



*Reference :*

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## SUMMARY OF PROPOSALS ON EPA OPTIONS

### PART A, TREATMENT OF LDCs

#### Option 1 – EBA for LDCs

LDCs are supposed to continue to have the Everything-but-Arms initiative introduced in 2001, whether or not EPAs are concluded. Where EPAs are concluded, market access is supposed to improve upon the EBA.

This is according to the EC negotiating mandate, the Cotonou Agreement provisions on maintaining and improving the *acqui*, and the Hong Kong Ministerial Conference decision on duty free quota free market access.

LDCs do not have to reciprocate any EU concessions, in line with the special treatment accorded to them under WTO rules and under the Doha Work Programme. Reciprocity, if any, would have to be subject to fairly long transition periods and attainment of certain levels of international competitiveness in given sectors. (GATT Article 24 requirement for elimination of duties on substantially all trade can be met without reciprocity from LDCs.)

### PART B, WHERE EPAs ARE CONCLUDED

#### Option 2 – free trade areas in full conformity with article 24 of GATT

This option is the one the EC favours most. These EPAs would have to meet the requirements that all customs duties and other restrictive regulations of commerce are eliminated on substantially all the trade between the European Union and the countries of each of the negotiating groups and that a transition period should not exceed 10 years.

#### Option 3 – free trade areas in conformity with an amended article 24 of GATT; amended to incorporate special and differential treatment

As article 24 has not been amended, this option is not available; but ACP countries have argued that the initiation of EPA negotiations envisaged amendments to article 24 and that

the EPAs would have to incorporate strong SDT provisions. The EC negotiating guidelines also envisaged amendments to article 24.

It has been argued that EPAs should not be concluded before finalisation of the WTO negotiations and before amendment of article 24 of GATT, on the basis that WTO negotiations were supposed to be concluded well ahead of the EPA negotiations.

#### Option 4 – sui generis free trade areas (please see ECDPM and World Bank studies)

Several other suggestions have been made on different forms of FTAs.

The proposal for ACP countries to reduce customs duties to a certain amount on the MFN basis, say 10% - ie all countries would benefit from the reductions, and not only the EU countries

The proposals for free trade areas that do not have to strictly comply with the rules of article 24 of GATT. (These FTAs would require a waiver under paragraph 10 of article 24; however, this article has so far never been used for such waivers.)

Some of these proposals include: negotiation of EPAs covering only basic principles, negotiation of optional protocols on sectoral issues such as investment to which willing ACP countries become signatory, negotiating of EPAs that include all the maximum flexibility proposed by ACP countries, etc

#### Option 5 – light EPAs

This proposal has been supported by ESA and received a degree of support also from the EC. ESA's understanding is that the EPA would cover only market access and development.

CARIFORUM has explicitly opposed this proposal, ridiculing it as "EPA late". CARIFORUM prefers an ambitious EPA covering a broad range of issues, including the Singapore issues, data protection, taxation, etc.

#### Option 6 – Phased EPAs (Please see ACP MTC Declarations)

The ACP group adopted this proposal at the last Ministerial Trade Committee meeting. This proposal is for conclusion of EPAs covering areas where agreement has been reached and for continuation of negotiations in the other areas. The aim of the proposal is to meet the December 2007 deadline, by having in place EPAs in some form.

### PART C, NEW TRADE ARRANGEMENTS UNDER THE ENABLING CLAUSE

#### Option 7 – extending or obtaining a new WTO waiver

It is argued, mostly by the EC, that continuation of the regime under the Cotonou Agreement, would require extension of the existing WTO waiver, or seeking a fresh one on different terms; and that this approach would reduce ACP exports to the European Union as competitors would demand quotas from the EU or other better market access terms.

Some ACP secretariat officials have argued that obtaining a waiver will be difficult, as well as the EC negotiators; and have therefore ruled it out – on the ground that other WTO members would not agree to have it granted.

However, some EU Parliaments have urged the EC to initiate procedures for seeking a WTO waiver on appropriate terms. Some have argued that the USA has also sought a waiver for the AGOA, and the EC should do likewise. (There are several waiver requests pending at the WTO.)

#### Option 8 – informally extending the regime under the Cotonou Agreement; and notifying the WTO of the continuation of the EPA negotiations

Both the ACP MTC and the African Region Experts' Workshop in Nairobi have proposed that EPA negotiations could continue beyond December 2007, but the ACP and EC would jointly and formally notify the WTO of the non-completion of the negotiations, requesting for temporary continuation of the regime under the Cotonou Agreement.

Some ACP negotiators and activists have argued that maintenance of the regime under the Cotonou Agreement, if done for a short period of time, say up to 18 months, need not require a waiver. The argument is that the other WTO countries would be understanding enough, to allow for completion of the negotiations. Or, they would require at least two years to initiate and finalise a WTO challenge to the continuation of the regime under the Cotonou Agreement, by which time the EPA negotiations would most likely have been completed.

#### Option 9 – the GSP

The EC has said that without EPAs, imports from ACP countries would receive the general GSP treatment, which in many cases is worse than the regime under the Cotonou Agreement.

In response, ACP negotiators and civil society have argued that the EC is under an obligation for the duration of the Cotonou Agreement (up to 2020) to give ACP imports treatment that is equivalent to the regime under the Cotonou Agreement, and that therefore the EC cannot accord GSP treatment to ACP imports.

ODI has argued that this option would result in a transfer of resources (collected duties) from the ACP countries to the EU in the amount of 156 million euros a year.

#### Option 10 – the GSP+

The possibility of ACP exports to the EU being accorded GSP+ treatment has been proposed and argued particularly by ODI, civil society and some negotiators. This option would meet the criteria for WTO compatibility if based on objective criteria – according to the recent GSP case.

The criteria under the GSP+ cover vulnerability and adherence to certain core labour conventions.

It has been argued that though many ACP countries don't at the moment meet the labour-related criteria for GSP+ (all of them meet the vulnerability criteria), and though the EC says a possibility of admitting new countries will be available only in 2009; the precedent for the Central and Latin American countries could be used for ACP countries also. The EC decided to deem those countries to meet the criteria for GSP+ pending the subsequent finalisation of a case by case determination.

It has been argued also that meeting all the criteria for eligibility should be understood to be a gradual process, related to capacity to do so in ACP countries; and that the EC is in violation of WTO rules for as long as it does not admit ACP countries to this scheme. Even before amendment of its applicable internal regulations.

#### Option 11 – enhanced GSP

Simulations have indicated that an enhanced GSP would be better for ACP countries than EPAs (study by Romain Perez). Such GSP would address the problems with current GSP schemes, such as overly restrictive rules of origin that do not reflect modern production structures.

This option was not considered early enough and could require a fresh set of negotiations.

#### Option 12 – binding of GSP schemes

It has been argued that according to GATT rules, a WTO member has the liberty to include in its schedule of commitments the GSP treatment it accords to eligible countries. therefore, there is a possibility of binding GSP treatment if the EU were willing to do so.

In the case of LDCs, implementation of the Hong Kong Ministerial Decision on DFQF treatment should require inclusion of this treatment in the schedules of developed country members such as the European Union.

#### PART D, NO EPAs, NO GSP

#### Option 13 – the MFN preference erosion from other FTAs

It has been argued that MFN treatment (non-discriminatory treatment accorded to all imports from WTO members) is the inevitable, and that ACP countries had better get used to it and appropriately prioritise the WTO negotiations, seeking to address their most important concerns with all WTO members who might even provide equally viable or even better options and ways forward than the EU including in the areas of market access and development cooperation.

#### Option 14 – Continuation of development cooperation under Cotonou Agreement

Moreover, the EC is concluding equivalent FTAs with other regions and competitors, including those of the Mediterranean, the Gulf, ASEAN, and Mercosur, as well as Mexico. These FTAs accord market access to the EU that is equivalent or better than that accorded to imports from ACP countries. This underscores the importance of the development elements of the Cotonou Agreement, particularly to rapidly build and strengthen the competitiveness of ACP economies and exports, and therefore the continuation of development cooperation under the Cotonou Agreement. END