



Partnership under pressure

an assessment of the European Commission's
conduct in the EPA negotiations

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This report was written by Mari Griffith (Tearfund) and Sophie Powell (Traidcraft), with input from Matt Griffith (CAFOD), Tim Rice (Action Aid), Tzvetelina Arsova (Christian Aid), Paul Cook (Tearfund), Mike Gidney (Traidcraft) and Paul Goodison (European Research Office). Thanks to Kim Bizzarri for research. The publication of this report has been made possible in part by financial support from the European Union.

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Abbreviations

ACP	African, Caribbean and Pacific countries
AU	African Union
COMESA	The Common Market for Eastern and Southern Africa
CPA	The Cotonou Partnership Agreement
EBA	Everything But Arms
EC	European Commission
ECOWAS	Economic Community of West African States
EDF	European Development Fund
EPA	Economic Partnership Agreement
ESA	Eastern and Southern Africa
EU	European Union
FTA	Free Trade Agreement
GSP	Generalised System of Preferences
JMTC	Joint Ministerial Trade Committee
LDC	Least Developed Country
MEP	Member of European Parliament
NGO	Non-Governmental Organisation
NSA	Non-State Actor
PACPS	Pacific ACP States
RNF	Regional Negotiating Forum
SADC	Southern Africa Development Community
UNECA	United Nations Economic Commission for Africa
WTO	World Trade Organisation

Executive summary

Economic Partnership Agreements (EPAs) are being negotiated between the EU and countries in Africa, the Caribbean and the Pacific (ACP) within the framework of the Cotonou Partnership Agreement (the Cotonou Agreement). The Cotonou Agreement is clear that the primary objective of any EU-ACP trade agreements is to be development and that negotiations are to be characterised by the principle of partnership.

However, this report shows that the European Commission (EC) is negotiating EPAs with the ACP in a way that fundamentally breaks the letter and spirit of the Cotonou Agreement.

From the start of negotiations, the EC and ACP's vision of what a future ACP-EU trade agreement should look like have been very different. Particularly in the areas of trade liberalisation, the Singapore issues (investment, public procurement and competition policy) and development, the approach of the EC and ACP are poles apart. The ACP have consistently raised concerns about these fundamental differences and tried to resist pressure from the EC. However, the EC is increasingly using its economic and political power to force its own vision of EPAs onto the ACP. This report reveals the following eight ways in which the EC's conduct is undermining the principle of partnership in the EPA negotiations:

- The EC has dismissed pro-development proposals for EPAs coming from the ACP regions and failed to recognise their right to develop their own policies and determine their policy priorities.
- The EC has shown disregard to ACP institutions, processes and politicians. The report focuses particularly on the EC's disregard for the African Union, United Nations and individual ACP governments.
- The EC has been determined to force the Singapore issues onto the negotiating table. While in other trade agreements it is negotiating, the EC admits that this is an offensive interest, in EPA negotiations the EC is forcing these issues under the pretence of development rhetoric.
- The EC is manipulating the prospect of aid, implicitly and explicitly linking future development assistance to concessions made by the ACP in EPAs. Not only is this an unfair tactic in itself, this report reveals major concerns as to the strength of the promises of increased assistance.
- If false promises of aid are the EC's carrot, their stick is the threat of loss of market access if EU-led EPAs are not concluded before the end 2007 deadline. Despite the fact that the Reviews of the EPA negotiations from Africa and the Pacific clearly concluded that more time is needed for the negotiations, the EC is threatening the loss of market access for non-LDC countries that will not conclude in time. This is in direct contravention to the EC's obligation under the Cotonou Agreement to provide at least equivalent market access to the ACP on 1 January 2008.
- The EC has consistently refused to examine alternatives to EPAs despite the fact that the ACP have repeatedly requested them and research has shown they exist.

- The EC has excluded the dissenting voices of actors mandated by the Cotonou Agreement to be actively involved in the EU-ACP so-called ‘partnership’. The pro-development interventions of parliamentarians and member states have been dismissed.
- Despite statements by ACP governments and the conclusions of the EPA Review that pro-development agreements cannot be negotiated within the current timeframe, the EC is putting the end of year deadline before development and rejecting clear calls from the ACP for more time.

In light of recent developments, this report also assesses whether the Commission’s approach is becoming more flexible and pro-development. It reveals that, behind the rhetoric, there is little substance to any purported new flexibility on the part of the EC.

In response to the EC’s conduct, ActionAid, CAFOD, Christian Aid, Tearfund and Traidcraft call on EU member states to rein in the Commission and insist upon a fundamentally different approach. Specifically, member states must call on the EC to:

- Make public the precise process undergone in order to arrive at the official EPA review conclusions; make available all background reports and inputs, and facilitate a multi-stakeholder dialogue to discuss the review inputs, conclusions and subsequent implementation of improvements to substance and process of negotiations.
- Apply the legal guarantees under the Cotonou Agreement that the equivalent level of Cotonou preferences will be extended to the ACP until a suitable pro-development ACP-EU trade arrangement is found, so as not to disrupt trade.
- Immediately begin a genuine exploration of alternatives to currently proposed EPAs, including examining how to make an enhanced and binding GSP+ option available and workable for the ACP.
- Recognise that the ACP will continue to require substantial development assistance to address their supply side constraints to trade, beyond the next EDF, and take steps to ensure that such funding will be guaranteed. Most importantly, this should be backed up with a clear statement that such support is in no way contingent upon signing any ACP-EU trade agreement.
- Drop all demands to negotiate on all trade-related issues, as they are not subject to WTO deadlines, unless explicitly requested by the ACP.
- Build in the time and resources for independent impact assessments and stakeholder consultations to be conducted on all draft proposals for EU-ACP trade agreements, backed up by a public undertaking that no EU-ACP trade agreement will be finalized until such impact assessments clearly demonstrate that its proposed design will be pro-development. A mechanism to monitor impacts and progress toward to development objectives should also be put into place.

Introduction

The European Union (EU) is negotiating Economic Partnership Agreements (EPAs) with 76 countries in Africa, the Caribbean and Pacific (the ACP). Negotiations began in 2002 and are taking place between the EU and six regional groupings of ACP countries: four in Africa, one in the Caribbean and one in the Pacific.

EPAs are being negotiated within the framework of the Cotonou Partnership Agreement (from now on referred to as the Cotonou Agreement) signed between the EU and ACP in 2000. The Cotonou Agreement has the principal objectives of reducing and eventually eradicating poverty, consistent with the objectives of sustainable development and the gradual integration of ACP countries into the world economy.¹ It states that the aim of future trade cooperation between the EU and ACP is *'fostering the smooth and gradual integration of the ACP States into the world economy, with due regard for their political choices and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the ACP countries.'*²

Thus EPAs – as envisaged in the Cotonou Agreement – should be driven by different motives to those of traditional trade negotiations, in that their overarching objective is supposed to be development.

In addition to its primary development focus, the Cotonou Agreement also prioritises the principles of genuine partnership, ownership, and participation of state and non-state actors. The first of these 'fundamental principles' is that EC-ACP cooperation should be exercised on the basis of *'equality of the partners and ownership of the development strategies'*; that *'the ACP States shall determine the development strategies for their economies and societies in all sovereignty'*; and that *'the partnership shall encourage ownership of the development strategies by the countries and populations concerned.'*³ The second 'fundamental principle' stresses that *'apart from central government as the main partner, the partnership shall be open to different kinds of other actors in order to encourage the integration of all sections of society, including the private sector and civil society organisations, into the mainstream of political, economic and social life.'*⁴ So, in the Cotonou Agreement at least, process does matter.

However, as this report outlines, there is overwhelming evidence to show that the European Commission (EC), mandated by EU member states to negotiate on their behalf, is failing to conduct negotiations in a way that will promote development and is abusing the principle of partnership. As this report shows, the EC has consistently broken the spirit and the letter of the Cotonou Agreement.

An opportunity to address these issues was available via the EPA Review conducted in late 2006 and early 2007. The Cotonou Agreement committed the EU and ACP to carry out a formal and comprehensive review of the EPA negotiations in 2006 to ensure that no further time was needed for preparations or negotiations.⁵ In April 2006, following the Commission's insistence that the Review be 'quick and light',⁶ the European Council adopted Conclusions mandating the Commission that the EPAs Review should be 'formal and comprehensive with participation from the ACP side' and that it should cover 'both trade and development aspects of the EPAs, including cross-cutting issues affecting the development prospects of all ACP countries'.⁷ The Review therefore offered a vital opportunity to take stock of the negotiations and

1 Cotonou Partnership Agreement, Article 1(2)

2 Cotonou Partnership Agreement, Article 34(1)

3 Cotonou Partnership Agreement, Article 2: Fundamental Principles

4 Ibid

5 Cotonou Partnership Agreement, Article 37(4)

6 Commission officials had indicated this in a series of meetings with the ACP, EU member states and NGOs

7 EU Council Conclusions on Economic Partnership Agreements, Luxembourg, 10 April 2006

to ensure that the development objective and partnership principle of the Cotonou Agreement are being respected and delivered.

However, since these Council Conclusions were adopted, there has been little engagement by member states in the Review process. When member states and other stakeholders have tried to engage, it seems that they have found the Commission unresponsive and uncooperative. The Review process was described by one member state official as ‘opaque’,⁸ and by a European Parliament representative in the following way: *‘There is often an absence of participation and also an absence of information and I think this is true of the review which is going on at the moment ... the Parliamentary dimension of that is very unclear and attempts to try and get the Commission to be more specific about it are often doomed to failure’.*⁹

The official Review of EPA negotiations is being adopted at the ACP-EU Council meeting, on 24 and 25 May, but a core element will be missing: an assessment of the conduct of the EC in negotiations.

Given the absence of scrutiny in the official Review process, this report aims to assess the conduct of the Commission, and to reveal the extent to which they are working to achieve the development objectives and partnership principles of the Cotonou Agreement.

Section 1 gives an overview of the context of EPA negotiations, showing how the ACP and EC have very different visions both of what an EPA should look like, and how development can be achieved. Key areas of concern to ACP governments with regard to the content of EPAs are highlighted and the fundamental problems raised by the lack of impact assessments in the negotiations discussed.

Having set the scene of the negotiations, in Section 2 we examine the conduct of the EC in the EPA negotiations. We explore a range of tactics and strategies being used by the Commission that not only undermine the partnership principle of the Cotonou Agreement but are also being used to put immense pressure on the ACP to sign up to unfair trade agreements. In Section 3 we examine recent developments in the Commission’s approach and address the claims that its position has moved towards a more flexible and pro-development stance. We conclude with recommendations to member states and the Commission.

Methodology

This report has used a range of sources and materials: internal documents and formal proposals from both the ACP and EC have been analysed; public speeches and statements as well as ‘behind the scenes’ communications have been examined; and a range of stakeholders have been interviewed.

⁸ Private meeting with a member state official, January 2007

⁹ Alexander Woolcombe, Political Advisor to Robert Sturdy MEP, speaking at a High-Level Conference on EU-ACP Trade Relations: The Development Challenge of Economic Partnership Agreements, Brussels, 12 October 2006

1 Setting the scene: the lost objective of development

1.1 The EC and ACP: two very different visions

'We [the ACP and the EU] have a philosophical difference of opinion about how development can be achieved.' ACP Ambassador, February 2007¹⁰

While the EC and the ACP both stress that EPAs are 'tools for development,' as the negotiations have progressed, profound differences have emerged between the two parties as to how development is to be achieved.

The EC's focus in these negotiations is on establishing free trade agreements (FTAs) involving liberalisation of ACP goods, services and investment markets, at a level that goes far beyond anything on the table at the World Trade Organisation (WTO) and beyond what the ACP believe is suitable for their own development. For the EC, development will be driven by trade liberalisation and more stringent rules in new 'trade-related areas,' including the so-called 'Singapore issues' of investment, public procurement and competition policy.

The EC's broader vision for FTAs is clearly set out in its strategy to increase its own competitiveness around the world: *Global Europe: Competing in the World* (European Commission 2006). This spells out that *'Free Trade Agreements (FTAs), if approached with care, can build on WTO and other international rules by going further and faster in promoting openness and integration, by tackling issues which are not ready for multilateral discussion and by preparing the ground for the next level of multilateral liberalisation. Many key issues, including investment, public procurement, competition [...] which remain outside the WTO at this time can be addressed through FTAs.'*¹¹ The document makes clear that the Singapore issues are central to achieving increased market access and promoting EU competitiveness around the world, and the EC is pushing these issues strongly in the context of negotiations on new generation FTAs with groups of Asian and Latin American countries.¹²

This agenda of deep liberalisation and the inclusion of issues outside the ambit of the WTO is also being pushed by the EC in EPAs. The ACP, on the other hand, have expressed grave concern over both the trade liberalisation aspects and the commitments in new trade-related areas that EC-led EPAs would entail.

Trade liberalisation

EPAs demand 'reciprocal' market opening from the ACP – in order to maintain the access they currently have into EU markets, the ACP have to 'reciprocate' and open up markets in return. The ACP have expressed reservations from the start about how reciprocity would support the core objective of development.

¹⁰ Personal communication with an ACP negotiator, February 2007 (Negotiator requested that quotes were not attributable)

¹¹ European Commission (2006) *Global Europe: Competing in the world, A contribution to the EU's Growth and Jobs Strategy*, European Commission, Brussels

¹² Specifically, India, Republic of Korea, ASEAN, Central America and Andean nations

At the beginning of the negotiating process, the ACP collectively stated that:

‘Given the possible adverse effect of reciprocity on domestic production and fiscal stability in ACP states, the latter cannot a priori accept to provide reciprocity in EPAs with the EU.’ ACP Guidelines for the negotiation of Economic Partnership Agreements, July 2002¹³

As negotiations have proceeded, these concerns have not abated. For example:

‘There are fears that the liberalisation of trade and investment by the gradual removal of trade barriers between the two economic blocs would further widen the gap between the two and probably destroy the little development that some ACP countries have managed to achieve over the past years.’ Aliyu Modibo Umar, Minister of Commerce and Industry for Nigeria, October 2006¹⁴

‘This type of trade liberalisation between unequal partners has historically proven to be an ineffective development tool and even counterproductive. Such a policy of trade liberalisation could inhibit our countries’ ability to reduce poverty and ensure sustainable development.’ Ato Girma Birru, Minister of Trade and Industry for Ethiopia, November 2006¹⁵

13 ACP Guidelines for the negotiation of Economic Partnership Agreements, ACP/61/056/02, Brussels, 5 July 2002

14 Aliyu Modibo Umar, Minister of Commerce and Industry, Nigeria, speaking at a High-Level Conference on EU-ACP Trade Relations: The Development Challenge of Economic Partnership Agreements, Brussels, 12 October 2006

15 Ato Girma Birru, Minister of Trade and Industry, Ethiopia, speaking at the opening of the 9th ESA RNF, UNECA building, Addis Ababa, 2 November 2006

16 Mr Jayakrishna Cuttaree, Mauritian Trade Minister, quoted in an ACP press release, Addis Ababa, February 2004

17 African Union Conference of Ministers of Trade, 4 Ordinary Session, Nairobi Declaration on Economic Partnership Agreements, 14 April 2006

The trade-related (‘Singapore’) issues

In regard to its other new generation FTAs, the EC is explicit that Singapore issues are an offensive interest, necessary for Europe to achieve global competitiveness. In the context of EPAs, however, the EC claims to be insisting on these issues in order to achieve ACP development objectives. Neither WTO compatibility nor the Cotonou Agreement itself impose any obligation on the ACP to negotiate bi-regional rules on investment, competition, government procurement or services in EPAs. Apart from services, these issues remain outside of the WTO ambit. In the Cotonou Agreement there is only an agreement to discuss ‘cooperation’ on these issues, but no commitment to agree binding rules in the context of EPAs.

In the area of investment, some ACP regions have requested financial resources to build harmonised regional frameworks, or called for the EU to play a more active role in investment promotion. But such initiatives need not be linked to bi-regional investment liberalisation commitments. Indeed, most of the ACP have long held deep concerns about the proposed inclusion of these issues in the EPA negotiations:

‘ACP states could not agree that subjects that have been rejected at the WTO should be brought to the EPA negotiations, in a back door way of influencing their eventual inclusion into the WTO agenda.’ Mr Jayakrishna Cuttaree, Mauritian Trade Minister, February 2004¹⁶

‘On the issues of investment policy, competition policy and government procurement [...] we reaffirm that these issues be kept outside the ambit of EPA negotiations. [...] Regional instruments can be developed for the sole mutual benefit of member states of regional groupings.’ African Union Trade Ministers, April 2006¹⁷

'We have our own agenda on internal liberalisation of services, investments, public procurement and we do not want these so called 'Singapore issues' to be part of EPAs. We are not in a position to negotiate with the EU on these themes.' Erastus Mwencha, Secretary General of COMESA, March 2007¹⁸

18 Mr Erastus Mwencha, Secretary General of COMESA, speaking at a meeting organised by Skillshare International, London, 20 March 2007

The ACP's priorities

In contrast to the EU's approach, the ACP want priority to be accorded to the building and consolidation of regional ACP markets, and the promotion of investment in production to serve these expanded regional markets prior to any comprehensive trade liberalisation towards the EU. They are calling for increased development resources from the EU, to enable them to put in place the production and infrastructure improvements necessary for them to benefit from trade opportunities. They argue that an FTA of the kind proposed by the EU would pose grave threats to their domestic and regional markets.

19 UNECA (2006) *EPA Negotiations: African Countries Continental Review*, Draft Review Report, 18 December 2006, page 9

20 UNECA (2006) *EPA Negotiations: African Countries Continental Review*, Draft Review Report, 18 December 2006

21 Ibid page 21

22 Ibid page 68

23 Ibid page 25

24 Mamadou Diop, Minister of Trade for Senegal, speaking at a High-Level Conference on EU-ACP Trade Relations: The Development Challenge of Economic Partnership Agreements, Brussels, 12 October 2006

1.2 The absence of development

'There is still no confidence yet in the ability of EPAs to be pro-development.' UNECA review of EPA negotiations, December 2006¹⁹

The ACP countries have repeatedly stated concern about the absence of development provisions from EC proposals and have called into question the EC's commitment towards the development aspects of the EPA negotiations.

The recent review of the EPA negotiations in Africa, conducted by the United Nations Economic Commission for Africa (UNECA),²⁰ and endorsed by African Union Trade Ministers (Addis Ababa, January 2007), produced damning conclusions about the development content of EPAs:

- For the Central Africa region, UNECA concluded that there was a *'failure of the negotiations to have a development focus' and an 'imbalance in the negotiations towards a focus on trade liberalisation.'*²¹
- For the East and Southern Africa (ESA) region, UNECA found that *'it is amply evident that the conclusion of EPAs will not only miss the agreed time frame ... but issues vital for the development of the ESA countries still remain un-addressed by the EU in a manner that is satisfactory.'*²²
- For the Southern Africa region, UNECA observed that *'the benefits that SADC region expects [...] are not guaranteed to be substantial enough to outweigh the potential costs.'*²³

As the following quotes illustrate, these concerns are by no means new:

'If we are to take stock of our progress we are forced to admit that our development needs and concerns have not been taken on board as they ought to be by the European Union.' Mamadou Diop, Minister of Trade for Senegal, October 2006²⁴

‘... in view of the complete lack of delivery so far on the development component of EPA negotiations, [we] request the EU Council and its EU Member States to urgently review the negotiating directives of June 2002 and the current negotiating structure.’ ACP Trade Ministers, May 2006 ²⁵

‘We express our profound disappointment at the stance taken by negotiators of the European Commission in so far as it does not adequately address the development concerns that must be the basis of relations with Africa. We urge our negotiating partners to clearly demonstrate the development content of the proposed agreements...’ AU Trade Ministers, April 2006 ²⁶

‘We urge the EU to ... put the development dimension first in the EPA negotiations, and allow each ACP State and Region the flexibility to make its own decisions on the timing, pace, sequencing and product coverage of market opening in line with an individual country’s national development plan and poverty reduction strategies.’ ACP Ministers of Finance and Economic Affairs, April 2006 ²⁷

However, despite such fundamental concerns with the content of these agreements, the EC has been placing immense pressure on ACP regions to conclude EPA negotiations by the end of the year (as we explore in Section 2).

- 25 ACP Trade Ministers joint statement at the 83rd session of the ACP Council of Ministers, Port Moresby, May 2006
- 26 African Union Trade Ministers’ Declaration on EPAs, Nairobi, 14 April 2006
- 27 Declaration from the 3rd Meeting of the ACP Ministers of Finance and Economic Affairs, ACP/81/031/06, Brussels, 28 April 2006
- 28 Mamadou Diop, Minister of Trade for Senegal speaking at a High-Level Conference on EU-ACP Trade Relations: The Development Challenge of Economic Partnership Agreements. Brussels, 12 October 2006
- 29 Cotonou Partnership Agreement, Article 37(7)
- 30 UNECA (2006) *EPA Negotiations: African Countries Continental Review*, Draft Review Report, 18 December 2006, page 53

1.3 The lack of impact assessments

‘Obtaining a road map without prior assessment of possible EPAs’ impact on our economies is nonsensical and still it is a fact. Committing to such an EPA is committing yourself to a blank cheque and committing your whole population to a blank cheque.’

Mamadou Diop, Minister of Trade for Senegal, October 2006 ²⁸

The Cotonou Agreement says that *‘[EPA] negotiations shall take account of the level of development and the socio-economic impact of trade measures on ACP countries, and their capacity to adapt and adjust their economies to the liberalisation process.’* ²⁹ If negotiations are to do this, thorough assessments are needed of the impact of such potential agreements on the populations and environment of ACP countries.

However, one of the key difficulties that ACP governments face is that much of the negotiation is taking place in the absence of thorough cost/benefit analysis of the impact that these agreements would have. Indeed, the UNECA review of the West African EPA negotiations confirmed that the West African region (ECOWAS) – less than a year before negotiations are set to conclude – is still in a position of suggesting that *‘an impact study should analyse the costs and benefits to developing countries of not signing an EPA.’* ³⁰ Without this analysis, ECOWAS governments cannot make an informed choice, based on an understanding of the costs or benefits, as to whether to sign up to an EPA.

The same appears true in other regions. For example, the provisional results of the ESA region review state that: *‘The ESA countries are generally unprepared for the*

*conclusion of the EPA negotiations ... Some have not carried out impact assessment studies or those that have been carried out have been substandard and cannot help in guiding the country positions.'*³¹

The point was also made by Dr Aliyu Umar, Minister of Commerce and Industry for Nigeria, speaking on behalf of all ACP Ministers in March 2007: *'The Impact Assessment Studies which ought to provide the compass or direction for the navigation of the negotiations are in many regions not yet completed, and those that have been completed through the EU's funding have been rejected by the EU itself. At the last meeting in Brussels (1st March 2007), Commissioner Louis Michel was short of referring to these studies as 'nonsense'. If this is the case, then upon what scientific basis is the ACP to negotiate EPAs? How then are the regions expected to conclude an agreement that would address their socio-economic problems?'*³²

This quote highlights a key problem with the Commission's approach to impact assessments of trade agreements. As the impact assessments are not binding, the EC can reject the findings of assessments when it contradicts its own ideology and vision, or it can dismiss the very notion that impact assessments should inform the direction of negotiations.

Peter Thompson, a senior EC official, has downplayed the importance of impact assessment studies, by stating for example that *'yes there are studies outstanding. But what are these studies telling us? The studies tend to be divorced from the shape of negotiations where they could be – and distant from the natural outcome of negotiations. So, we've got to do these in tandem with negotiations.'*³³

This argument is used by the Commission to justify its dismissal of the impact assessments that have been done. Yet, they will not allow the time in negotiations for the ACP to assess the impact of the detailed agreements on the table. This begs the question as to whether impact assessments are seriously valued by the Commission or whether they are seen as a bureaucratic rubber stamping exercise.

31 Review of the ESA EPA negotiations with the European Union consistent with the Cotonou Agreement Article 37.4, Draft Final Report, page 31

32 Dr Aliyu Umar, Minister of Commerce and Industry for Nigeria, speaking on behalf of all ACP Ministers at the EU-ACP ministerial meeting in Bonn, 13 March 2007

33 Peter Thompson, speaking at the African Union Trade Ministers meeting, Addis Ababa, January 2007

2 Undermining partnership

'The analysis raises a fundamental issue about the seriousness of the EC as a negotiating partner. One cannot help feeling that the EC is keen to promote its own interests at the cost of the weaker partner. [...] This is reflected in the way it is blocking progress on issues of interest to the ESA region, reneging on pledges and commitments made in the context of the CPA [Cotonou Agreement], ignoring deadlines and pushing its own agenda heedless of the resistance from the ESA countries.' Draft review of the ESA negotiations, December 2006 ³⁴

'It is common knowledge, and colleagues have informed me that the approach of the Commission has often been forceful and unconciliatory in its approach to the negotiations.' David Martin MEP, March 2007 ³⁵

³⁴ Review of the ESA EPA Negotiations with the European Union consistent with The Cotonou Agreement, Article 37.4, Draft Final Report, December 2006

³⁵ Personal communication with David Martin MEP, March 2007

Having briefly outlined in Section 1 some of the key issues of context and content in the EPA negotiations, we turn now to look at the Commission's conduct. Our research shows a range of methods used by the EC to undermine ACP positions in negotiations and to put pressure on the ACP to adopt its own aggressive market opening agenda within a very tight deadline.

2.1 Dismissive approach to ACP proposals

Perhaps one of the most fundamental ways in which the EC is undermining the ACP – and in so doing breaking the spirit of partnership in the Cotonou Agreement – is their dismissal of ACP proposals for EPAs while forcing their own agenda, despite clear and consistent opposition from regions. A few examples illustrate this point.

Example 1 The Pacific region

The Pacific region or PACPS (Pacific ACP States) proposed a modality for a Multilateral Fisheries Partnership Agreement in an attempt to address their fisheries issues and develop a collective regional resource management policy for their fish stocks. The Pacific's proposal was based on promoting closer and more effective regional economic integration. However, the EC rejected the PACPS proposal in favour of a bilateral approach to fisheries with agreements which pitch some of the smallest nations in the world against one of the most powerful economic blocs.

According to Mr Kaliopate Tavola, former Foreign Minister of Fiji and chief negotiator for the Pacific region, *'The polarity in the position of the two parties has given the impression to the PACPS that the EC is only concerned with access to the region's stock of tuna to provide sustenance for its population given the scarcity of fisheries resources in its domestic waters. Furthermore, the EC has no appreciation of the interests of the PACPS to*

develop these collective resources for their much-needed national and regional development to facilitate their integration to the global economy.’³⁶

The Commission also rejected a number of other Pacific proposals. In reply to the Commission’s response to the Pacific region’s draft EPA negotiating text, Minister Keil of Samoa wrote, on behalf of the Pacific region, *‘While adding detailed provisions on trade facilitation, competition policy and harmful tax policies that the Commission wishes to see included in an EPA, the Commission has offered little, if any, positive response on the key substantive issues of basic importance to the PACPS. Of course we anticipate modifications of our negotiating text. However, the comment by Messrs Manservisi and Falkenberg that the text will require ‘substantial amendment before it can become a mutually agreeable EPA’ is somewhat loaded to the extent that we can anticipate major review and write-up. I wonder how much more of the benefits will be lost in that exercise.’³⁷*

He goes on to say that the Pacific has prepared detailed, innovative and WTO-compatible proposals but that *‘to date, by and large they have been met with what certainly appear to be rigid red lines and inflexible positions that do not reflect any genuine willingness to think creatively and arrive at a mutually acceptable solution that addresses the unique needs and circumstances of the ‘P’ in ACP.’*

36 Personal communication with Kaliopate Tavola, Former Minister of Foreign Affairs and External Trade for Fiji and Chief Negotiator for the Pacific region ACPs, February 2007

37 Hans Joachim Keil, letter to Peter Mandelson, 21 December 2006

38 A preference scheme for LDCs giving them duty- and quota-free access to Europe’s markets for all products except arms and munitions. The only other exceptions are sugar and rice for which LDCs will be given duty- and quota-free access in 2009

39 EC comments on draft ESA EPA text, September 2006

Example 2 The East and Southern Africa region

The ESA region submitted a proposal to the Commission, which was drawn up as a basis for detailed discussions. The EC’s informal comments were telling.

The Commission was dismissive of ESA’s proposals for pro-development provisions in the EPA. ESA proposed that given their economic vulnerability, least developed countries (LDCs) should be exempt from tariff liberalisation commitments in the EPA and their market access under the EU’s Everything But Arms scheme³⁸ should be bound and made contractual. The Commission’s comments on both these proposals were simply *‘Not acceptable’*. ESA proposed that economic reforms by ESA countries should be based on the countries’ development, measured by benchmarks derived from national and regional development plans. The Commission said this was *‘Not acceptable’*. ESA also proposed a regular review process to assess progress towards development benchmarks. In this proposal, if development benchmarks were not achieved, ESA countries could apply for the derogation from tariff reduction commitments and have the flexibility to raise as well as reduce tariffs. The Commission responded: *‘As it is formulated, this review clause is not acceptable. While we are not against well defined review clauses, we think that they should be limited in their scope and mainly aimed at accelerating or extending liberalisation.’³⁹*

Meanwhile, the EC failed to engage constructively on the underlying issues of concern to countries in the ESA region. For example, the EC has offered no proposals on how to reconcile the tensions between reciprocal regional agreements and the rights of LDCs to non-reciprocal trade preferences (75 per cent of the ESA region’s citizens live in LDCs). Nor have they adequately addressed the link between EPA obligations and the very real supply side constraints on competitiveness in ESA countries.

Through its dismissive attitude towards proposals designed to grapple with these underlying concerns, the EC is not only failing to recognise the right of ACP countries

to devise their own policies and policy priorities, but it is violating the partnership principles and underlying development objectives of the Cotonou Agreement.

2.2 Disregard for ACP institutions and processes

In addition to its dismissive attitude towards proposals, the EC has shown disrespect for ACP institutions, processes and politicians.

The African Union

The African Union (AU), whilst not formally leading on negotiations, is a key recognised forum representing the interests of African governments. African trade ministers have mandated the AU Commission to play a coordinating role, for the four African regions negotiating EPAs. The AU is also a key driver in the continent's regional integration processes – which EPAs are supposed to promote – with the ultimate objective of reaching pan-African integration by 2025 under the African Economic Community. Under the auspices of the AU, African trade ministers meet on a regular basis to determine the political direction of pan-African positions on trade matters. Agreed positions are captured in formal declarations, politically endorsed by African ministers. AU statements issued in Cairo (2005),⁴⁰ Nairobi (2006)⁴¹ and Addis Ababa (2007)⁴² have all called for the EC to provide alternatives to EPAs, as well as for Singapore issues to be outside of EPA negotiations. Yet such statements are regularly ignored by the European Commission, or dismissed as not representative of the true positions of African governments.

As the African Union Commission trade policy advisor Dr Francis Mangeni recently pointed out, *'The statements of African Union Trade Ministers represent all African member states and enjoy wide support from the EU member states, so we wonder why the European Commission does not recognise these statements.'*⁴³

United Nations

Similarly, the EC has routinely dismissed as inaccurate or irrelevant the extensive research on EPAs from Africa's leading economic research outfit – the United Nations Economic Commission for Africa. UNECA has produced numerous studies whose conclusions suggest that the EC's vision for EPAs would reduce welfare, undermine regional integration and impede African efforts to industrialise.⁴⁴ These studies have been swept aside by the EC, which fails to replace them with any alternative compelling evidence of the benefits of EPAs.

Equally worrying is the EC's lack of response to the African-led inputs into the EPA Review. UNECA was mandated by the ACP Secretariat to conduct an independent review of the four African regions' progress on EPAs, with regard to the possibility of meeting the deadline and the extent to which negotiations were on course to deliver pro-development agreements. This took place during late 2006 in the form of face to face interviews with representatives of regional negotiation forums (RNFs), in-depth interviews in selected countries, as well as through written questionnaires used to

40 African Union Ministerial Declaration on EPAs, Cairo, June 2005

41 African Union Trade Ministers' Declaration on EPAs, Nairobi, April 2006

42 African Union Ministerial Declaration on EPAs, Addis Ababa, January 2007

43 Francis Mangeni, speaking at an Open Europe Seminar: *The EU, Trade and Development: Are Economic Partnership Agreements the right way forwards?* London, 26 March 2007

44 For example, Karingi et al (2005) *Economic and Welfare Impacts of the EU-Africa Economic Partnership Agreements*, UNECA, ATPC Work in Progress, No 10

collect opinions of additional RNF representatives and civil society, private sector and government representatives on the National Development Trade Policy Forums. Statistical data was also collected through RNFs, country missions and an experts group meeting attended by representatives of 40 African countries. In this way views were collected from government, civil society and private sector stakeholders across African regions in a fully consultative manner – fulfilling the Cotonou Agreement’s fundamental principles about good, participatory process. The resulting draft conclusions were fully endorsed by African trade ministers at the AU meeting in Addis Ababa in January 2007.

45 Ken Ukaoha, Report of the 7th ACP-EU Joint Ministers of Trade Committee Meeting, Brussels, 1 March 2007

Yet perhaps because of the damning nature of the UNECA Review conclusions – quoted elsewhere throughout this report – they have once again been dismissed, not deemed by the EC to be part of the official Review process.

A particular irony is that, while the African reviews – in all four African regions – clearly stated that no region was in a position to conclude a pro-development agreement within the end 2007 timeframe; and while the ‘official Review’ results are yet to be shared (as of May 2007), the Commission has nevertheless claimed to have secured agreements from all ACP regions that negotiations will indeed be concluded on time. Even under the EC’s most narrow definition of what the EPA Review should be for – merely to assess whether negotiations could be concluded before the waiver expiry (though the EU member states and the ACP wanted something much wider) – the sequence of events appears ill-conceived to say the least. Since the EC has already decided what can be achieved by end-2007 prior to the official Review’s conclusions – and in isolation from the African review’s own findings – what then was the purpose of this official Review in the first place? Such a sequence of events suggests more of a rubber stamping than a genuine review, and seems to mirror the Commission’s approach to impact assessments.

ACP governments

There has also been grave concern expressed about the way that Commission representatives address their ACP counterparts in meetings. At the Joint Ministerial Trade Committee (JMTC) meeting in March 2007, for example, EU Development Commissioner, Louis Michel spoke to the ACP in a very demeaning manner. Ken Ukaoha, President of the National Association of Nigerian Traders and Chairman of the Nigerian Trade Network, was at the meeting and described it in this way: *‘Louis Michel spoke with vicious anger that apparently seemed if he had an opportunity to cane the ACP Ministers, he would have done just more than that. Their sin was demanding clarifications on available resources. In fact, he spoke in a manner that conscripts and condemns ACP as mere beggars. One is therefore tempted to ask, is this part of negotiations, and all in the name of partnership?’*⁴⁵

Another way in which the EC is showing disregard for the ACP is through enhancing divisions within regions, within governments and between regions. One of the consequences of the lack of progress in negotiations, the impending deadline, and the threat of loss of market access for non-LDCs (see section 2.5), is that in the 11th hour of the negotiations, divisions are emerging within regions between non-LDCs and LDCs. Whilst non-LDCs are being told the only alternative is the EU’s

Generalised System of Preferences (GSP),⁴⁶ LDCs have the duty free quota free access offered by the Everything But Arms (EBA) initiative to fall back on. The EC is further encouraging this division by failing to respond to ACP proposals to allow LDCs to be treated differently within an EPA, thus making the costs for LDCs from signing an EPA much more stark. This is generating growing tensions between neighbouring LDC and non-LDC governments, which is doing the opposite of fostering regional integration, a supposed central aim of EPAs.

Divisions have also been exploited between regional negotiators and political representatives of the ACP. This led the ACP Trade Ministers in May 2006 to '*urge the European Commission to ... desist from exerting pressure at the highest political level by taking advantage of the information gap that may exist between the negotiators and the political leadership.*'⁴⁷

The EC is also playing one region off against another. One of the ACP negotiators interviewed for this report said that their region's positions in the negotiations were being undermined by the Commission's 'divide and rule tactics'. When talking to their region, the Commission '*always praises other regions for being blue eyed boys.*'⁴⁸

2.3 Trojan horses: forcing negotiation on the Singapore Issues

Another tactic being used by the EC is to push its own offensive agenda but under the guise of development rhetoric. Investment, competition and government procurement are areas that the EU has pursued aggressively in WTO negotiations and, as explained in section 1.1, the EU's competitiveness strategy 'Global Europe' makes clear that they are an offensive interest for the EU.⁴⁹ Despite the strong resistance from the ACP to negotiations on these issues in EPAs the EC has continued to aggressively insist upon their inclusion.

'There can be no surprise that I fundamentally disagree with subordinating EPA progress to progress in the WTO. Why? Fundamentally because investment, government procurement and trade facilitation are all essential subjects for development.' Karl Falkenberg, Deputy Director-General, DG Trade, European Commission, July 2004⁵⁰

'[There will be] no EPA without investment rules and full reciprocity.' Karl Falkenberg, Deputy Director-General, DG Trade, European Commission, June 2006⁵¹

Peter Mandelson has sought to temper the virulence of his negotiators by stressing that, while these issues are essential, they will not be forced on the ACP if regions do not want them: '*This agenda is not about opening ACP markets to our own exports. And EPAs are not about forcing new rules on ACP regions either. If they are not willing and prepared to implement rules on investment, procurement, competition and trade facilitation, then that is up to them.*' Peter Mandelson, EU Trade Commissioner, June 2005⁵²

However, as the SADC case study shows, the ongoing behaviour of his negotiators and the realities on the ground seem to negate this claim.

46 A preference scheme provided to all developing countries which offers far lower preferences than ACP countries currently enjoy under the Cotonou Agreement

47 ACP Trade Ministers joint statement at the 83rd session of the ACP council of Ministers, Port Moresby, May 2006

48 Personal communication with an ACP negotiator, February 2007, (Negotiator requested that quotes were not attributable)

49 European Commission (2006) *Global Europe: Competing in the world, A contribution to the EU's Growth and Jobs Strategy*, European Commission, Brussels

50 Karl Falkenberg (2004) 'EPA and DDA, parallelism or crossroads?', *Trade Negotiations Insights*, Vol 3/4, July 2004

51 Karl Falkenberg, speaking at the European Commission, Accra, Ghana, 29 June 2006

52 Peter Mandelson, speaking at the ACP-EU Economic and Social Interest Groups Meeting, Brussels, 29 June 2005

Case study

The Southern Africa Development Community (SADC)

The SADC framework proposal made SADC's case clear: they do not want to negotiate Singapore issues in EPAs: *'SADC EPA Member States have limited institutional and negotiating capacity, which would be severely strained if these issues [investment, competition and government procurement] were to be negotiated under the EPA. Further, new generation trade issues would pose serious policy challenges as SADC has no common policies in these areas. Negotiating these subjects under such conditions runs the risk of delivering unbalanced outcomes that may be prejudicial to national developmental objectives and to prospects for deeper integration in SADC. Outcomes could result in obligations that go beyond those agreed in the WTO (WTO-plus), and introduce into the bilateral context, issues that contributed to the failures of Cancun [investment, competition and government procurement] and of Seattle [labour and environment].'*⁵³

The EC disagreed. At a political, public level, this disagreement was expressed in tones of 'disappointment': *'In the SADC region we [the EC] are disappointed by the lack of willingness so far to talk about these [investment, competition and government procurement] issues.'*

Peter Mandelson, October 2006⁵⁴

At a technical level, however, the tone and message were much stronger. In a communication from the European Commission to the Council, on the EU's proposed response to SADC's EPA text, the Commission stated that: *'In our response to SADC it should also be made very clear that to base the future EPA on market access provisions only, and leave aside all references to regulatory supply-side commitments [eg: services, investment, government procurement, trade facilitation, IPR, environment, labour and competition] is not an acceptable option. These issues are the essence of the EPA sustainable development package. It should also be made clear to SADC that if, in the end, the region would choose not to make an effort in addressing those issues, then the EC would find it difficult to improve SADC access to its market.'*⁵⁵

Thus the implications are clear: negotiate new generation issues, or lose market access. Such an aggressive negotiating approach demonstrates the offensive nature of the Commission's stance on Singapore issues.

53 SADC Framework proposal, March 2006

54 Peter Mandelson (2006) Address to the European Socialist Party Conference on Economic Partnership Agreements at the European Parliament, Brussels, 19 October 2006

55 European Commission Staff Working Document, SEC(2006)1427, para 25 (<http://ec.europa.eu>)

56 House of Commons, International Development Committee (2007), *EU Development and Trade Policies: An update*, Fifth Report of Session 2006-07, 6 March 2007

57 Pasqualina Napolitano MEP et al, letter to the *Financial Times*, 'Five points to help secure an ACP-EU deal for the poorest', 13 March 2007

Such conduct by the Commission has led the UK Parliament's International Development Committee to conclude: *'We remain concerned that the EU is abusing its position in the partnership to persuade the ACP countries that the New or Singapore Issues are for development and by implying that there may be penalties if they reject them.'*⁵⁶

MEPs have also expressed concern. A letter from five Socialist MEPs to the *Financial Times*, in March 2007 stated: *'the Commission has sought to widen the EPA agenda to cover negotiations on services, intellectual property and the 'Singapore issues', such as competition policy and investment, and is pressing for EU interests in these areas. All ACP countries must have a clear right to choose whether to extend the negotiations beyond trade in goods: the additional issues must be taken off the table if ACP countries wish.'*⁵⁷

2.4 Manipulating the prospect of aid

From the start, the EPA negotiations have been extremely unbalanced. With most ACP countries highly dependent on the EU for market access and development assistance, the power lies squarely with the EU. The Commission says that countries will not sign up to EPAs if they do not want to. Yet it is increasingly taking advantage of the

dependence of the ACP for aid to place immense pressure on the ACP to agree to unfair agreements, and to do so by the end of the year.

Compensation vs conditionality

For some time, ACP governments have called for additional aid to be linked to EPAs, in order to tackle their supply side constraints and address the adjustment costs that EPAs would entail. With a history of failed promises in aid delivery and with the EC's insistence that there are no alternatives to EPAs, ACP governments have called for aid guarantees to be included in EPA agreements to give legal certainty as to the delivery of such aid. Thus development assistance in this context is being viewed as a compensatory measure and as a way of securing the means to improve supply capacities and competitiveness. This is very different to the way the EC is viewing the link between development assistance and EPAs. The EC is using aid as a bargaining chip: signing EPAs (and indeed, the EC's vision of EPAs) is being made a condition of additional aid. An additional twist in this unfair bargain is that the EC is using creative accounting to imply that there will be more money than there actually will be. We explore both of these aspects, the conditionality and empty promises, in this section.

Unfair conditionality

A number of political level statements from the EU have promised financial assistance in a vague sense, where the implication is more one of compensation than conditionality. For example, *'the EU will help ensure that our final trade agreements are about development and equity, and they come with the assistance that the ESA countries need to make the successful transition to sustainable economic growth.'* Peter Mandelson, 2006⁵⁸

However, other statements have made the link between aid and ACP acceptance of EC offensive interests. For example, *'the economic partnership agreements will be both trade and development deals ... They will enable us to support, financially, the integration processes in the ACP regions.'* (Peter Mandelson, April 2005)⁵⁹ In other words, the implicit suggestion is that countries must sign an EPA in order to get the aid. Other statements are explicit that aid will be tied to acceptance of the EC's own vision of EPAs. For example:

'Assistance could be provided against clear commitments on rules.' EC response to SADC Framework Proposal⁶⁰

'Resources will match the level of ambition of ACP countries.' EC at JMTC, March 2007⁶¹

Thus aid is clearly being offered on condition of commitments made in EPAs.

Empty promises

In addition to the problems with the conditionality aspect of such an approach to aid, there are major concerns as to the strength of these aid promises. The UNECA review discovered that *'the EC is perceived as having double-talk by promising development within the EPA framework and not providing the necessary funding measures to achieve the development.'*⁶²

58 Peter Mandelson, open letter entitled 'Our Partnership Based On Historical Ties,' 4 August 2006 referenced on <http://www.tralac.org/scripts/content.php?id=5143>

59 Peter Mandelson, speaking at the ACP-EU Joint Parliamentary Assembly, Bamako, Mali, 19 April 2005

60 European Commission Staff Working Document, SEC(2006)1427, para 25 (<http://ec.europa.eu>)

61 EC at JMTC, 1 March 2007 quoted by Francis Mangeni, African Union, speaking at an Open Europe Seminar: *The EU, Trade and Development: Are Economic Partnership Agreements the right way forwards?* 26 March 2007

62 UNECA (2006) *EPA Negotiations: African Countries Continental Review*, Draft Review Report, 18 December 2006, page 43

There are two sources from where these promised funds are said to come. The first is the 10th European Development Fund (EDF). However, there is agreement amongst the ACP countries, that this pot will be far from sufficient. For example: *'We [ACP Governments] foresee the risk that the amounts provided in the 10th EDF would be 'spread too thinly' since the resources are meant to cover, on the one hand, the traditional obligations of the two Parties in the area of poverty alleviation in ACP States, and on the other, the obligations envisaged under the EPAs.'* Aliyu Umar, Minister of Commerce and Industry, Nigeria, October 2006⁶³

It is also important to note that, unlike previous EDFs, the date of entry into force for the 9th and 10th EDFs is the date of ratification of the instrument by EU member states. Given the extended membership of the EU it is unlikely that ratification will be completed by all member states before 2010 at the earliest. Therefore the 5 years of the 10th EDF will run from 2010 to 2015 meaning that de facto there will have been no 10th EDF for the period from 2005 to 2010. Instead, the 9th EDF will cover the period from 2000 to 2010. This means a decrease in the average aid allocation from this fund to ACP countries.⁶⁴

In addition to the EDF, the EC is also using promises of other pots of money, so-called 'aid for trade', to arm-twist the ACP into pushing forward negotiations. During an African Trade Ministers meeting in January 2007 Peter Thompson, a senior EC official, suggested that: *'talks about extension of the time-line for the negotiations are likely to deflate the gathering momentum of EU member governments who have become receptive to the need to provide extra resources to meet the adjustment costs of the EPAs.'*⁶⁵

At the Joint Ministerial Trade Committee meeting in March 2007, EU Commissioners Michel and Mandelson were explicit in tying progress in negotiations to making existing development finance commitments materialise. Michel told ACP Ministers that if they advanced the EPA negotiations, he could encourage member states to fulfil their commitments on aid for trade and seek clarification on disbursement procedures: *'I cannot tell you today how member states intend to implement [aid for trade]. At this stage we have almost 300 million concretely committed out of the 1 billion member states should disburse. [...] this is a good start since what they ask us is where we are at with the negotiations. When we will be more advanced in the negotiations we will have more arguments towards member states who have not respected their commitments yet.'* Louis Michel, Commissioner for Development, February 2007⁶⁶

As with the EDF, there are big questions as to the reality of the new aid for trade being promised by the Commission. According to Glenys Kinnock, Member of the European Parliament and Co-President of the EU-ACP Joint Parliamentary Assembly: *'This [Aid for Trade] is not new money. It is a recycling and a relabelling of existing aid commitments.'*⁶⁷

An ACP negotiator interviewed for this report put it like this: *'The EU wants the cost of adjustment to be funded from the regional (RIP) program. This means we pay for the cost of adjustment from our own aid. This is a complete reversal of aid for trade.'* ACP negotiator, February 2007⁶⁸

A letter from Pasqualina Napoletano MEP and other MEPs to the *Financial Times*, March 2007 says *'the €2bn promised for aid-for-trade includes money that has been reallocated and €1bn in pledges by member states yet to be paid. However much such funds are needed, these cash promises threaten to create a situation in which ACP regions are given*

63 Aliyu Umar, Minister of Commerce and Industry, Nigeria, speaking at a High-Level Conference on EU-ACP Trade Relations: *The Development Challenge of Economic Partnership Agreements*, Brussels, 12 October 2006

64 European Research Office (2007) *The Mystery of the 'Lost' 10th EDF*

65 Tetteh Hormeku (2007) *West Africa-EU EPA Negotiations: Deadlock in Ouagadougou*, TWN-Africa, January 2007

66 Report of the Joint Ministerial Trade Committee meeting, March 2007, from a source in Brussels

67 Glenys Kinnock MEP, letter to the *Financial Times*, 30 November 2006

68 Interview with an ACP negotiator, February 2007, (Negotiator requested that quotes were not attributable)

*unrealistic aid offers in return for compliance with what could be suboptimal EPAs. Aid and trade are intrinsically linked, but they should not be played off against one other.*⁶⁹

Thus, with regard to both the EDF and aid for trade, there are major concerns over the unrealistic nature of the aid being offered. Yet despite this, the aid card is being played more and more heavily by the EC as the end of year deadline approaches.

2.5 Threatening loss of market access

The UNECA and Pacific Review reports clearly conclude that more time is needed for the negotiations. However, immense pressure is being placed upon non-LDC ACP countries to conclude EPA negotiations by the end of the year or face a loss of market access. If followed through, such a threat would have catastrophic consequences on ACP economies.

Case study

Economic Community of West African States (ECOWAS)

On 31 November 2006, the Ministerial Monitoring Committee met in Nigeria and decided on the need for a three year extension to the negotiating timeline. This was reiterated at a summit in Burkina Faso, on 19 January 2007 when the West African Heads of State: *'invited the [West African] negotiators to exercise all the necessary flexibility with a view to concluding a viable EPA in the interest of the populations in West Africa.'*⁷⁰

When the ECOWAS group tabled the proposal to extend negotiations by three years, the EC's response read as a clear warning: *'the only tariff regime that will be in place on 1 January 2008 will be the GSP. The exports of the West African non-LDCs to the EU will be seriously affected. More than €1 billion of non-LDC exports to the EU, or 9.5 per cent of their total exports, will be submitted to higher tariffs, and will face direct competition with exports from other developing countries.'*⁷¹

This threat is in direct contravention to the EC's obligation under the Cotonou Agreement to provide at least equivalent market access on 1 January 2008. The Cotonou Agreement specifies that *'the Community will assess the situation of the non-LDC which, after consultations with the Community decide that they are not in a position to enter into economic partnership agreements and will examine all alternative possibilities, in order to provide these countries with a new framework for trade which is equivalent to their existing situation and in conformity with WTO rules.'*⁷²

A recent legal opinion from the Commonwealth Secretariat concludes that the EC is legally obligated to fulfil the commitment laid out in this article.⁷³ Yet the EC has consistently tried to wriggle out of this commitment by suggesting that alternatives do not exist and that no ACP country or region have asked for them. Neither is true.

2.6 No consideration of alternatives

In a 'Questions and Answers' paper posted on DG Trade's website on 1 March 2007, the Commission writes: *'The EU gave a commitment to consider alternatives for any non*

69 Pasqualina Napolitano MEP et al, letter to the *Financial Times*, 'Five points to help secure an ACP-EU deal for the poorest', 13 March 2007

70 Tetteh Hormeku (2007), *West Africa-EU EPA Negotiations: Deadlock in Ouagadougou*, TWN-Africa, January 2007

71 EC, letter to West African negotiators, *Argumentaire. Pourquoi est-il souhaitable de continuer à viser fin 2007 pour la conclusion des négociations APE UE-Afrique de l'Ouest?* no date, circa December 2006

72 The Cotonou Partnership Agreement, Article 37(6)

73 Commonwealth Secretariat (2007) *Opinion of the General Preferential Regime Applicable to Imports of Goods Originating in ACP Non-LDC Failing the Conclusion and Entry into Force of EPAs by 1 January 2008*, Commonwealth Secretariat

*Least Developed Country that indicated they would not sign an EPA. However, no country actually requested this and all continue to negotiate EPAs.*⁷⁴

Yet the ACP have repeatedly called on the EC to honour the commitment in the Cotonou Agreement to examine alternatives. For example, in December 2006, the ACP Council of Ministers called for: *'the European Commission to implement the provisions of Article 37.6 of the Cotonou Agreement, and propose alternatives to EPAs so that, in accordance with Article 34 of Cotonou, the ACP concerned have the options to make a political choice on these development models.'* ACP Council of Ministers, Khartoum, December 2006⁷⁵

The request was reiterated at the recent EU-ACP Joint Trade Ministers Committee, where ACPs noted that *'the EU had not yet responded to a letter of the President of the ACP Council of Ministers which sought guidance regarding the alternative trade regime(s) on offer'* and reaffirmed that they are awaiting an answer.⁷⁶ In an interview conducted for this report, an ACP negotiator told us *'They say no-one has asked formally, which is not true.'*⁷⁷

At a seminar in London in March 2007, Francis Mangeni of the AU said: *'when the chair of the ACP Ministerial Council writes to the EC a letter requesting alternatives and we are told that we have not requested alternatives, we start to wonder what form of communication we should use and if there is a communication failure.'*⁷⁸

Peter Thompson, representing the Commission, replied by saying: *'I'm not going to bow to NGOs and waste my time swirling around looking at alternatives ... It is nonsense to suggest there's a communication failure.'*⁷⁹ With a similar dismissive tone, Peter Mandelson, at a hearing in the European Parliament in October last year said *'I'm always open to the arguments, but I don't believe there is any remotely realistic alternative to EPAs that have the same content and potential. We could push on with unilateral preferences. Something like Generalised System of Preferences (GSP): tariff only, less generous access than under Cotonou for many and no economic governance framework. Is this a long-term development model? Not in my book.'*⁸⁰

However, the GSP is not the only alternative. Several pieces of recent research point to an enhanced GSP+ as a viable alternative to EPAs.⁸¹ The GSP+ would offer far more generous market access than the GSP, and most ACP countries could well meet the eligibility criteria for GSP+. Detailed research and analysis from ODI, Oxfam International and Third World Network Africa and UNECA demonstrates that GSP+ would provide an almost equivalent level of market access for current exports to that provided under Cotonou, with very few exceptions. Kenya for example, would have duty-free, quota-free access for 99.6 per cent of current exports (excluding sugar and bananas) under GSP+, compared with only 37.6 per cent under the standard GSP scheme.⁸² With the necessary political will the EC could offer GSP+ to ACP countries prior to the Cotonou waiver expiry, offering them a real alternative to EPAs and providing exporters and investors in key export sectors the certainty they need. However, the Commission has refused to explore this option with developing countries.

74 European Commission (2007) *Economic Partnership Agreements: Questions and Answers*, Brussels, 1 March 2007

75 ACP Council of Ministers (2006) Khartoum Declaration issued by the 5th Summit of ACP Heads of State and Government at the summit's conclusion in Khartoum, December 2006

76 EU ACP Joint Ministerial Trade Committee, Brussels, March 2007

77 Personal communication with an ACP negotiator, February 2007, (Negotiator requested that quotes were not attributable)

78 Francis Mangeni, African Union, speaking at an Open Europe Seminar: *The EU, Trade and Development: Are Economic Partnership Agreements the right way forwards?* 26 March 2007

79 Peter Thomson, speaking at an Open Europe Seminar: *The EU, Trade and Development: Are Economic Partnership Agreements the right way forwards?* 26 March 2007

80 Peter Mandelson, speaking at PSE hearing in the European Parliament, 19 October 2006

81 Third World Network and Oxfam International (2007) *A Matter of Political Will*, Briefing Note, April 2007; Chris Stevens (2007) *The costs to the ACP of Exporting to the EU under the GSP*, Overseas Development Institute; Romain Perez, UNECA (2006) *'Are Economic Partnership Agreements a First Best Optimum for the African Caribbean and Pacific Countries?'* *Journal of World Trade* 40(6)

82 Third World Network and Oxfam International (2007) *ibid*

2.7 Exclusion of dissenting voices

A fundamental principle of the Cotonou Agreement is participation. Civil society and Parliamentarians are mandated to participate in the EU-ACP partnership and processes. However, the EPA negotiations are currently being conducted by the EC

largely in isolation from the wider EU political entourage of actors supposedly involved in the negotiations, notably Parliamentarians and also member states.

Parliamentarians

Within the European Parliament, oversight of the EPA negotiations falls under two Committees: the International Trade Committee (INTA) and the Development Committee. Both committees have acknowledged that the role of the current EPA negotiations in achieving the development objectives of Cotonou is questionable, and have recognised the right of ACP countries to explore alternatives to EPAs.⁸³

In terms of the Commission's engagement of the Parliament in EPA negotiations: *'We have received documents relating to the negotiations only sporadically, but by and large the information flows from the Commission have been limited in quantity ... Also colleagues within the ACP-EU Joint Parliamentary Assembly have been actively involved in attempting to engage the Commission on the issue of EPAs. As I understand it they have often not found the Commission particularly cooperative.'* (David Martin MEP, March 2007)⁸⁴

The EU-ACP Joint Parliamentary Assembly (JPA) has made statements expressing anxiety about EPA negotiations. For example, in November 2006 the JPA noted its *'concern over the current EU proposals for free trade with ACP countries under the Cotonou EPAs leading to the liberalisation of trade, including trade in agricultural products, and considers that this policy might cause problems to ACP countries' development, relating in particular to food security and development of local industries.'*⁸⁵ However, the Commission appears to remain unaffected by such statements.

Member states

Some member states have simply not engaged in the EPA negotiations (or have only begun to do so very recently). However, when member states have tried to intervene positively, they have been heavily rebuked by the Commission.

For example, following the UK government's progressive position statement released in March 2005, a letter from a lead trade official, which was leaked to *The Guardian* newspaper,⁸⁶ read *'The UK statement represents a major and unwelcome shift in the UK Position ... Peter Mandelson is taking up our concerns and will press for a revised UK line, noting that their statement is contrary to the agreed EU position and harmful for our common objective of promoting development through trade.'*

Similarly, in October 2006, following a letter from UK Development Minister Gareth Thomas and Trade Minister Ian McCartney to the EU Trade Commissioner Peter Mandelson, in which they expressed concern about the current state of the EPA negotiations,⁸⁷ Peter Mandelson, in a letter to the editor of *The Guardian*, chastised the UK government for not falling into line with the EC's own one-size-fits-all approach to investment: *'Those who dismiss the EU's position as 'forcing open' these markets not only misrepresent the EU's intentions, but also misunderstand the only sustainable road out of poverty for these countries. When the British government adds its voice to those who would keep Africa's doors closed to effective, transparent investment, it is in danger of making the same mistake.'*⁸⁸

83 European Parliament (2006) *Final Report: On the development impact of Economic Partnership Agreements (EPAs)*, Committee on Development, A6-0053/2006, Brussels, 1 March 2006; European Parliament (2006) *Draft Report: On Economic Partnership Agreements*, Committee on International Trade, 2005/2246(INI), 20 December 2006

84 Personal communication with David Martin, MEP, March 2007

85 EU-ACP Joint Parliamentary Assembly Resolution on the review of negotiations on Economic Partnership Agreements (EPAs), November 2006, ACP-EU 3958/06/fin

86 Published in *The Guardian*, 19 May 2005, www.guardian.co.uk/guardianpolitics/story/0,,1487141,00.html

87 Letter from Gareth Thomas and Ian McCartney to Peter Mandelson, 13 October 2006

88 Peter Mandelson, letter to *The Guardian*, 19 October 2006

2.8 Putting the deadline before development

The negotiations have now reached what is supposed to be their final year according to the original deadline set by the Cotonou Agreement.

Over recent months, ACP representatives have expressed major concerns about the deadline. For example, in January 2007 AU Trade Commissioner Elizabeth Tankeu stressed that the deadline of December 2007 for concluding EPAs was ‘not realistic’ and warned that *‘as the deadline (...) approaches, there is a danger that our regional groupings may be put under pressure to accept EPAs that do not take adequate account of Africa’s long-term development interests.’*⁸⁹

In March 2007, Nigeria’s Minister of Commerce and Industry, Dr Aliyu Umar, speaking on behalf of all ACP Ministers said: *‘We believe we still have legitimate fears and concerns that drive us to be more careful, we do not sacrifice the livelihoods of our people and their future on the altar of the quest to conclude agreements without properly addressing all the hiccups and impediments they potentially pose to our economies that are still fragile.’*⁹⁰

The UNECA review of the negotiations in the African regions⁹¹ concluded that the differences between the parties, combined with major capacity constraints on the side of the ACP, meant that the negotiations would need more time: *‘Globally there is a huge concern about the deadline of end 2007. All the stakeholders interviewed agreed that this deadline couldn’t be met for concluding the agreement under the current position ...’*⁹²

Case study

ESA request for extension of deadline not acceptable to EC

The draft ESA review concluded that: *‘The ESA countries are generally not prepared for the conclusion of the EPA negotiations’* and recommended *‘extension of the time – by three years – for conclusion of the EPA negotiations.’* However, in the EC’s response to ESA, these sentences were deleted by the EC and said to be *‘not acceptable to the EC as it contradicts the joint ministerial conclusions paragraphs 3 and 14.’* ESA’s conclusion that *‘The EC is keen to promote its own interest at the cost of the weaker partner – the ESA region,’* was deleted by the EC, accompanied by the comment: *‘This is of course not the case.’*⁹³

Similar concerns have emerged from a range of stakeholders in the Pacific region. Hans Keil, Samoa’s Minister for Commerce, Industry and Labour, writing to the Commission on behalf of the Pacific region stated that *‘I must stress that PACPS cannot negotiate under pressure due to the pressing deadline. We will not merely rush to conclude negotiations due to the deadline and risk ending up with a bad EPA. That would be disastrous.’*⁹⁴

This was reinforced by the findings of the Review commissioned by the Pacific on the state of play of EPA negotiations which concluded that *‘All stakeholders believe that more time is needed to conclude the negotiations, and that more capacity especially at national level is required to both complete preparatory work and to raise awareness and support for the EPA in general.’*⁹⁵

Similarly, a workshop for Parliamentarians and Non-State Actors (NSA) in the Pacific concurred that: *‘the Pacific will not be ready to conclude negotiations by the end of 2007. In particular, there has not been enough time for parliamentary consideration and analysis*

89 Elizabeth Tankeu, AU Trade Commissioner, speaking at AU Trade Ministers Conference, January 2007

90 Dr Aliyu Umar, Minister of Commerce and Industry for Nigeria, speaking on behalf of all ACP Ministers at the EU-ACP ministerial meeting in Bonn, 13 March 2007

91 UNECA (2006) *EPA Negotiations: African Countries Continental Review*, Draft Review Report, 18 December 2006, page 9

92 Ibid page 4

93 EC comments on ESA’s proposal for the EC-ESA Joint Report on Cotonou Agreement Article 37.4 Review of ESA-EC Negotiation of an Economic Partnership Agreement

94 Hans Joachim Keil, letter to Peter Mandelson, 21 December 2006

95 Francesco Rampa (2007) *Implementation of Article 37(4) of the Cotonou Agreement, Provision of technical support to assist the Pacific ACP Region in the Review of EPA Negotiations*, Draft Interim Report Submitted to Pacific Islands Forum Secretariat, January 2007

*of both of the content and consequences at the national level. The EPA consists of long-term commitments so more widespread consultation with NSA is necessary.'*⁹⁶

EC: delays in responding to ACP proposals

It is important to note that a key reason why the negotiations are so delayed is that the Commission has taken unreasonably long periods of time to respond to proposals from the ACP. For example:

- The EC took almost a whole year to provide SADC with a response to their EPA proposal.
- The ESA region had to wait six months for a partial formal response to their proposals.
- The Pacific region submitted a non-paper as a draft EPA negotiating text to the Commission in June 2006. They had to wait until October 2006 for a response.

*As commented by an ACP negotiator, 'precious time has been lost whilst awaiting the formal responses to be received from the EC, and given that responses have been negative as per most of the ACPs negotiating positions, parties now have to consider fallback positions very smartly in the few months to come if they are to conclude successfully the negotiations.'*⁹⁷

However, despite severe delays on their part, and the fact that the African and Pacific reviews found that it is not possible to conclude before the end of the year, as shown in sections 2.4 and 2.5, the EC is placing increasing pressure for ACP regions to sign up to EPAs by the end of the year with threats on market access to the EU and false promises on aid.

⁹⁶ Outcomes Document of the Pacific ACP Regional Workshop on the State of the negotiations of an EPA with the EU for Parliamentarians, Non-State Actors, and Heads of IPAs, Nadi, Fiji, 26–27 February 2007

⁹⁷ Personal communication with Kaliopate Tavola, Former Minister of Foreign Affairs and External Trade for Fiji and Chief Negotiator for the Pacific region ACPs, February 2007

3 A new era of flexibility and partnership? Exposing the myth

Some reports have recently suggested that the EC has shifted its position recently towards a more flexible and pro-development stance. This appears to be based on the EC's recent market access offer, combined with statements on reciprocity and an apparent willingness to be flexible on Singapore issues. Yet in each of these areas the apparent shift to greater flexibility seems more about mood music than actual substance.

Reciprocity

Reassurances that the EC is adopting a more flexible stance in this area seem based upon limited evidence. Recent statements coming from the EC about flexibility of product coverage and transition periods are nothing new; the EC has always made such assertions while being careful to avoid being pinned down on detail and often shifting its position depending on audience and context.⁹⁸ Recent mentions of 25 year transition periods for certain products⁹⁹ could be described as new language from the EC, yet still there is no clarification on the number or percentage of products that would be allowed this treatment.

For example, recent EU draft Council Conclusions suggested such flexibilities will be extremely minimal, with the much trumpeted longer transition periods limited to '*very exceptional cases for very sensitive products*' and with no mention of the 25 year figure. On the question of product exemptions, the draft Conclusions even more worryingly suggest only that: '*the exclusion of products might also be considered*'.

Yet even under the narrowest interpretation of what would constitute WTO compatibility, it has long been recognised that the ACP should be able to exclude at least 20 per cent of their products as a matter of course. To say that products might be excluded would be a backward step and is hardly a sign of new flexibility. Revealingly the EC also deletes the mention in the draft Conclusions that the EU is not pursuing offensive market access interests, modifying this to not pursuing 'short-term market' access interests. Thus, the EC is doing little to ensure that the so-called flexibility it touts in public speeches is translated into EU policy.

The EU's market access offer

In April, the EC announced its offer of full duty free quota free access to EU markets for the ACP. This was heralded as a major gesture from the EU. However, the EC's 'offer' was merely the belated announcement of what it had already promised: '*ACP countries will be no worse off once the EPAs kick in... That is very important. We are asking for EBA plus not EBA minus.*' (Peter Mandelson, February 2005)¹⁰⁰ Even then it still contained carve-outs for products in which the ACP is particularly competitive and/or the EU is particularly sensitive – ie: rice, sugar and key products from South Africa. DG Trade may be competent in spinning the partial fulfilment of old promises as new flexibility, yet member states should approach such 'new offers' with greater caution.

98 For example, in a public statement in 2005 Peter Mandelson encouraged the view that ACP liberalisation commitments would be more flexible and shaped to meet development needs, stating: '*The trade opening or 'market access' part of these agreements is not at their forefront: it comes towards at the end, after regional integration has kick-started growth, after long transition periods, after Europe has invested aid and support in these least developing countries' capacity to trade. The transition periods for market opening will be as long as required, based on the actual needs identified in the negotiations.*' [Speech by EU Trade Commissioner Peter Mandelson, Brussels, 20 January 2005]. Yet, as recently as February 2007, Mandelson told a UK parliamentary committee that transition periods would be twelve years.

99 'Six ACP regions will do all they can to conclude EPA negotiations by 31 December 2007 but don't ask for the impossible', Agence Europe, Brussels, 1 March 2007

100 Peter Mandelson testimony to the UK Parliament's International Development Committee, 7 February 2005

Not only is sugar not covered until 2015 and rice by a date yet to be specified, but ACP countries will only anyway be able to take advantage of market access if it is accompanied by reformed rules of origin. However, delays by the EC on reforming rules of origin mean that the ACP will not know the rules of origin it will have to comply with within EPAs by the end of the year. They are effectively being asked to sign up blind in the faith that the new rules will be more development friendly. However, indications from internal negotiations within the EU indicate a strong likelihood that the new rules of origin may end up being worse than the current ones.

101 Personal communication with Rob Davies, Deputy Minister of Trade, South Africa, April 2007

102 Ibid

Flexibility on Singapore issues

In response to widespread criticism of their aggressive tactics in this area, the EC has recently appeared to soften its line on the obligations that would be expected of the ACP up front. The EC has begun to talk about phasing in commitments over transitionary periods, allowing for regional frameworks to be built prior to liberalisation to the EU. However, there remains little clarity on the nature of the EC's flexibility in this area. Reports from negotiators and ACP civil society close to the negotiations suggest that the EC is not dropping its insistence that the ACP commit up front to liberalise these areas, whether now or in the fairly near future. According to some reports, the promise of development assistance is also being tied to acceptance of these issues. For example, Rob Davies, Deputy Minister of Trade, South Africa asks:

*'Why is new development assistance under EPAs being linked to agreement on 'new generation' issues? and why are [new generation issues] there in an ACP-EU agenda at all? One suspects it has more to do with building a majority in the WTO on these issues, than professed concerns to promote regional integration.'*¹⁰¹

Suggestions from some EU member state governments that Singapore Issues are 'off the table' seem highly premature as does the notion that the EC has made a shift on reciprocity.

As Rob Davies cautioned, *'Any sign of greater flexibility and sensitivity to ACP concerns is welcome. However, this cannot be confined to the issue of access to be provided to the EU market. Besides, the EU signalled that duty free, quota free access for all originating ACP products would be the outcome at an early stage of the process. The present offer qualifies this with regard to sugar and rice and 'sensitive products from SA'. If there is a need to defend this proposal against possible roll back from member states, that must be done and supported. However, we need to see greater flexibility and sensitivity in other issues – the level of reciprocity demanded of ACP regions, development assistance, the rights of LDCs to non-reciprocal access, among others.'*¹⁰²

Case study

New flexibility in the Pacific?

A meeting between Pacific ministers and Trade Commissioner Peter Mandelson in March, in which Mandelson apologised for the EC's unconstructive responses to Pacific proposals, led to a temporary change of mood. Ministers were encouraged by signs of movement that they interpreted from the EC-Pacific EPA Ministerial Joint Declaration of March 2007.¹⁰³ These included, for example, apparent new flexibility on:

- Rules of Origin – but this was later undermined by a subsequent EU paper;
- Fisheries – but it appears this stops short of the Pacific's main demand that the licence fees for access would be included in a stand-alone regional agreement;
- Mode IV on Services – however the Pacific now realises that the appearance of movement was overstated;
- Some funding for regional trade negotiations assistance.

Through this apparent flexibility, the EU secured an agreement from the Pacific to continue negotiating and to aim for the end of year deadline. However, according to a range of sources in the region this goodwill is already evaporating as the political promises are exposed to be more apparent than real in the light of specific negotiating proposals.

103 EC-Pacific EPA Ministerial meeting Joint Declaration, Brussels, 1 March 2007

104 Personal communication with Rob Davies, Deputy Minister of Trade, South Africa, April 2007

ACPs willing to meet the deadline?

But what of claims being made by the Commission and EU member states that the ACP are now expressing willingness and intentions to conclude by the end of the year?

The acceptance by ACP governments that they should try to meet the deadlines derives from two very different motivations. The first stems from a belief that well conceived pro-development trade agreements can play a role in supporting sustainable forms of structural economic transformation of ACP regions. The ACP argue that such agreements should be combined with serious financing to address supply-side constraints, properly sequenced with regional processes of market integration and the development of regional production structures. As such, in the pursuit of such agreements, it is believed that every endeavour should be made to meet the agreed deadline for the conclusion of such agreements. In acknowledgement of the need for WTO-compatibility, and in the absence of any alternative from the EU (see Section 2.6 above), the ACP are negotiating in good faith that pro-development trade agreements can be agreed.

The second motivation stems from the fear that in the absence of the conclusion of an EPA agreement by the end of 2007, the EC will impose standard GSP duties on a range of exports from the non-LDC ACP countries which will profoundly disrupt trade. The consequences of not concluding negotiations by the end of the year have been presented by the EC as being extremely damaging to their economies. In this context, an aspiration to conclude by the deadline is more a damage limitation exercise rather than a positive aspiration for an EPA. This is an extremely unfair position for the EC to put the ACP in. As Rob Davies, Deputy Trade Minister for South Africa says, *'The December 2007 deadline must not be allowed to become a 'doomsday scenario' that is used to compel ACP regions into making inappropriate commitments. The EU will remain under a political and legal obligation not to worsen terms of access, and must be willing to explore alternatives if the negotiations look like not being completed by December 2007.'*¹⁰⁴

4 Conclusion and recommendations

This report has demonstrated the many ways in which the EC is breaking both the letter and the spirit of the Cotonou Agreement.

From the start of negotiations, the EC and the ACP have had very different visions of what a future ACP-EU trade agreement should look like. Particularly in the areas of trade liberalisation, the Singapore issues and development, the EC and ACP are poles apart. However, this report shows how the EC is using its economic and political power to force its 'vision' of EPAs onto the ACP. In the absence of convincing evidence to demonstrate that EPAs are the best instrument to deliver development outcomes, the EC's approach appears to be informed more by ideological belief than by genuine assessment of impact. As such the EC's approach seems highly unlikely to deliver pro-development ACP-EU trade arrangements.

Consistently, the approach the EC has been taking is not conducive to fostering an EU-ACP cooperation on the basis of *'equality of the partners and ownership of the development strategies'*, in which *'the ACP States shall determine the development strategies for their economies and societies in all sovereignty'*, as the Cotonou Agreement mandates them to. This report has shown that the EC has:

- dismissed pro-development proposals from the ACP
- shown disregard towards ACP institutions and processes
- persisted in forcing the Singapore issues onto the negotiating table even where they are clearly not wanted
- increasingly taken advantage of the ACP's dependence on aid to place immense pressure on the ACP to accept its proposals
- threatened the loss of market access to non-LDC countries unwilling to sign an EPA in direct contravention to the EC's obligation under the Cotonou Agreement to provide at least equivalent market access on 1 January 2008
- refused to consider alternatives despite the fact that the ACP have requested them and research has shown they exist
- ignored the dissenting voices of actors mandated by the Cotonou Agreement to be actively involved in the EU-ACP so-called 'partnership'
- insisted on meeting the end of year deadline despite the African and Pacific regions clearly stating that more time is needed for pro-development trade agreements to be reached.

In addition, the substance of any 'new' flexibility on the part of the EC has been seriously called into question. The onus is on EU member states to rein in the Commission and insist upon a fundamentally different approach, based on non-reciprocity. Specifically, member states must call on the EC to:

- Make public the precise process undergone in order to arrive at the official EPA review conclusions; make available all background reports and inputs, and facilitate a multi-stakeholder dialogue to discuss the review inputs, conclusions and subsequent implementation of improvements to substance and process of negotiations.

- Apply the legal guarantees under the Cotonou Agreement that the equivalent level of Cotonou preferences will be extended to the ACP until a suitable pro-development ACP-EU trade arrangement is found, so as not to disrupt trade.
- Immediately begin a genuine exploration of alternatives to currently proposed EPAs, including examining how to make an enhanced and binding GSP+ option available and workable for the ACP.
- Recognise that the ACP will continue to require substantial development assistance to address their supply side constraints to trade, beyond the next EDF, and take steps to ensure that such funding will be guaranteed. Most importantly, this should be backed up with a clear statement that such support is in no way contingent upon signing any ACP-EU trade agreement.
- Drop all demands to negotiate on all trade-related issues, as they are not subject to WTO deadlines, unless explicitly requested by the ACP.
- Build in the time and resources for independent impact assessments and stakeholder consultations to be conducted on all draft proposals for EU-ACP trade agreements, backed up by a public undertaking that no EU-ACP trade agreement will be finalized until such impact assessments clearly demonstrate that its proposed design will be pro-development. A mechanism to monitor impacts and progress toward to development objectives should also be put into place.

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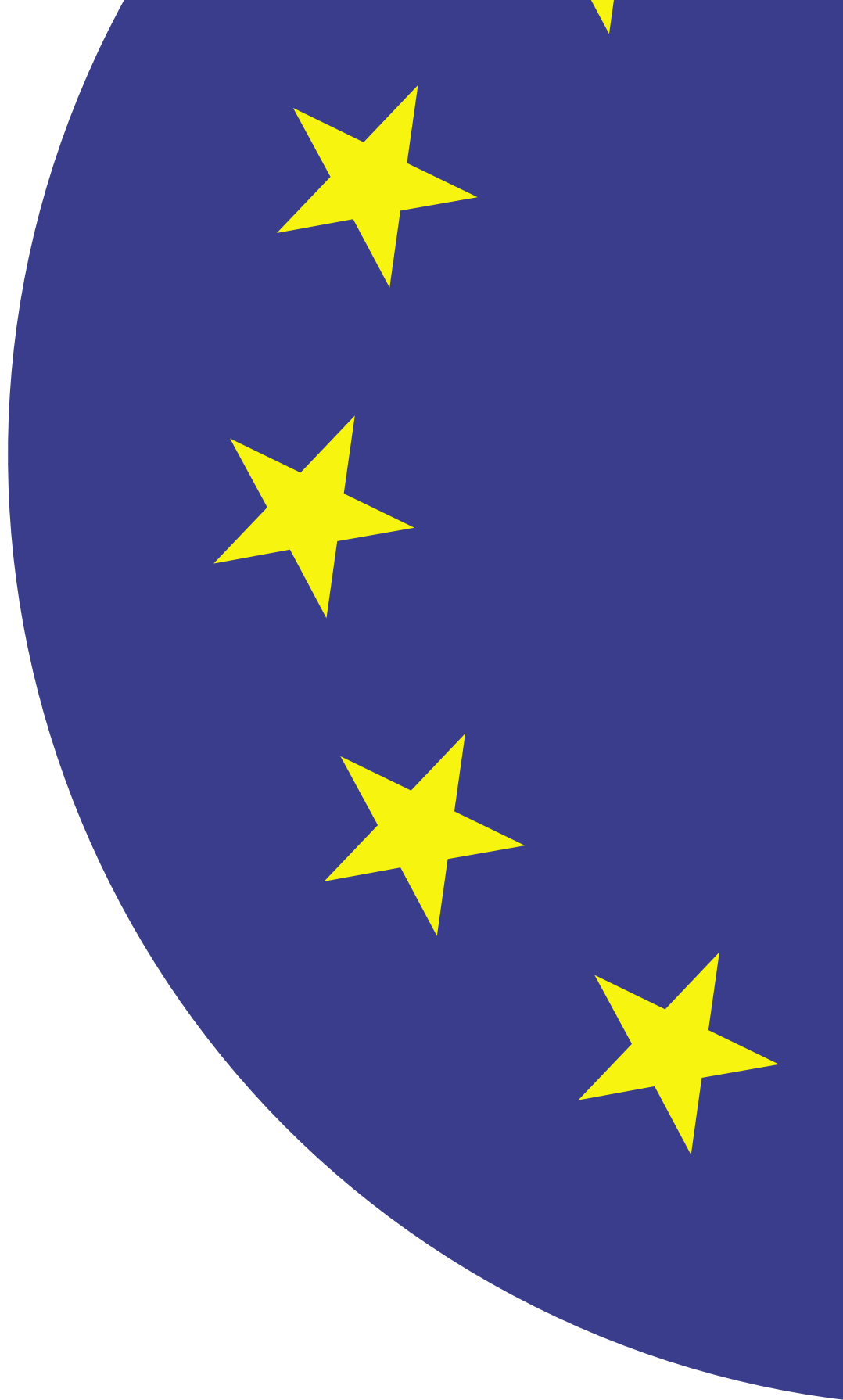
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