The EPA between the EU and West Africa: Who benefits?

COHERENCE OF EU POLICIES FOR DEVELOPMENT









Summary

Is the Economic Partnership Agreement (EPA), a free trade agreement negotiated between West Africa and the European Union (EU), really coherent with the development of West Africa?

CONCORD regrets that the EU, the largest economic zone in the world, is trying to obtain disproportionate commercial concessions from one of the poorest regions in the world. With this EPA, West Africa will have less policy space to use important tools for the development of certain economic sectors, in order to improve the living conditions of its people. At the same time the EU has not undertaken any formal commitment to allocate additional long term funding that would be needed to enable West Africa to cope with competition from imported European products, and to compensate for the loss of fiscal revenues. As a result, the EPA is incoherent with the development of West Africa.

CONCORD therefore recommends that Members of the European Parliament do not ratify the EPA.

'Trade is development'¹, states the European Commission (EC) with regard to the EPA. But is the EPA negotiated between West Africa and the EU, between one of the richest regions on the planet and one of the poorest, really coherent with the development objectives of West Africa? This document seeks to answer this question, with particular attention to agriculture, a key sector for West Africa.

- 1 European Commission, "How economic partnership agreements benefit both consumers and producers in Europe and developing countries", p. 2: http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_151010.pdf
- 2 South Centre, "The EPAs and risks for Africa: local production and regional trade", June 2012, p. 7, note 4: http://www.southcentre.int/wp-content/uploads/2013/08/AN_EPA30_The-EPA-and-Risks-for-Africa EN.pdf
- 3 Dr El Hadji A. Diouf, « L'Article XXIV du GATT et l'APE: arguments juridiques pour soutenir l'offre Ouest africaine d'accès au marché », ENDA Tiers Monde, 2009: http://endacacid.org/new/index.php/article-xxiv-of-gatt-and-the-epa-legal-arguments-to-support-westafrica-s-market-access-offer and, about the WA position: CTA, « Enjeux des négociations APE entre l'UE et l'Afrique de l'Ouest », Agritrade, 1/02/2010, § 2.2.1: http://agritrade.cta. int/fr/content/view/fiull/2496
- 4 LDC: Benin, Burkina Faso, Gambie, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Senegal, Sierra Leone, Togo. Non LDC: Cape Verde (since 2007), Ivory Coast, Ghana, Nigeria.
- **5** Their only, limited interest concerns the rules of origin (RoO), which are a bit more flexible in the EPA compared with the Everything But Arms regime. The RoO are criteria for determining the country of origin of a product. They are important for processed products, which rarely originate 100% from one country.
- 6 See its resolution from 13 December 2007: "Ministers deplore the enormous pressure that has been brought to bear on the ACP States by the European Commission to initial the interim trade arrangements, contrary to the spirit of the ACP-EU partnership": http://astm. lu/acp-council-of-ministers-on-epas/

The EPAs: what are they all about?

Until 2000, in the context of the Lomé Agreement with the countries from Africa, the Caribbean and the Pacific (ACP), the EU gave exports from West Africa almost completely free access to the European market, in order to contribute through trade to the development of the region. From their side, the West African states did not have any obligation to offer the same advantages to the EU.

However these unilateral trade preferences were contrary to the WTO rules adopted in 1994. The WTO does permit the creation of free trade zones, for example between the EU and West Africa, and the EU decided to use this as a replacement, even though in these zones preferences have to be reciprocal, meaning that West Africa has to offer the same treatment to the EU

There are options for maintaining unilateral preferences. The EU could have asked the WTO for a waiver, as it has done in the case of Moldova, where it stated: 'Moldova is the poorest country on the European continent (....) and does not have the necessary competitiveness to undertake the reciprocal obligations of a free trade agreement with the EU'. The EU refused to give such treatment to West Africa.

This decision of the EU explains the thinking behind the Cotonou Agreement, which succeeded the Lomé Con-



vention in 2000, and forms the basis for the EPA negotiations. Initially, the negotiations should have led to the creation of free trade zones between the EU and six ACP regions, including West Africa, by 31 December 2007. Applying the principle of reciprocity, the EU asked West Africa to open up its market to European products by 80% over a period of 15 years, in exchange for immediate 100% EU market access for West African products. Yet WTO rules would have allowed for an interpretation that took more account of the enormous differences in development between the two regions. The EU could have accepted 60% market access over a period of 25 years, as proposed by the West African states. It did not do this.

During the negotiations the EU also went much further than WTO requirements on liberalisation, by including services, investment and procurement alongside goods. West Africa was opposed to this, and wanted to maintain its ability to protect these sectors from EU competition.

Twelve out of sixteen West African states⁴ fall into the category of Least Developed Countries (LDC). They do not have any interest in concluding an EPA⁵ because the EU grants LDCs unilateral trade preferences under the Everything But Arms regime, which offers them free access to the EU market without obliging them to liberalise in exchange. This explains why at the end of 2007 the EU was not able to get agreement on a regional EPA.

However the EU has threatened all the non-LDC ACP countries with loss of free access to the European market, and with application instead of the Generalised System of Preferences (GSP). This system, which already applies to other non-LDC developing countries, is more favourable than the one which applies to developed countries, but it re-establishes customs duties on exports to the EU. As a result, following strong EU pressure which was denounced by the ACP Council of Ministers, instead of a regional EPA, two non-LDCs, Ivory Coast and Ghana, signed bilateral interim EPAs limited to trade in goods.

After the signature of the interim EPAs, the EU has continued to give Ivory Coast and Ghana free EU market access. Given the prolonged regional negotiations, these countries have not finalised the procedure to bring the bilateral interim EPAs to enter into force.

In view of this situation, the EU could have accepted the proposal from the Trade Ministers of the African Union, to consider West Africa as an LDC region. This would have enabled West Africa to benefit from the Everything But Arms regime, without having to conclude an EPA. Instead the EU set a new deadline for the completion of negotiations by threatening to withdraw free access to the EU market for the ACP non-LDCs that have not taken the necessary steps for the implementation of the interim EPA by 1 October 2014.

The EPA between West Africa and the EU: where are we?

Following this pressure from the EU, West African senior officials decided to sign a regional EPA with the EU on 30 June 2014.

The EPA is limited to trade in goods. However, it also contains a 'rendezvous' clause for other areas, specifying that '6 months after the conclusion¹⁰ of the Agreement, the Parties agree on a road map for defining the calendar and the modalities for further negotiations in order to come to a full regional agreement' (article 106).

According to the EU, the final EPA reflects the concessions which the EU has made compared to its initial positions. The EPA anticipates the elimination of West African customs duties for 75% of the tariff lines. Yet if one looks at the value of the exported European goods corresponding to these tariff lines, liberalisation will reach 82%. The implementation of this decision will take 20 years, in 3 phases. However, the largest part of the liberalisation will take place within 15 years. The final 5 years concern only a handful of products. In short, the EU has obtained what it demanded at the beginning.

In order to enter into force, the formal conclusion of the EPA negotiations is not sufficient. It has also to be signed and ratified, usually after a vote of parliaments in West Africa and Europe.



- ${\bf 7} \ {\hbox{This concerned a provisional EPA, until a full regional EPA would have been concluded.}}$
- 8 Proposal for a Common and Enhanced Trade Preference System for Least Developed Countries (LIDCs) and Low Income Countries (LICs), adopted in the 7th regular session of the Conference of Trade Ministers from the African Union, 2 December 2011: http://www.au.int/en/content/7th-ordinary-session-african-union-conference-ministers-trade
- 9 Text of the EPA: http://ec.europa.eu/transparency/regdoc/rep/1/2014/FR/1-2014-576-FR-F1-1-ANNEX-1.Pdf
- 10 That is to say: after final approval through ratification of the EPA.
- 11 Calculation by South Centre, cited by Jacques Berthelot: « Pertes de recettes douanières liées à l'APE Afrique de l'Ouest », 7/12/2014: http://www.solidarite.asso.fr/lMG/pdf/ Pertes_de_recettes_douanieres_liees_a_l_APE_Afrique_de_l_Ouest_7_septembre_2014. pdf

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At the European level the signing procedure is underway. In West Africa, 12 states have signed the EPA. But the signature of Nigeria seems remote. ¹² As the primary economy in the region, Nigeria wants to develop its industry and its outlets in the rest of West Africa, while also reducing its dependence on petroleum exports. It fears that the EPA will disrupt this strategy, as imports of most European industrial goods would be liberalized.

The ratification procedure is just starting at the level of the European Parliament. The 28 EU Member States will also have to ratify the EPA, as will two-thirds of the West African states.

According to the EC, this EPA is coherent with the development of West Africa. Yet the EC has not commissioned an impact assessment to ensure that the EPA initialed in 2014 will support development objectives. Some analyses were done more than 10 years ago ¹³, based on forecasts, but in a different global context. ¹⁴

The EC puts forward a number of seemingly positive points, in favour of the EPA:

- The EPA offers free access for West African goods to the EU market:
- The EPA supports the regional integration of West Africa:
- Agricultural products are excluded from liberalisation;
- The EPA will provide aid to West African states to enable them to benefit from the EPA;
- The EPA respects the policy space of West African states.

Are these arguments really true?

- 12 Apart from Nigeria, also The Gambia, Mauritania and Togo have not yet signed the EPA (March 2015).
- 13 European Commission, "Regional SIA: West African ACP countries", 2004: http://trade.ec.europa.eu/doclib/docs/2005/january/tradoc_121200.pdf and "West Africa: Agro-industry", 2005:

http://trade.ec.europa.eu/doclib/docs/2005/january/tradoc_121196.pdf

- 14 Even so, critical analyses of the EPAs have been conducted in 2009 by the UN Economic. Commission for Africa: http://www.uneca.org/publications/no-75-interim-economic-partnership-agreements-point-classic-regional-trade-agreements and by South Centre in 2013 : http://www.southcentre.int/wp-content/uploads/2013/08/AN_EPA31_EU-ACP-EPA-State-of-Play_EN.pdf and 2014 : http://www.europarl.europa.eu/RegData/etudes/etudes/ioin/2014/433843/EXPO-DEVE_ET%282014%29433843_EN.pdf
- 15 Average 2012/13, source: TradeMap (CNUCED): http://www.trademap.org/Count-ry_SelProductCountry_TS.aspx.
- **16** South Centre, "The EPAs and risks for Africa: local production and regional trade", June 2012, p. 3 http://www.southcentre.int/wp-content/uploads/2013/08/AN_EPA30_The-EPA-and-Risks-for-Africa_EN.pdf
- 17 Dieter Frisch, « La politique de développement de l'Union européenne », Report ECDPM 15, March 2008 : http://ecdpm.org/wp-content/uploads/PMR-15-Politique-Developpement-Union-Europeenne-2008.pdf

1. Does the EPA offer free access of WA goods to the EU market?

True. It is in order to maintain this advantage that West Africa agreed to negotiate an EPA. The EU is an important export market, accounting for 36% of West African exports, while nearly 30% of its imports come from the EU. ¹⁵

- In particular, the LDCs have to make these sacrifices, even though they are entitled to unilateral trade preferences under the Everything But Arms regime.
- There is a considerable difference in the levels of development of the two trading partners. According to South Centre, only 6% of the tariff lines are products for which West Africa is more competitive than the EU. Although this analysis deserves to be refined, it gives a good idea of the magnitude of difference in competitiveness. ¹⁶ There is a power imbalance between the West African and EU economies that threatens existing West African production and may hinder the emergence of new ways of generating employment and wealth.
- Finally, the multiplication of free trade agreements between the EU and other regions in the world gives those regions similar advantages. This will lead to a 'preference erosion' for West Africa. Therefore West Africa will get less and less benefit from an EPA.

2. Will the EPA support the regional integration of West Africa?

Largely untrue. On the one hand, in itself the choice to negotiate EPAs between the EU and the region instead of individual West African countries is positive.

On the other hand:

- In contrast to the EU, the level of integration of West Africa is very weak. In 2012-2013, trade between West African countries represented less than 9% of the total commercial activity of these countries, including international trade. Rather than trying to set up a free trade zone with West Africa, the EU could have given priority to stronger regional integration within West Africa. The region consists of countries with a relatively comparable level of development and with economies that are often complementary. Regional integration is a major instrument for improving the living conditions of the West African populations.

'Historically speaking, no case is known of a country in an embryonic stage of its economic development, which has developed itself through opening up to international competition. Development is always initiated at the whim of some protection that could only diminish once and to the extent to which the economy was strong enough to face foreign competition', explained Dieter Frisch¹⁷, between 1982 and 1993 Director-General for Development of the European Commission, in 2008. Is it logical to ask West Africa to do the reverse?



- Due to the strong difference in competitiveness, there is also an important risk of trade diversion at the cost of exchange between ACP countries themselves in particular between West African countries to the benefit of imports from the EU. ¹⁸
- The conclusion of interim EPAs with individual countries in 2007 demonstrated that access to regional markets is more important for the EU than regional integration. Since then the EU has applied three different trade regimes to West Africa with regard to European imports 19: LDCs which benefit from the Everything But Arms regime; non-LDCs which have concluded an interim EPA; non-LDCs without an interim EPA. Under the current conditions, it is impossible for West Africa to develop a common trade policy. It is largely in order to save regional integration, that the LDCs have finally decided to sign the EPA, although they will not derive any commercial advantage from the agreement.

THE EPA WILL HAVE THE EFFECT OF CANCELLING THE IMPACT OF VARIOUS DEVELOPMENT PROGRAMMES. **

Guinea-Conakry: The potatoes are fried!

Until 1990 potatoes consumed in Guinea-Conakry were mainly imported from the Netherlands. Local production was low, amounting to less than 200 tonnes per year. It was also expensive, of mediocre quality, and not competitive.

However, the Fédération des Paysans du Fouta Djalon (FPFD, Farmers' Federation of Fouta Djalon) believed that they could develop the local potato sector. FPFD mobilised public pressure and in 1992 they succeeded in getting the government to introduce an import ban for the five months of year during which the local potato is available. In parallel, FPFD sought to improve quality and productivity, setting up a programme of support to farmers, supplying seed potatoes, fertlizer, credit and training with support from the Guinean authorities and international partners.

As a result by 1998 the local production had become competitive and imports of Dutch potatoes had diminished almost to zero. The import ban was lifted but this did not now affect the local potato industry which continued its growth to the point of exporting to neighbouring countries. In 2013, production reached 35,000 tons, of which 25,000 were exported.

This example shows that protection of markets accompanied by strategic policy support for agriculture, can contribute to development. This is also the approach the EU itself took when it adopted, in 1962, a Common Agricultural Policy (CAP).

Source: Fédération des paysans du Fouta Djalon

- 18 South Centre, op. cit., p.2 and Sunday Oghayei, Ministry of Trade & Investment (Nigeria), presentation of EPA impact analysis demanded by the Nigerian government, October 2014, p. 14: http://endacacid.org/new/images/docs/dialogues/2014/ape/presentation/3_Sunday_POTENTIAL_IMPACT.pdf
- 19 Cela concerne également les exportations de l'AO qui, pour les mêmes raisons, se voient appliquer des règles d'origine différentes.
- 20 Source : Fédération des paysans du Fouta Djalon (Guinée-Conakry)



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True and false. The EPA provides for continued protection of 18% of products, known as sensitive products and agricultural products constitute a large part of these. However the EPA still holds a risk for West African agriculture:

- Agriculture is a major sector for West Africa. It provides 60% of employment and satisfies 80% of the food needs of the region. ²¹ At the same time farmers belong to the social category that is most affected by extreme poverty.
- It is therefore positive that the agricultural products that are commonly consumed are generally considered as sensitive and can be protected.
- However, imports of agricultural raw materials for local processing are generally liberalised which leads to increased competition with the equivalent local products. In particular European milk powder is imported in bulk and reconditioned locally to be turned into liquid milk, which directly competes with local milk production.²²
- Although the EU "commits itself not to make use of export subsidies", other subsidies under the Common Agricultural Policy (CAP) allow the EU to sell its agriculture production at less than the cost price, competing unfairly with West African agriculture.²³
- West Africa will no longer be able to make use of export taxes to support local processing of West African raw materials. This both deprives the region of an instrument to develop local agro-processing industries and reduces fiscal revenue. While export taxes are a tool that needs to be used with caution, West African states should retain the policy space to use them if deemed necessary.

4. Will the EPA provide aid that will allow West Africa to benefit from the EPA?

True and false. A 'West Africa EPA Development Programme' (usually referred to by its French acronym PAPED) has been set up and includes among its objectives the reinforcement of regional integration and the strengthening of the competitiveness of the West African economies. The EU also "undertakes to provide funding to cover the fiscal impact (...) for the period of tariff dismantling" (art.60.3). However:

- The financial contribution of €6.5 billion for the first 5 years is well below the needs estimated by the West African region of € 9.5 billion.
- The EPA does not include the same legal commitment for the EU to finance PAPED as for the West African states to dismantle their tariffs.
- The European contribution is not new money but mainly consists of funding that is already planned in the European Development Fund (EDF), the EU and EU member states budgets.
- According to estimates by South Centre, West Africa will lose more than €746 million a year in fiscal revenue from the tariff reductions and eliminations in the first 5 years of implementation and almost € 1.9 billion a year by the end of the 20 year period. While this estimate could be refined²⁴, these figures do provide an indication of the order of magnitude of losses. In comparison the amounts foreseen for the PAPED are €1.3 billion a year for

- five years. In addition the mechanisms for compensating losses are not specified. Yet these compensations are indispensable to allow continued financing of the building of schools and hospitals, support for family farming, and other public services.
- The uncertainty of adequate additional financing is aggravated by the fact that the Cotonou Agreement, which is the basis for the EDF and the financing of PAPED, will expire in 2020. If the EPA comes into force this will be right at the moment when West Africa is undertaking tariff eliminations. What will happen after 2020?

5. Will the EPA respect the policy space of the West Africa?

Largely false:

- As we have seen, West Africa will lose policy space needed to develop their own trade policy, serving the interests of their people and they will lose fiscal revenue that could help finance their own development.
- It is true that for exceptional cases, "in order to prevent or to address serious damage", the EPA permits trade defence instruments to be used as safeguards for limited periods of time, including anti-dumping measures, safeguard measures and an infant industry clause. In principle these tools would allow tariffs to be increased. However as an official of the Senegalese Ministry of Commerce has indicated²⁵: "In practice the implementation of these multilateral trade defence instruments are problematic because of cumbersome procedures (...) on the one hand, and the cost of surveys on the other hand, especially when these have to be conducted outside the national territory". Proof has to be provided, for instance, of dumping, of unfair treatment and of the causal links. Yet the economic fabric of West Africa consists mainly of smallholdings and SMEs that do not have the necessary capacity to contribute to providing evidence.
- 21 Source ECOWAS, "Major characteristics of agriculture in West Africa": http://agric.comm.ecowas.int/ECOWAP/Reperes-sur-l-agriculture-en?lang=en
- 22 Pascal Erard, « Production laitière en Afrique de l'Ouest : l'Europe ne doit pas mettre le feu aux poudres », CFSI, Novembre 2014 : http://www.cfsi.asso.fr/thematique/production-laitiere-afrique-l%E2%80%99ouest-l%E2%80%99europe-doit-mettre-feu-aux-poudres
- 23 Jacques Berthelot, "The EU dumping of some agricultural exports in 2012,, particularly to ACP countries

- **24** See also: ECDPM, «Trade Liberalisation and Fiscal Adjustment: The Case of EPAs in Africa.», discussion paper n° 137, November 2012: http://ecdpm.org/publications/trade-liberalisation-fiscal-adjustment-epas-africa/
- 25 Fallou Mbow Fall, Ministère du commerce (Sénégal), « les mesures de défense commerciale de l'APE UE/AO » (conclusions) : http://endacacid.org/new/images/docs/dialogues/2014/ape/presentation/11-MBOW.pdf
- 26 Declaration of West African Civil Society about the Economic Partnership Agreement, 14/02/2014 : http://www.europafrica.info/en/themes/declaration-of-west-african-civil-society-about-the-economic-partnership-agreement-epa
- 27 Euractiv, 10/11/2014: http://www.euractiv.com/sections/development-policy/eu-africa-free-trade-agreement-destroys-development-policy-says-merkel
- 28 Declaration, op. cit. The West African Ministerial Monitoring Committee (MMC) meeting held in Accra, Ghana, in November 2011 agreed to set up such a fund if the 2014 deadline could not be met. See http://brussels.cta.int/index.php?option=com_k2&view=item&id=6536:more-on-the-epa-issue-third-option-better-superior-and-beneficial-to-ghanaq
- $\textbf{29} \ \, \textbf{See} \ \, \textbf{also} \ \, \textbf{Jacques} \ \, \textbf{Berthelot}: \ \, \textbf{http://solidarite.asso.fr/IMG/doc/Implementing_immediately_an_anti-EPA_duty_January_16_2015.doc$

CONCORD recommendation to Members of the European Parliament and Parliaments of EU Member States

West African²⁶ and European civil society groups oppose EPAs, as do many experts like Günter Nooke, Angela Merkel's advisor for Africa, who explains: "Part of the German and European taxes are devoted to various development programmes in Africa. The new economic agreement concluded between the EU and certain African governments will have the effect of cancelling the impact of these programmes".²⁷ The EU thus takes with one hand what it gives with the other, which constitutes a manifest incoherence between the West African EPA and West African development objectives.

CONCORD regrets that the EU, the world's largest economic block, is trying to obtain disproportionate commercial concessions from one of the poorest regions in the world. With this EPA, West Africa will have less policy space to use important tools for the development of certain economic sectors, in order to improve the living conditions of its people. At the same time the EU has not undertaken any formal commitments to provide additional long term funding that would be needed to enable West Africa to cope with competition from European imports and to compensate for the loss of fiscal revenues. Who will eventually benefit from the EPA? Is it first of all Europe that will Profit from the Agreement?

For these reasons CONCORD recommends that Members of the European Parliament do not ratify the EPA but to call for a resolution that:

- the Commission, the Council and Member States treat West Africa, where 12 out of the 16 countries are LDCs, as an LDC region, allowing the region as a whole to benefit from the "Everything But Arms" preferences scheme;
- the Commission undertake a development and human rights impact assessment of the EPA, designed and carried out with participation of all the stakeholders;
- the Commission, the Council and Member States offer additional support to the African regional integration efforts, in order to enhance their competitiveness, both in the region and globally.

An alternative to the EPA: the creation of regional solidarity fund

West African civil society²⁸ has proposed that ECO-WAS sets up a Regional Solidarity Fund, financed by a levy on imports. This fund could compensate for the increased import duties imposed by the EU on imports from non-LDC countries from West Africa in the absence of an EPA.²⁹



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CONCORD is the European confederation of Relief and Development NGOs. It is the main NGO interlocutor with the EU institutions on development policy. It is made up of 28 national associations, 18 international networks and 2 associate members that represent over 2,400 NGOs, supported by millions of citizens across Europe. The main objective of the Confederation is to enhance the impact of European development NGOs vis-à-vis the European Institutions by combining expertise and accountability.

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The report "Spotlight on EU Policy Coherence for Development" is a flagship report produced by CONCORD every two years since 2009, to raise the awareness of EU political leaders and citizens on the need to apply changes to some European domestic and external policies in order to eradicate global poverty. The report is prepared by CONCORD members and draws from their analysis and the evidence they can gather, especially through their interaction with poor and vulnerable communities in countries outside Europe. In 2015, the Spotlight report is declined in a series of thematic policy briefs published one after the other throughout the year. Find previous reports and latest information on Policy Coherence for Development here: www.concordeurope.org



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