were drawn up for the other elements of the export pillar of the Agreement on Agriculture (see Box 1). The CAP reform process therefore appears to be a prime mover of the EU's position in agricultural

#### **In short ...**

The successive reforms of the CAP, in particular the June 2003 reform, are not unconnected with the EU's negotiating stance at the WTO. The EU undertook the previous reform of the CAP prior to the re-negotiation of the WTO Agreement on Agriculture. The EU wanted to be in a strong position in the WTO negotiations in order to obtain concessions from its trading partners. It is therefore the CAP which is the prime mover of the EU's stance at the WTO and not the reverse.

negotiations at the WTO; any concession by the EU being linked to the degree to which the reform has advanced.

### *The agricultural component of the free trade agreements signed by the EU*

An analysis of the previous free trade agreements (FTAs) signed by the European Union and its partners<sup>19</sup> shows that the EU's trade in agricultural products is far from being completely liberalised. The EU limits access to its market by maintaining a number of tariff barriers in order to avoid the potentially adverse effects of trade liberalisation and to take account of national interests which require market protection.

The EU has used six instruments to regulate agricultural trade in the FTAs signed with the Mediterranean countries (Euro-Med), South Africa, Mexico and Chile:

- **Tariff reductions**, which may be complete or partial for products subject to ad valorem or specific duties. In the case of the EU, tariff reduction is often linked to most-favoured-nation (MFN) duties while, for its trading partners, the reduction is applied to the tariffs actually in force, and not to the WTO bound tariffs (higher). Some FTAs do not specify any tariff reduction, but a final duty to be applied to imports from the EU.
- **Tariff rate quotas** for products exempted from total tariff reductions. These are set in terms of seasonal limits and the necessary quantity adjustments. These adjustments are carried out by applying a fixed annual rate or decided each year when the agreement is being reviewed.
- **Safeguard clauses**, either common to all products or special clauses. These clauses help to protect against any increase in import volumes or against a fall in the price of imported products.
- **Rules of origin** for agricultural products.
- **Flexible adjustments** for access to trading partners' markets, made possible through two types of clause:
  - **revision clauses** under which the parties undertake to examine the possibility of enhancing the liberalisation of agricultural products, taking account of agricultural trade sensitivities and domestic agricultural policies;
  - **flexibility clauses** under which the partners can amend the agreement if one of the parties changes its domestic agricultural policies.
- **Other specific duties** may also exist but are not common to all FTAs.

The FTAs signed by the European Union also take two different approaches to agricultural trade liberalisation:

- **A list of products** benefiting from preferential access is drawn up (for instance Euro-Med). This approach of the positive list type restricts the general scope of the FTA and limits it to certain products. It sets out the initial stages of the liberalisation process, but does not contain any guidelines for the process overall. A revision clause provides flexibility for the adoption of new and increased trade liberalisation measures.
- **Timetables for overall liberalisation** are drawn up (for instance South Africa, Mexico, Chile and Lebanon for imports to the EU). Here again, some products are excluded from the liberalisation process and subject to preferential access, largely within tariff quota limits. Adopting different timetables or exemptions for different groups of agricultural products, and restricting market access through tariff restrictions provides greater control over the liberalisation process. Revision clauses offer additional flexibility for products exempted (at present) from trade liberalisation.

As a result, even though the main aim of these agreements is to liberalise trade, it would seem that various market protection tools, especially tariff rate quotas, are continuing to exclude some products from this process. It would seem, moreover, from all the FTAs to which the EU is a signatory, that the choice of the products subject to tariff quota arrangements or total tariff reduction reflects the level of protection granted to these products and the existence of surpluses for these respective products. In practice:

- High levels of protection may mean that there is little willingness to reduce tariffs as that might undermine high domestic prices.
- High levels of protection of some products, for which there are also production surpluses, are leading to tougher import restrictions, for instance by not extending tariff quotas.
- The surpluses produced by the EU as a result of protection which then need to be disposed of, are encouraging the EU to improve its access to the markets of its trading partners.

### *A possible strategy of the EU Commission*

The preceding discussion of the FTAs signed by the EU, and the negotiating mandate which the European Commission has been given for the EPAs, may provide some pointers as to the form that the EU strategy could take in the EPA negotiations:<sup>20</sup>

- The EU might well offer duty-free access like (or similar to) the access available to

**In short ...**

An analysis of the previous free-trade agreements (FTAs) concluded by the EU and its partners shows that EU agricultural product imports are far from being fully liberalised.

In the case of products for which the EU conducts an interventionist agricultural policy, it is very reluctant to lower duties which protect it from imports from third countries.

Experience seems to show that, as regards EPAs, a number of particularly sensitive products are likely to be excluded from liberalisation by the EU. The EU needs to propose instruments through which it can control the liberalisation process: different liberalisation timetables for different products, safeguard clauses, revision clauses, and flexibility clauses in particular.

the LDCs under the EBA initiative for products which are not highly competitive with its local output. In return, it asks for substantial enough access to the markets of the ACP countries to comply with GATT rules (Article XXIV).

- For a number of particularly sensitive products (those currently benefiting from the most substantial protection and aid), the EU is likely to provide itself with margins of flexibility. There could be major tariff reductions for these sensitive products, but within quota limits for instance. In other words, the EU is more likely to use the liberalisation timetable approach, with different timetables for different products, than the positive list approach.
- As the regional approach is a priority, ACP countries in the same region are likely to benefit from the same opening up of the European market. Doubts about some sensitive products such as sugar should again be stressed here, and could lead to different treatment for the LDC and non-LDC ACP countries.
- The EU is likely to put forward instruments enabling it to control the liberalisation process as far as possible, such as safeguard clauses, revision clauses and flexibility clauses.
- The EU should take care to differentiate between CAP reform and EPA negotiations which are two different processes. Many of the CAP reforms have to do with changes to the multilateral framework and the Community interests that the EU wants to uphold at the WTO, and have little to do with the interests of the ACP countries. For the EU, the issue of compensation for the adverse impact of CAP reforms on the ACP countries should also be separated from the EPA negotiation process.

**4 Options for the ACP countries***Different negotiating options*

Generally speaking, and in terms of negotiating strategies for the ACP countries as a whole, it appears important, if the maximum concessions are to be obtained from the EU, to play on the possibility of not signing an EPA in the negotiations. In other words, signing an EPA could be made conditional upon the satisfaction of a number of requirements and alternatives to the EPA could be explored in a more detailed way. As many resources as possible should therefore be channelled into analysing alternatives to the EPA as into the potential impact of an EPA.

These alternatives differ depending on whether the ACP countries are LDCs or not:

- for the LDCs, the alternative is the EBA initiative, but a number of factors such as the rules of origin need to be reviewed so that the initiative offers LDCs genuine potential for European market access;
- for the non-LDCs, the alternative is the GSP or GSP+ for those complying with governance and environmental respect criteria. A form of GSP++ for the ACP countries, offering more advantageous conditions than the GSP+, could also be proposed.<sup>21</sup>

The risks inherent in an EPA in comparison with the alternatives available to the LDC and non-LDC ACP countries are clearly evident and are connected with competition from European imports in local, national and regional production sectors. In these circumstances, the ACP countries should draw inspiration from the EU's strategy in the previous free trade agreements which it has signed, and should negotiate the maximum possible control of the liberalisation process. Various flexibility measures will need to be drawn up for this purpose:

- exclusion of "sensitive" products for the ACP countries, over relatively long periods depending on the degree of sensitivity or competitiveness of products; i.e. different progressive liberalisation timetables for different products;
- a timetable revision clause if local products do not become competitive enough and do not enable, as expected, fair competition;
- a flexibility clause to cover reforms of the CAP which have potentially adverse consequences for the ACP countries;
- a special safeguard mechanism under which it is possible to apply additional duties or even quantitative restrictions on European imports if there are massive rises in import volumes or substantial price drops.

Flexibility measures are likely to be particu-

larly important for the ACP countries whose trade with the EU is substantial. This is true overall of the African countries, but not of the Caribbean and Pacific countries whose main trading partners differ (United States for the former and Australia and New Zealand for the latter). In the case of ACP countries which export a large proportion of their products or of a specific product, CAP reforms and therefore the flexibility clause are particularly important.

**In short ...**

To obtain maximum concessions from the EU, the ACP countries need to play on the possibility of not signing an EPA in the negotiations. It is also important to weigh up the alternatives to the EPA and to channel the necessary human and technical resources into analysing these alternatives and their advantages and drawbacks in comparison with an EPA.

For the LDCs, the alternative is the EBA initiative: if it is to provide genuine opportunities for access to the EU market, its rules of origin need to be reviewed. For the non-LDCs, the alternative to the EPA has to be more favourable than the current GSP – as well as the GSP+ – if they are to retain preferential access to the EU market. This would involve a kind of GSP++ which needs to be thought out. All the ACP countries, whether LDCs or not, need to retain as much control of the liberalisation process as possible in order to mitigate the risks linked to the introduction of reciprocity into the EPAs. Ambitious flexibility measures therefore need to be drawn up, such as:

- different liberalisation timetables, which are as flexible as possible, for different products,
- a revision clause to cover greater than expected competition between local output and imports from the EU,
- a flexibility clause under which liberalisation conditions can be adjusted if CAP reforms make this necessary,
- a special safeguard mechanism to cover sudden changes in competition conditions in the world market.

Those African countries which are not very competitive will need very substantial flexibility as regards the timetable and degree of liberalisation. Lastly, the ACP countries need to negotiate ambitious measures so that they are able as far as possible to eliminate the structural supply constraints from which they suffer.

### Towards a development package

The accompanying measures making up the development strand of an EPA should be geared towards two objectives: making local sectors more competitive and developing regional trade. More competitive local ACP sectors are a must if genuine benefits are to be gained from the European market access opportunities offered by an EPA and if competition from European imports is to be withstood. Structural supply constraints need to be eliminated if competitiveness is to be improved. For some products and in some ACP regions, there is, moreover, a real regional trade dynamic which needs to be preserved and enhanced. An EPA could be signed only if its development strand includes sufficient guarantees of actual implementation of a package of accompanying measures geared towards these two complementary objectives.

Accompanying measures could be of various types:

- measures helping to make local products more competitive in terms of price and quality: enhancing local products, respect of contractual deadlines, regular supplies, etc. ;
- measures covering the key aspects of SPS standards and compliance with European regulations;
- links with the Action Plan for agricultural commodities proposed by the EU in 2004 and adopted by the European Development Fund (EDF) Committee in 2006;
- measures fostering trade at regional level: assistance with computerisation of customs systems, simplification of administrative procedures, and infrastructure.

### 5 Towards an EPA fostering ACP agriculture

An "ideal" agreement on agriculture in the EPAs would obviously be an agreement containing more gains than risks: in other words an agreement which would maximise European market access opportunities and make it possible not just to mitigate the risks of competition in local and regional markets but rather to strengthen these markets in a way which is consistent with the objectives of regional agricultural policies. This means:

- Negotiating the complete opening-up of European markets, without quotas or duties; this would involve extending the EBA scheme to the non-LDC ACP countries.
- Excluding all products deemed to be sensitive, and not just within the 20% limit connected with the EU's interpretation of

Article XXIV of the GATT. It would be advantageous in particular:

- to exclude immediately all the tariff lines for which there are not at present imports from the EU to the ACP countries. As import volumes are zero, a strategy of this kind may appear neutral but nevertheless makes it possible to ensure margins of manoeuvre in the medium to long term if the ACP countries want to develop the sectors covered by these tariff lines in the future;
- to be able to raise the levels of duty on products excluded from the EPA. This may involve amending the structure of the Common External Tariff (CET) decided by the ACP regions if the maximum levels do not in future provide adequate protection against competition from European imports.
- Ensuring that European export aids are effectively abolished as soon as tariffs on European imports are abolished. In practice, export subsidies make European imports particularly competitive on local and regional markets. Abolishing tariffs on these products would undoubtedly exacerbate unfair competition.
- Drawing on the negotiating strategy which the EU used when signing FTAs with various trading partners. This strategy helped the EU to make concessions while preserving its interests. The strategy consists in negotiating an implementation of the agreement which is as gradual and flexible as possible and allows the widest possible margins of manoeuvre in both the short and the long term. The ACP countries could therefore:
  - strengthen the rules of origin on products imported from the EU;
  - as regards the timetable:
    - progress step by step towards reciprocity, for each sector, depending on progress towards greater competitiveness. The timetable should make provision for the abolition of customs duties only if there are sufficient guarantees of a sector's competitiveness; otherwise, abolition should be postponed to a later date (this would introduce a kind of conditional liberalisation);
    - negotiate an extension of the implementation period beyond 12 years;
    - graduate tariff reductions over the implementation period (no sudden abolition of tariffs);
  - as regards flexibility measures, negotiate:
    - safeguard measures (temporary import ban, for instance) if European imports of liberalised products increase too quickly;
    - a revision clause: products "included" in liberalisation could be excluded at any time if there is a change in

European policy which makes EU imports more competitive than expected at the time of the decision to include them;

- a development clause: this would make it possible at any time to exclude a sector which a country wanted to develop, especially in connection with regional integration issues such as food security, and which was competing with European imports. This clause would be based on the principle that the long-term development strategies of countries should be taken into account. While there may be advantages in the short term in obtaining less expensive industrial machinery from the EU under an EPA, the "inclusion" of this machinery in the EPA should not undermine any opportunity for its local production.

Lastly, with a view to an "ideal" EPA on agriculture, all the alternatives to an EPA should be examined when negotiating an agreement, whether the EBA initiative, the GSP or even the possibility of obtaining a third WTO derogation in respect of the Cotonou regime.



### Box 1. WTO Agreement on Agriculture and developments at Hong Kong

The Agreement on Agriculture (AoA) which is part of the Marrakech Agreement signed in 1994 is intended to regulate trade in agricultural products and support policies. It covers three kinds of agricultural policy instrument: 1) border protection instruments (“market access” pillar); 2) export aids (“export competition” pillar) and 3) production aids (“domestic support” pillar). Other WTO agreements cover some aspects which may concern the agricultural sector directly, in particular the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement)<sup>21</sup> and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).

| Pillars            | AoA  | Developments at Hong Kong   |
|--------------------|--|---|
| Market access      | Negotiations on market access covered tariffication, i.e. the conversion of non-tariff measures into tariffs, tariff reductions and bound tariffs. The tariff reductions imposed on the developed countries are stricter (36% over six years in comparison with 24% over ten years for the developing countries, with no reduction commitment on the part of the LDCs). The Agreement also provides for the use of tariff quotas (TQs) at reduced rates of duty to ensure a minimum import threshold. It also contains a special safeguard clause allowing countries to manage, under certain circumstances, sudden increases in imports.  | <p>At Hong Kong, the members made provision for four reduction bands, but did not reach agreement on the threshold levels for the developed and developing countries. The final declaration introduces some flexibility into this pillar: sensitive products, special products (SP) and the special safeguard mechanism (SSM). Even though this flexibility needs to be laid down in more detail, some progress has been made from the July 2004 framework.</p> <p>As regards special products, the Hong Kong Declaration takes up the G33 proposal in which the LDCs have “the flexibility to self-designate an appropriate number of tariff lines as Special Products guided by indicators based on the criteria of food security, livelihood security and rural development”. Moreover, they “will also have the right to have recourse to a Special Safeguard Mechanism based on import quantity and price triggers”, although the precise arrangements have yet to be defined in detail.</p> <p>As regards the issue of preference erosion, along the lines of the framework agreement of July 2004, the Hong Kong Declaration recalls its importance, but gives no information on the way in which it should be treated.</p> <p>Lastly, in Hong Kong, the members accepted the opening up of the market of the developed and advanced developing countries to exports from the LDCs (not simply agricultural products) for 97% of all tariff lines.</p> |
| Export competition | Export subsidy commitments are intended to regulate export aid via a notification and reduction system accepted by common agreement (36% reduction over six years from 1996 for the developed countries and 24% over ten years for the developing countries in comparison with the base period 1986-1990). The subsidised export volume is also reduced by 21% over six years for the developed countries and 14% over 10 years for the developing countries (the LDCs benefiting from an exemption). Lastly, during the six-month implementation period, the developing countries are allowed to use subsidies under certain conditions in order to reduce the cost of marketing and transport of exports.  | Under this pillar, the main result since July 2004 has undoubtedly been the undertaking by the members at Hong Kong to “ensure the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect” ... by the end of 2013 ... “in a progressive and parallel manner ... so that a substantial part is realized by the end of the first half of the implementation period”.   |
| Domestic support   | Domestic support measures are classified by “box” (amber, blue and green), the trade-distorting effect decreasing from the “amber box” to the “green box”. Support entailing the most distortion (or support coming within the “amber box”) is calculated by means of the Total Aggregate Measurement of Support (Total AMS) for the base period 1986-1988 and is to be reduced by 20% over six years starting in 1995 for the developed countries and 13% over ten years for the developing countries (the LDCs being exempted). The AoA makes no provision for commitments to reduce domestic support measures in the “green box” (as support is not linked to production volumes or prices, or decoupled support) and the “blue box” (support granted under programmes limiting production, or partially decoupled support). Similarly, minimum support (“de minimis” support) is allowed (5% of agricultural production for the developed countries and 10% for the developing countries). | <p>The members agreed at Hong Kong to adopt three bands for the reduction of domestic support without, however, specifying the extent of the reductions to be made. They also undertook to carry out overall reductions of trade-distorting domestic support, reductions which should be at least equal to the total reductions of the “orange box”, the “blue box” and de minimis support. According to a further provision, moreover, “developing country Members with no AMS commitments will be exempt from reductions in <i>de minimis</i> and the overall cut in trade-distorting domestic support”.</p> <p>While the text makes provision for real reductions in the levels of support granted by the developed countries (without limiting this to the band between the bound rate levels and those applied) and makes provision for flexibility enabling the developing countries to grant domestic support, it does not contain any rule on “blue box” support. The declaration makes little progress as regards criteria for the “green box”.</p>  |

Source Box 1: adapted from V. Fautrel, C.B. Greenidge, ACP states on the approach to Hong Kong – an analysis of some key agricultural issues in the light of the 31st July WTO package, CTA, discussion document for Agritrade, January 2005, <http://agritrade.cta.int/en/content/view/full/1793>

## Box 2. Choice of negotiations between the WTO and the EPA

| Negotiating forum   | First choice  | Second choice   |
|---|---|---|
| <b>Access to the markets of developed countries (including the EU)</b>                        |   |   |
| 1. Reduction or elimination of residual tariff barriers                                       | <b>EPA</b><br>-The EU is the main export market for the ACP countries, in particular the African countries<br>-The EU reduction commitments can be more ambitious and include sensitive products in the framework of the CAP.   | <b>WTO</b><br>Any generalised reduction of tariffs at the WTO leads to an additional erosion of the long-standing trade preferences of the ACP countries with the EU in comparison with non-ACP countries.  |
| 2. Tariff escalation  | <b>EPA</b><br>-The EU is the main trading partner of the African countries (Caribbean and Pacific countries have closer relations with North America, and Australia and New Zealand, respectively).<br>-The EPA must reduce EU tariffs on all products, including sensitive products and agricultural products containing sensitive products.   | <b>WTO</b><br>-The elimination of the escalation of tariffs applied by trading partners other than the EU to ACP products must be accomplished in the framework of S&DT and enable a revision of the GSPs.<br>-Little progress has been made on producing a formula which takes account of this question.   |
| 3. Maintaining preferences  | <b>WTO</b><br>The issue for the ACP countries is to specify the products for which their trade preferences are strong, so that the generalised reduction of tariffs is either lower or slower in respect of those products. That must be linked with the negotiations on sensitive and special products. Thus, the ACP proposal on long-term preferences is that the products benefiting from these preferences should be declared sensitive products by the countries which grant the said preferences (in this case the EU for the preferences granted to the ACP countries). | <b>EPA</b><br>-The elimination of tariffs on the EU's sensitive products exported by non-LDC ACP countries, accentuates their preferences in relation to non-ACP countries.<br>-It nevertheless leads to an erosion of those of the LDC ACP countries which already benefit from zero rate tariffs (EBA initiative) in relation to non-LDC ACP countries.<br>-The consequences in terms of erosion of preferences for the ACP countries in relation to non-ACP countries of the CAP reform (Product protocols in the framework of the sugar and bananas CMOs) must be taken into account in a compensation mechanism. |
| 4. Rules of origin  | <b>EPA</b><br>The rules of origin must be made more flexible in the framework of the GSP, including for the EBA initiative, so as to enable LDCs truly to benefit from them.  | <b>WTO</b><br>The EPA negotiations can facilitate progress in the negotiations on the agreement on the rules of origin.   |
| 5. SPS standards and TBT  | <b>EPA</b><br>-It is difficult to make the standards more flexible, unlike the rules of origin.<br>-The development strand of the EPA could nevertheless provide the ACP countries with opportunities if they can obtain firm commitments from the EU in terms of technical assistance.   | <b>WTO</b><br>Better participation of the ACP countries in the international bodies that draw up the standards.   |
| 6. Improving competitiveness (removing supply constraints)                                    | <b>EPA</b><br>The negotiations on the development strand of the EPAs, which have not really started, could help to achieve this objective.  | <b>WTO</b><br>-The issues of development and technical assistance are part of the negotiations in several ways: the current round of negotiations has been described as a development round; technical assistance is provided for in the framework of S&DT, in particular to help LDCs to be in a position to comply with the new SPS standards.<br>-However, in practice these provisions are still very weak.   |
| <b>Competition on ACP markets</b>   |   |   |
| 7. The integration of S&DT in tariff reductions   | <b>WTO</b><br>The tariff reduction formula for developing countries cannot be the same as that used for developed countries (ACP and G33 proposal).   | <b>EPA</b><br>The tariff reduction formula must be defined in a way that is consistent with the designation of the products to be protected (sensitive and special products to be excluded from an EPA).  |
| 8. Products to be protected (sensitive products, special products to be excluded from an EPA) | <b>WTO</b><br>-The multilateral negotiations are particularly advanced on the question of special products (G33 proposal).<br>-The designation of special products must however be linked with the list of sensitive products that can be excluded from an EPA and are to be defined at regional level.   |   |
| 9. Safeguard measures   | <b>WTO</b><br>-The multilateral negotiations are very advanced also on this point (G33 proposal).   | <b>EPA</b><br>-The definition of a mechanism specific to EU imports can be based on that drawn up at multilateral level.  |
| 11. Redefinition of Article XXIV  | <b>EPA</b><br>-It is important to reach an agreement first of all between the ACP countries and the EU to clarify certain terms (how far to go on asymmetry and the length of the implementation period), in order to be able to table a sufficiently technical and detailed proposal at the WTO.   | <b>WTO</b><br>-Support a proposal to modify Article XXIV in agreement with the compromise found in the EPA negotiations, in order to ensure the stability of the compromise.  |
| 12. Domestic supports of developed countries  | <b>WTO</b><br>The WTO is the appropriate forum to deal with the question of the unfair competition of imports. Of note is the G33 proposal on special products stating that all products benefiting from amber and blue box export supports should be considered as special products.   |   |
| 13. Export supports of developed countries  | <b>WTO</b><br>Same.   |   |

Source Box 2: Table 8 in Alpha, A., B. Fauchaux, B. Hermelin and V. Fautrel, *WTO and EPA Negotiations: For an Enhanced Coordination of ACP Positions on Agriculture*, ECDPM Discussion Paper 70 with CTA, December 2005, [www.ecdpm.org/dp70](http://www.ecdpm.org/dp70)

## Notes

- 1 The General Agreement on Tariffs and Trade is the forerunner of the WTO.
- 2 See the July 2004 Package page on the WTO website [http://www.wto.org/english/tratop\\_e/dda\\_e/dda\\_package\\_july04\\_e.htm](http://www.wto.org/english/tratop_e/dda_e/dda_package_july04_e.htm)
- 3 It had already been proposed in the framework agreement of July 2004 that the developing countries, pursuant to the special and differential treatment granted to them, could designate an appropriate number (to be defined) of special products, based on criteria of rural development, poverty reduction and food security inequalities. This provision is confirmed in the Hong Kong Declaration.
- 4 Protection (whose form has yet to be specified) which may be triggered according to import volume and price level criteria.
- 5 Those types of domestic support for which there is no reduction requirement and which may even be increased.
- 6 European Commission, Agriculture statistics: ACP, briefing document - 12 December 2006, [http://trade.ec.europa.eu/doclib/docs/2006/june/tradoc\\_120303.pdf](http://trade.ec.europa.eu/doclib/docs/2006/june/tradoc_120303.pdf)
- 7 ACP Declaration on the 6th WTO Ministerial Conference, 29 November 2005, ACP/61/047/05 [FINAL].
- 8 For further information, see Doherty, M. 2006, *Negotiating Economic Partnership Agreements. Sanitary and Phytosanitary Measures* (ECDPM InBrief 13A), Maastricht: ECDPM with CTA - the Technical Centre for Agriculture and Rural Cooperation ACP-EU, [www.ecdpm.org/epainbriefs](http://www.ecdpm.org/epainbriefs) and Doherty, M. ACP-EU Economic Partnership Agreements. *Sanitary and Phytosanitary Measures, Discussion Paper 68 with CTA*, Maastricht: ECDPM. [www.ecdpm.org/dp68](http://www.ecdpm.org/dp68).
- 9 Cerrex, *Study of the consequences of the application of sanitary and phytosanitary (SPS) measures on ACP countries*, CTA Study, May 2003.
- 10 For a more complete analysis, see Alpha, A., Fauchaux, B., Hermelin, B. and V. Fautrel, *WTO and EPA negotiations: For an Enhanced Coordination of ACP Positions on Agriculture*, Discussion Paper 70 with CTA Maastricht: ECDPM, [www.ecdpm.org/dp71fr](http://www.ecdpm.org/dp71fr)
- 11 See Bassilekin, A., *New ACP-EC waiver at the WTO*, ECDPM Discussion Paper 71, March 2007, Maastricht: ECDPM, [www.ecdpm.org/dp71](http://www.ecdpm.org/dp71)
- 12 The Group of 33 comprises 42 countries, mainly developing countries, which are concerned about food security, livelihood security and rural development needs.
- 13 For the identification of special and sensitive products, see in particular the discussions at the regional CEDEAO-UEMOA seminar [www.hubrural.org/activites-thematiques/negociations\\_commerciales/seminaire\\_prod\\_sensibles\\_ouaga.php](http://www.hubrural.org/activites-thematiques/negociations_commerciales/seminaire_prod_sensibles_ouaga.php)
- 14 A European Commission study has estimated that, in the event of a 25% reduction of the European internal price, export revenue losses of over EUR 300 million should be expected (EC, *Reforming the EU's sugar policy*, Summary of impact assessment work, Commission staff working paper, Brussels, 2003, SEC(2003)).
- 15 Products such as dairy products, some fresh vegetables (carrots, lettuces, etc.), fresh fruits and fruit juice, for instance, were subject to customs duties under the Lomé Conventions. Recent developments occurred in this respect. The General Affairs and External Relations Council (GAERC) meeting held on 15 May 2007 endorsed a proposal made by the EU Commission on 4 April 2007 (IP/07/476). Its conclusions stipulate that "after certain transitional periods with special treatment for a restricted number of highly sensitive products (rice and sugar), all ACP States shall be granted full duty-free and quota-free market access". See <http://register.consilium.europa.eu/pdf/en/07/stog/stog9560.en07.pdf>
- 16 The rum protocol has been abolished.
- 17 See, for instance, the Commission press release of 4 January 2005 (IP/05/85). At the ACP Special Ministerial Conference on Sugar held in Fiji at the end of April 2007, ACP Ministers expressed great concern that with regard to sugar the EC full market access offer in the context of EPAs aims to abolish the Sugar Protocol as from October 2009 and is thus tantamount to a unilateral renunciation of the Sugar Protocol. See [http://www.acp.int/en/trade/sugar/fiji\\_sugar\\_communique\\_e.htm](http://www.acp.int/en/trade/sugar/fiji_sugar_communique_e.htm)
- 18 The protocol states that the price guaranteed to the ACP countries must be set by agreement between the two parties but does not specify what the level of this price should be.
- 19 See Rudloff, B. and J. Simons, 2004, *Comparing EU free trade agreements: Agriculture*. InBrief 6A, Maastricht: ECDPM, [www.ecdpm.org/inbrief6a](http://www.ecdpm.org/inbrief6a), and Rudloff, B. and J. Simons, 2004, *Comparing EU free trade agreements: Sanitary and Phytosanitary Standards*, InBrief 6B, Maastricht: ECDPM, [www.ecdpm.org/ftainbriefs](http://www.ecdpm.org/ftainbriefs).
- 20 Some of the elements discussed in this section appear in the EU's recent full market access offer to the ACP in the EPA negotiations, which the latest GAERC meeting endorsed. See the Commission's press release of 4 April 2007 (IP/07/476) and <http://register.consilium.europa.eu/pdf/en/07/stog/stog9560.en07.pdf>
- 21 See Stevens, C., "Le SPG: une solution au problème de Cotonou et des APE ?", *Éclairages sur les négociations*, July-August 2005; Stevens, C., 2005, "An alternative strategy for free trade areas: the Generalized System of Preferences" in Olufemi Babarinde and Gerrit Faber (eds), *The European Union and the Developing Countries*. Leiden, Koninklijke Brill BV: pp. 111–125.
- 22 See Doherty, M. 2006. *Negotiating Economic Partnership Agreements. Sanitary and Phytosanitary Measures* (ECDPM InBrief 13A, Maastricht: ECDPM with CTA – the Technical Centre for Agriculture and Rural Cooperation ACP-EU, [www.ecdpm.org/epainbriefs](http://www.ecdpm.org/epainbriefs) and Doherty, M. ACP-EU Economic Partnership Agreements, *Sanitary and Phytosanitary Measures* (Discussion Paper 68 with CTA), Maastricht: ECDPM, [www.ecdpm.org/dp68](http://www.ecdpm.org/dp68)



## Selected publications and information sources on agriculture

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- Alpha, A., B. Faucheux, B. Hermelin and V. Fautrel, WTO and EPA Negotiations: For an Enhanced Coordination of ACP Positions on Agriculture, ECDPM Discussion Paper 70 with CTA, December 2005, [www.ecdpm.org/dp70](http://www.ecdpm.org/dp70)
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[www.acp-eu-trade.org/library](http://www.acp-eu-trade.org/library)

Agritrade : <http://agritrade.cta.int/>

Inter-réseaux – Développement rural [www.inter-reseaux.org](http://www.inter-reseaux.org)

Expanding Exports Helpdesk, service de promotion des exportations mis en place par l'UE et fournissant des conseils aux pays en développement souhaitant exporter vers l'UE : [http://export-help.cec.eu.int/index\\_fr.html](http://export-help.cec.eu.int/index_fr.html)

The Doha Declaration, explanation of the chapters on agriculture and TRIPS: [http://www.wto.org/English/tratop\\_e/dda\\_e/dohaexplained\\_e.htm](http://www.wto.org/English/tratop_e/dda_e/dohaexplained_e.htm)

Information on the agriculture negotiations at the WTO [http://www.wto.org/english/tratop\\_e/agric\\_e/negoti\\_e.htm](http://www.wto.org/english/tratop_e/agric_e/negoti_e.htm)

### EPA *InBrief* series for 2006-2007

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